HOUSE OF REPRESENTATIVES—*Wednesday, September 26, 1990*

The House met at 10 a.m.

The Chaplain, Rev. John O. Peterson, Alfred Street Baptist Church, Alexandria, VA, offered the following prayer:

Dear Lord and Father of all humankind, we beseech You on this day to give ear to our request in this place. Thou who knows our destinies before we move, the words of our mouths before we speak, the thoughts of our minds before we think, come into this place and give direction to our ways, compassion to our conversations and divine wisdom to our thinking.

Forgive us for the errors of our ways that have displeased You in the days and nights now recorded in eternal history. We have not shown Your love in all our service to the children of men. Forgive us for the wrongs of neglect as well as the wrongs of willful action.

You have given us another day to express our love for You and to be busy in service to Your kingdom. During this day, help us to rejoice and be glad in it.

We invoke Your blessings within the walls of this legislature. May each Congressperson receive the freshness of Your spirit in everything that is done today in these Chambers. The problems of our selfish world are many, and these elected "of the people and by the people," but chosen by You, must face and deal with those burdens. Unless You are in the mind of everyoe here, they labor in vain, those who deliberate here. Let every Member of this august assembly be filled with the consciousness of You and the power of Your spirit until peace like the calm waves of crystal clear rivers attend the way of every boy, every girl, every man, and every woman in this Nation.

Help them to recognize that the laws enacted here will affect the lives of thousands of Your people yet unborn.

Bless the conditions of the human race wherever they are found. Where there is strife, sow peace; where there is hatred, sow love; where there is hunger, sow food; where there is war, let them turn their warring instruments into plowshares.

When we have come to the end of life's tenure and old death prohibits our seeking another term, give us the satisfaction of knowing that we have served our generation well and are then ready to fall asleep.

This is today's prayer that we pray in the precious name of You, our Father.

THE JOURNAL

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

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

Mr. GUNDERSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 275, nays 126, not voting 31, as follows:

[Roll No. 384]

YEAS—275

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clement
Clinger
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Price
Rahall
Ravenel
Ray
Rinaldo
Robinson
Roe
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schneider
Schulze
Schumer
Serrano
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—126

Armey
Baker
Ballenger
Barton
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Coble
Coleman (MO)
Coughlin
Courter
Cox
Craig
Davis
DeLay
Dickinson
Dornan (CA)
Douglas
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hyde
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (NY)
McCandless
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morella
Murphy
Nielson
Oxley
Parris
Pashayan
Paxon
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Solomon	Tauke	Walsh
Spence	Thomas (CA)	Weber
Stangeland	Thomas (WY)	Weldon
Stearns	Upton	Whittaker
Stump	Vucanovich	Wolf
Sundquist	Walker	Young (FL)

NOT VOTING—31

Bentley	Ford (MI)	Rangel
Berman	Ford (TN)	Richardson
Boucher	Hall (OH)	Ritter
Chapman	Hunter	Rowland (CT)
Clay	Leath (TX)	Solarz
Crane	Lowery (CA)	Swift
Crockett	Martin (IL)	Williams
Dannemeyer	Mfume	Wilson
DeWine	Molinari	Young (AK)
Dixon	Morrison (WA)	
Fish	Neal (NC)	

□ 1026

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

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. MINETA] please lead the House in the Pledge of Allegiance?

Mr. MINETA led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets.

The message also announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 677. An act to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to meet today in executive session during the time that the House is meeting under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, reserving the right, and I shall not object, but I would like to take the time to find out exactly where we stand with regard to the schedule.

The rumor is rampant on the House floor that we are not going to take up the continuing resolution today. This Member has some concerns about that because it does delay the schedule. If we are not going to bring up the continuing resolution until tomorrow, then I think the membership needs to understand, from everything I calculate, that we will probably be here on Sunday, and begin to calculate accordingly.

Mr. Speaker, could the gentleman in the chair or someone, the Speaker, tell us what the schedule is, what the likelihood is that we would end up with a Sunday schedule?

The SPEAKER. Will the gentleman from Pennsylvania [Mr. WALKER] yield to the gentleman from Missouri [Mr. GEPHARDT], the majority leader?

Mr. WALKER. Mr. Speaker, I would be glad to yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, I would say to the gentleman and to the Members that our intent is to have the continuing appropriation on the floor tomorrow. The negotiation is continuing today in the budget summit. We are still hopeful that an agreement can be reached sometime today. If it can, that obviously will clear a lot of air on the proceedings that need to come after that. If we cannot, again, we will have the vote on the continuing tomorrow, and I would say to Members that in either event it could be that you will be required to be here on Sunday.

As all the Members know, there is a Jewish holiday which starts Friday evening at sundown and goes until Saturday evening. We will not be meeting during those times.

On Friday we will want to leave in time so that Members can travel to their home districts, but we could be back on Sunday. I hope we will not, but we could.

□ 1030

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the only thing I am focusing on is, if we do not take it up until Thursday, the Senate is likely not to be able to act even on the same day that we take it up. That would leave them to probably take up the CR on Friday. They are not necessarily totally cooperative on continuing resolutions, and that would mean that the President, at the earliest, would get the bill on Friday, or perhaps Saturday, which means that, with the veto of the bill, which is a likelihood in its present form, that, if we have any hope at all of settling this matter before the Federal employees are laid off, we have to be here on Sunday.

Mr. Speaker, if that is really the scenario, then I think the Members ought to have more than an indication that this may be the case. It seems to me we ought to be able to start planning in that direction.

Mr. Speaker, what is the gentleman indicating?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, there is no way to predict with certainty now whether or not there will be a session on Sunday. I am saying to Members there may be, and so our plans are going to have to be structured so we will be here if we need to be.

The Senate, the other body, I am told, is prepared to act expeditiously on this continuing resolution tomorrow, and I think it obviously can be done in the time that we have.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I make the point that we all honor the Jewish high holiday that is coming up, but there are a number of people who are active on Sundays with religious activities, and it just seems to me that we ought to consider that as well.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, we are certainly sensitive to that as well, and we obviously would not have a session that would start in the morning. Most people who have religious observances on that day will be finished by noon or 1 o'clock. I can assure the Members it will not be until after that.

Mr. BURTON of Indiana. Mr. Speaker, if I might continue, I do not know whether the gentleman from Missouri [Mr. GEPHARDT] is conversant with all religious activities, but they do not all end at 11 or 12 o'clock on Sunday. Some are in the afternoon, or in the evening as well.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. PEASE. Mr. Speaker, I would just ask for some clarification by the majority leader.

The schedules that we have seen this month have all shown no session on Friday. I am certainly prepared to be here on Friday, but something which the gentleman said a moment ago suggested that we might be here part of the day on Friday.

Mr. Speaker, could the gentleman from Missouri [Mr. GEPHARDT] clarify whether that is possible or not?

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, we have this work, and obviously it has to be completed. We are going to use every available hour between now and Monday to get it done. If Friday morning is necessary to help us get it done, we will ask the Members to be here on Friday morning. We will try to get them out of here in time, again, for Members to get back to their home districts in time for the observance of the holiday.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. HAWKINS submitted the following conference report and statement on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-755)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) The definition provided in this subsection is meant to codify the meaning of 'business necessity' as used in Griggs v. Duke Power Co. (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in Wards Cove Packing Co., Inc. v. Atonio (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices is required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact;

except that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that

it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

(a) DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans With Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

(b) LIMITATION ON PUNITIVE DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against a respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, religion, sex, national origin, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin: Provided, however, That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rule-making power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply

with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), subject to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

SEC. 17. OTHER STATUTE OF LIMITATIONS; NOTICE OF LIMITATIONS PERIOD.

(a) CHARGE FILING LIMITATION PERIOD.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "2 years"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF LIMITATIONS PERIOD FOR FILING SUIT.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed or the Commission's proceedings are otherwise terminated by the Commission, the Commission shall so notify the individual referred to in subsection (d) and such individual may bring an action against the respondent named in the charge at any time after 60 days from the time the charge was timely filed until the expiration of 90 days after the receipt of the notice provided under this subsection.".

SEC. 18. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

And the House agree to the same.

From the Committee on Education and Labor:

AUGUSTUS F. HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
CRAIG A. WASHINGTON,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, Jr.,
HAMILTON FISH, Jr.

Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA A. MIKULSKI,
JAMES M. JEFFORDS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. PURPOSES

The Senate bill and the House Amendment use different grammar in describing the purposes of the Act.

The Senate recedes.

2. BUSINESS NECESSITY

The House Amendment, but not the Senate Bill, specifies that this subsection is meant to overturn the treatment of business necessity as defined in *Wards Cove* v. *Atonio*.

The Senate recedes with an amendment. The Senate amendment clarifies that the definition of "required by business necessity" is meant to overturn *Wards Cove*.

3. GROUP OF EMPLOYMENT PRACTICES

The Senate Bill and the House Amendment use different grammar.

The Senate recedes.

4. LESS DISCRIMINATORY ALTERNATIVE

The House Amendment, but not the Senate Bill, specifies that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

The Senate recedes. The final clause of Subsection 703(k)(1) codifies the law before *Wards Cove* v. *Atonio*, 109 S.Ct. 2115 (1989), with regard to the "less discriminatory alternative" doctrine and makes the bill's treatment of disparate impact claims complete. It clarifies that, if a defendant demonstrates that a practice or group of practices is required by business necessity, a plaintiff can still prevail by showing that other practices with less disparate impact would serve the respondent as well. By demonstrating that a less discriminatory alternative exists, the plaintiff has succeeded in rebutting the employer's contention that business necessity has required its reliance on the particular practice or group of practices which resulted in a disparate impact on the basis of race, color, religion, sex or national origin.

The Supreme Court announced this doctrine in *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 425 (1975), where it held that:

If an employer does then meet the burden of proving that its tests are "job-related", it remains open to the complaining party to show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in "efficient and trustworthy workmanship."

Since the Court's holding in *Albemarle*, the demonstration of a "less discriminatory alternative" has been consistently viewed as the final stage in determining whether an employment practice or group of practices has led to unlawful discrimination. This stage, however, is only reached after the respondent has succeeded in demonstrating business necessity.

Subsection 703(k)(1) thus makes clear that there are three stages of analysis in disparate impact cases. First, the plaintiff has the initial burden of demonstrating the discriminatory impact of the practice or group of practices being challenged. Second, if the plaintiff makes this showing, the defendant must demonstrate that the practice is required by business necessity to overcome a determination that the practice is unlawful. Finally, if the defendant meets this burden of demonstrating business necessity, the plaintiff may still prevail by showing that other practices with less disparate impact would serve the respondent as well. This test governed before the decision in *Wards Cove* and is restored by this legislation.

5. MERE EXISTENCE OF A STATISTICAL IMBALANCE

The House Amendment, but not the Senate Bill, specifies that the mere existence of a statistical inbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

The Senate recedes. The Conferees note that this section is not intended to change the existing test of proving disparate impact. Subsection 703(k)(4) reaffirms that the mere existence of a statistical imbalance in an employer's workforce is not alone sufficient to establish a prima facie case of disparate impact violation.

A plaintiff cannot establish a prima facie case of disparate impact merely by showing that an employer had a smaller proportion of minority or women employees than existed in the population as a whole.[1]

[1] In fact Section 703(j) of Title VII, 42 U.S.C. 2000e-2(j), specifically prohibits an interpretation of Title VII which would require preferential treatment of an individual because of a statistical imbalance between the number or percentage of persons of any race, color, religion, sex or national origin employed in a particular position as compared to the number or percentage of persons in the community as a whole.

In order to establish a prima facie case, the plaintiff must show that a specific employment practice, or group or combination of practices, results in a disparate impact. This provision reaffirms the case law that has been in place since *Griggs*; what constitutes disparate impact remains unchanged.

The Court in *Wards Cove* adopted a consistent view of what a plaintiff must show to establish a prima facie case. Under the majority opinion, a low percentage of minorities or women in a particular job is not by itself, without more, sufficient to establish a prima facie case. The Court held that "the proper comparison [is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified population in the relevant labor market." *Wards Cove*, 109 S.Ct. at 2121, quoting *Hazelwood School Dist.* v. *U.S.*, 433 U.S. 299, 307-08 (1977). In *Wards Cove*, the Court noted that for relatively unskilled jobs, general population figures may be appropriate, but the plaintiff would have to prove that the jobs at issue were in fact unskilled. Depending on the circumstances it may be more appropriate for the court to look to the proportion of applicants who were minorities or women.

Thus, statistics may still be used to make a prima facie case of disparate impact. Indeed, such cases usually rely on statistics. But statistics must meet the requirements of the law. A mere statistical imbalance, without more, will not suffice to establish a prima facie case. The relevant comparison is between the qualified labor pool and the group actually selected. Simple reference to the population at large will generally be insufficient.

6. FEDERAL GOVERNMENT REPRESENTATION

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

7. DAMAGES SUBSECTION

The House Amendment, but not the Senate Bill, creates subsections within this section.

The Senate recedes.

8. DAMAGES UNDER THE AMERICANS WITH DISABILITIES ACT

The Senate Bill and the House Amendment use different grammar and different placement of parentheses.

The Senate recedes. The Conference Committee intends that the disparate impact provisions of the Americans with Disabilities Act (ADA) shall be interpreted consistently with Title VIII as amended by this Act. This was the intent of Congress in passing the ADA, as reflected in reports from Committees in both the Senate and the House of Representatives. *See, e.g.*, Report of the Senate Committee on Labor and Human Resources, 101st Cong., 1st Sess., S. Rpt. 101-116, at 38 ("Senate Report") (noting that the ADA should be construed consistently with case law prior to the Supreme Court decision in *Wards Cove* on June 4, 1989); Report of the House Committee on the Judiciary, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 3, at 42, n. 32 (citing *Prewitt* v. *U.S. Postal Service*, 662 F.2d 292, 306-308 (5th Cir. 1981) as defining burden of proof under the ADA). The legislative history on disparate impact under the ADA is thus consistent with the amendments to Title VII contained in this Act. Specifically, the terms "demonstrate" and "required by business necessity" in this Act should be applied consistently to the ADA.

The other sections of this Act should also be applied consistently to the ADA. Section 5 of this Act, providing that an unlawful employment practice is established when a plaintiff demonstrates that a protected class status was a motivating factor of an employment practice, is the standard already adopted under ADA. *See, e.q.*, Senate Report, at 45; Report of the House Committee on Education and Labor, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 2, at 85-86. Sections 7, 8 and 9 of this Act, which amend Section 706 of Title VII, are explicitly incorporated into the ADA through Section 107(a) of that Act. There was apprehension on the part of some Members that section 8, if applied literally, would authorize compensatory and punitive damages for all cases of discrimination under the ADA, including cases of disparate impact. To alleviate that concern, the Act was amended to state explicitly that damages would be available under the ADA for all cases *other* than for those of disparate impact. (Causes of action for disparate impact are explicitly referenced in section 102(b)(3)(A) and part of section 102(b)(6) of the ADA and therefore those sections are cited in the provision in this Act. Of course, to the extent a court reads a disparate impact cause of action into some other section of the ADA, damages would also not be available for that disparate impact claim). Because similar possible misunderstandings did not exist with regard to sections 7 and 9, no explicit reference to the ADA was necessary in those sections. The modifications to Title VII made in those sections would apply directly to the ADA as a result of the cross-reference in section 107(a).

9. CAP ON PUNITIVE DAMAGES

The House Amendment, but not the Senate Bill, specifies that for respondents employing fewer than 100 employees, punitive damages under the Act are limited to $150,000 or an amount equal to the sum of compensatory damages and equitable monetary relief, whichever is greater.

The Senate recedes with an amendment. The Senate amendment makes the limitation on punitive damages applicable to all respondents covered by Title VII of the Civil Rights Act of 1964. Under the Senate amendment, the amount of punitive damages awarded to an individual under the Act shall not exceed the greater of $150,000 or the amount awarded to such individual in compensatory damages and including backpay.

The Conferees note that as used in Section 8, the term "government, government agency, or a political subdivision" includes the Federal government. Thus, punitive damages are not available against the Federal government.

10. INTEREST PAYMENTS BY NONPUBLIC PARTIES

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

11. FINAL JUDGMENTS

The House Amendment, but not the Senate Bill, specifies that any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

The Senate recedes. The Senate Bill requires Federal courts, upon request, to vacate all orders and judgments which are inconsistent with certain provisions of the legislation. The Senate Bill mandates such action regardless of whether the case is pending or appealable on the date of enactment or has resulted in the entry of final judgment as to which the time for appeal has run. In contrast, the House Amendment is permissive rather than mandatory with regard to the reopening of final, unappealable judgments, and provides standards to guide Federal courts in deciding whether such judgments should be reopened. The House Amendment adopts the long-standing Federal procedure which allows courts to reopen final judgments only upon a finding that justice so requires.

The House Amendment specifically references the standard set forth in Rule 60(b) of the Federal Rules of Civil Procedure for reopening final orders and judgments. That rule allows Federal courts to reopen closed cases for a number of reasons, including "any . . . reason justifying relief from the operation of the judgment." Under Rule 60(b)(6), Federal courts have broad discretionary power "to vacate judgments whenever such action is appropriate to accomplish justice." *Klapprott* v. *United States*, 335 U.S. 601 614-15 (1949); *see also First American National Bank of Nashville* v. *Bonded Elevator, Inc.*, 111 F.R.D. 74, 75 (W.D. Ky. 1986) (rule requires "a judicial balancing of the need for finality and the need to do justice in the individual case"); *United States* v. *McDonald*, 86 F.R.D. 204, 208 (N.D. Ill. 1980) (rule allowing relief from judgment is to be liberally applied to accomplish justice). Consistent with that rule, the House Amendment permits Federal courts to reopen final judgments only "if justice requires," and only if such action would be "consistent with the constitutional requirements of due process of law."

Notably, existing case law suggests that final judgments may be reopened where strong public interests are present. *See Pension Benefit Guaranty Corporation* v. *R.A. Gray & Co.*, 467 U.S. 717, 729-30 (1984) (legislation that "readjust[s] rights and burdens is not unlawful solely because it upsets otherwise settled expectations. . . . This is true even though the effect of the legislation is to impose a new duty or liability based on past acts"); *New England Power Company* v. *United States*, 693 F.2d 239, 245 (1st Cir. 1982) (in resolving questions involving the retroactive application of legislation, "the disappointment of private expectations that results from the implementation of a new rule must be balanced against public interest in the enforcement of that rule"). The balancing of affected interests may weigh particularly strongly in favor of reopening such judgments where the legislation is restorative in purpose.

The Supreme Court decisions overturned by this bill repudiated well-settled case law which protected American workers against employment discrimination. In the past year, hundreds of discrimination victims have had their claims dismissed, or their rights and remedies otherwise impaired, as a direct result of the application of these decisions. Both the Senate Bill and the House Amendment provide for the application of this legislation to claims which are pending (or as to which the time for appeal has not yet run) on the date of enactment. Nevertheless, other claims may have been re-

solved by the entry of a final judgment as to which the time for appeal has run prior to the date of enactment. This latter group of claims may only be revived by a mechanism such as that provided by Rule 60(b)(6). Unlike the Senate Bill, the House Amendment permits courts to make use of such a mechanism with regard to these claims where justice so requires, without dictating the result in particular cases. *See United States* v. *Sioux Nation of Indians*, 448 U.S. 371, 406-07 (1980) (legislation which allows courts to reexamine fully litigated disputes, without dictating the outcome of particular cases, does not violate the separation of powers doctrine); *Tonya K.* v. *Board of Education of Chicago*, 847 F.2d 1243, 1247 (7th Cir. 1988) (Congress may alter or restore a rule of law provided that it leaves to the courts the application of the rule to the facts of particular cases).

12. CONGRESSIONAL COVERAGE

The Senate Bill and the House Amendment contain different provisions for Congressional coverage.

The Senate Bill amends Title VII to apply its provisions to Congress, and each House of Congress shall determine its enforcement mechanism.

The House Amendment applies the rights and protections of Title VII to employees of the House, and administers these rights and protections through the Fair Employment Practices Resolution.

The House recedes to the Senate on coverage of the Senate with an amendment. The Senate recedes to the House on coverage of the House. The Conferees note that the provision adopted by the Conference is very similar to the provision enacted as part of the Americans with Disabilities Act, 42 U.S.C. § 12209, and should be interpreted consistent with that Act.

13. AGE DISCRIMINATION IN EMPLOYMENT ACT

The House Amendment, but not the Senate Bill, amends the Age Discrimination in Employment Act to provide the same 2-year limitations period for filing charges as is provided for Title VII charges under the legislation.

The Senate recedes with an amendment. Section 17 adds a conforming amendment to the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 *et seq.* to make a similar change in the statute of limitations in that Act.

Although the statute of limitations provisions under Title VII and the ADEA are not identical, their overall scheme, especially with regard to their charge-filing requirements, is very similar. Because of the similarities between the statutes, the courts have routinely looked to Title VII precedents in interpreting corresponding provisions of the ADEA. Thus, there is a danger that *Lorance* will be applied under the ADEA, if the statute of limitations is changed in Title VII but not in the ADEA.

Further, some of the differences between the Title VII and ADEA charge-filing and litigation limitations provisions have led to substantial confusion among persons alleging discrimination on the basis of age, or under the ADEA and Title VII together. Two differences in particular have caused serious problems.

First, unlike Title VII, which sets a limitations period only for filing charges, the ADEA imposes time limits both for filing charges and for initiating lawsuits. The limitations period for filing an administrative charge alleging discrimination is the same as in Title VII but, unlike Title VII, ADEA claimants must file their court case within two years of the discriminatory act, regardless of whether the administrative agency has acted.

Second, Title VII specifically directs the EEOC to provide complainants with affirmative notice of their "right to sue" upon the occurrence of certain events. The ADEA does not impose this notice requirement.

As a result of these differences, many age discrimination victims lost their rights to go to court, because they were unaware of the ADEA's time limitations for filing a lawsuit, and received no notice from the EEOC that they could—in fact, must—file suit by certain dates. These differences between Title VII and the ADEA have resulted in confusion, which may be exacerbated by the changes made in Section 7 of this Act.

To avoid future confusion, this section eliminates the ADEA's dual limitations scheme for filing charges and initiating litigation, replacing it with the single 2-year charge-filing requirement that Section 7 proposes for Title VII. ADEA claimants will retain their historical right to go directly into court after filing a charge. As in Section 7, the time period for filing an age discrimination charge will begin to run from when the violation actually "occurred," overturning *Lorance*.

This section also adds a new provision to the ADEA, which imposes an explicit obligation on the EEOC to notify complainants, after the EEOC has dismissed their charges, that the agency's action triggers a 90-day limitations period for filing suit. This section also deletes a tolling provision in the ADEA which becomes obsolete with the establishment of a single statute of limitations.

In addition, the ADEA presently provides to private sector and non-Federal age claimants the right to commence an action 60 days after the timely filing of an age charge with the EEOC. The new language to Section 17(b)(4) makes clear that the claimant may commence a civil action at any time after 60 days from the time the charge was filed up until the expiration of the 90 day period following receipt of notice from the Commission that it has dismissed the charge or otherwise completed its consideration of the charge, whichever is later.

For purposes of clarity and consistency, the headings have been modified and the term "individual," as used in section 7(d), is substituted for the term "person aggrieved."

14. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

The House Amendment, but not the Senate Bill, specifies that where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

The Senate recedes. This section encourages the use of alternative means of dispute resolution, where appropriate and to the extent authorized by law. These methods include settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials and arbitration.

This amendment was adopted to encourge alternative means of dispute resolution that are already authorized by law. A virtually identical amendment was enacted as part of the Americans with Disabilities Act, 42 U.S.C. § 12212.

The Conferees emphasize, however, that the use of alternative dispute resolution mechanisms is intended to supplement not supplant, the remedies provided by Title VII. Thus, for example, the Conferees believe that any agreement to submit disputed issues to arbitration, whether in the context of a collective bargaining agreement or in an employment contract, does not preclude the affected person from seeking relief under the enforcement provisions of Title VII. This view is consistent with the Supreme Court's interpretation of Title VII in *Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36 (1974). The Conferees do not intend this section to be used to preclude rights and remedies that would otherwise be available.

From the Committee on Education and Labor:

HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
CRAIG A. WASHINGTON,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
HAMILTON FISH, JR.

Managers on the Part of the House.

EDWARD M. KENNEDY,
METZENBAUM,
PAUL SIMON,
BARBARA A. MIKULSKI,
JAMES M. JEFFORDS,

Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON S. 1824, EDUCATION OF INDIVIDUALS WITH DISABILITIES ACT OF 1989

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none and appoints the following conferees: Messrs. HAWKINS, FORD of Michigan, OWENS of New York, MARTINEZ, PAYNE of New Jersey, JONTZ, GOODLING, BARTLETT, BALLENGER, and SMITH of Vermont.

APPOINTMENT OF CONFEREES ON H.R. 4151, HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes, with Senate amendments thereto, disagree to the Senate

amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees:

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, KILDEE, and SAWYER, Mrs. UNSOELD, Mrs. LOWEY of New York, and Messrs. POSHARD, GOODLING, TAUKE, COLEMAN of Missouri, and GRANDY.

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SHARP, TAUZIN, BRUCE, TOWNS, WALGREN, SWIFT, LENT, MOORHEAD, DANNEMEYER, and FIELDS.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AND SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS TO SIT TODAY DURING 5-MINUTE RULE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and its Subcommittee on Public Buildings and Grounds be permitted to sit on today, Wednesday, September 26, 1990, while the House is meeting under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REV. JOHN PETERSON

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

Mrs. COLLINS. Mr. Speaker, it is a real pleasure for me to say a few words about Rev. John O. Peterson, pastor of Alfred Street Baptist Church in Alexandria, VA, who just delivered the morning prayer to open this day's business of the House of Representatives.

I am a "watch" or associate member of Alfred Street. Just a few days from now, on October 4, Reverend Peterson will celebrate his 26th anniversary as pastor of this oldest documented black church in the United States. In addition to being a pastor, Reverend Peterson is involved in numerous civic, professional and charitable organizations. But I'll get to his stellar credentials a bit later. What I want to point out to you now are the qualities that make Reverend Peterson so special to me and the rest of his congregation.

When you first meet Reverend Peterson, the first thing you notice is his warmth and geniality. In fact, Reverend Peterson meets no strangers: as amazing as it may sound, if he meets you once and learns your name, he'll never forget you.

And this personal touch transcends life at Alfred Street. Even though this is a very large church, with a membership list of approximately 2,600, and a sanctuary capacity of about 600 persons, the church goes out of its way to make everyone feel wanted, needed and a part of the Alfred Street family. Believe me, this comes from the top; Reverend Peterson's gift for making even first time visitors feel at home has permeated the fiber of his church, right down to the membership groups, the small circles to which each member is assigned where they can interact with other members and the church on a more personal level.

This personal touch is never more present than in a time of need. As a spiritual adviser, Reverend Peterson is ready and available to assist his parishioners in sickness, death or if one just needs a friend to talk to.

The other thing it doesn't take long to discover about Reverend Peterson is that he is truly a man of God. We've all heard the old saying, "Many are called, but few are chosen," well, Reverend Peterson is clearly one of the chosen. He is very well educated in religion and theology, but most important, can relate it to those of us in the congregation in a way that helps us know what it means to be a Christian in 1990. Reverend Peterson does not preach to the choir; he goes beyond mere "fire and brimstone" rhetoric. He inspires us to social action, to civic awareness, to community involvement. These are all aspects of our duty as Christians that are too often forgotten or not re-enforced.

Rev. John O. Peterson, Sr., is an accomplished pastor, community leader, educator, and evangelist. He is a product of Northumberland County, VA, and a product of its public schools. As with many distinguished theologians, he is a graduate of Virginia Union University and its School of Theology, as well as, Howard University School of Divinity, Bucknell University, George Washington University, Wesleyan University, and the John Wesley Theological Seminary.

Reverend Peterson has served four churches in his 36 years of ministry. During the first 22½ years, he also taught mathematics, biology, chemistry, and physical science in the public schools of Warwick—now Newport News—and Arlington counties in Virginia. Since October 4, 1964, he has been the pastor of Alfred Street Baptist Church in Alexandria, VA. In the last 26 years, Alfred Street has grown from less than 200 members to more than 2,600; from two weekly services to at least four; from two choirs to seven; from one to many ministries; from 8 all male deacons to 25 men and women; and, from an operating budget of $12,000 in 1964 to over $1.8 million in 1990. In 1980, the church erected a $1.25 million edifice and because of the church's rapid and sustained growth, is now planning an expansion project to restore the old building and create additional sanctuary, chapel, classroom, executive and administrative office space, choir rehearsal rooms, and parking spaces.

Through Reverend Peterson's involvement in local, State, national, and international Christian organizations, his name and that of Alfred Street Baptist Church are known in many countries around the world. He has conducted revivals, participated in preaching tours and visited 16 countries, including the Soviet Union and many in Africa.

Among his many honors and awards, Dr. Peterson is listed in Who's Who in America. Honors have been bestowed upon him by the Washington Joint Board of Science Education, the Arlington County PTA Council, the Alexandria Gazette, the Washington Urban League's Northern Virginia branch, Alpha Phi Alpha Fraternity, the Baptist World Alliance, and many others.

He has served as president of the Baptist General Convention of Virginia, was a cofounder, secretary, treasurer and president of the Alexandria Baptist Ministers Conference, chairman of the Alexandria branch of the Washington Metro YMCA Committee of Management, president of the Virginia Union University School of Theology Alumni Association, chairman of the Alexandria Community Corrections Resources Board, chairman of the Northern Virginia Baptist Camp Board, and is currently assistant chairman of the finance and budget committee and vice president of the Baptist World Alliance. His many memberships include the board of governors of the Virginia Council of Churches, the Alexandria School Board, the Virginia Union University board of trustees, the Alexandria branch NAACP executive board, the Northern Virginia Urban League, the executive committee of the Baptist General Convention of Virginia, and, the executive board of the National Baptist Convention, USA, Inc. As if this weren't enough, he is also a volunteer chaplain with Alexandria Hospital and the Alexandria Police Department.

As is often the case, beside every great man there is an equally great lady. In this case, the woman is his wife, Dr. Joyce Keemer Peterson. Reverend Peterson and his wife are the very proud parents of two adult children: Jewelette G. Peterson and John O. Peterson, Jr. To the Peterson family, we thank you for so generously allowing Reverend Peterson to give so

much of himself to so many people and worthy projects. To my spiritual leader, teacher and friend, Reverend Peterson, I commend you to this body and thank you for your lifetime of dedication and service.

□ 1040

FOP HEAD TARGETS HOUSE SPEAKER

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

Mr. MARLENEE. Police attacking the Speaker of the House? Unbelievable?

Not really, when you consider the source. Dewey Stokes, who heads the Fraternal Order of Police, led the attack, and as far as I am concerned set back—way back—the image of that organization.

One has to ask the question, is the Fraternal Order of Police interested in good, solid support for law enforcement, or are they preoccupied with controlling the kind of firearms Americans can own? The former head of that organization is now acting as a consultant for Handguns Control, Inc.

Is Dewey Stokes more interested in pictures with Senator METZENBAUM, consulting and Sara Brady and attacking TOM FOLEY, or is he interested in those rank and file officers who, with great sacrifice, protect us?

TOM FOLEY is interested in law and order. RON MARLENEE is interested in law and order. Every Member of this body is interested in supporting police officers.

INTRODUCTION OF EMERGENCY OIL MARKET STABILITY ACT

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

Mr. MINETA. Mr. Speaker, Americans are paying more than $40 for a barrel of oil and a record $1.40 for a gallon of gasoline. All this without an oil shortage. Look at the results.

Inflation is in double digits. Tens of thousands of Americans may soon be thrown out of work.

And if you think the Federal deficit is in the stratosphere now, just wait until oil prices help boost it into deep space.

What happens if we go to war? What happens if there is a shortage?

Mr. Speaker, Congress needs to act and act now. We need a circuit breaker to prevent our economy from grinding to a halt in this emergency. And make no mistake: This is an emergency.

Two weeks ago, President Bush stood in this Chamber and asked Congress to come up with a national energy policy.

Mr. Speaker, America has had an energy policy under the Reagan and Bush administrations: Consume, consume, consume as if there is no tomorrow.

Well, tomorrow is here: The United States is at the mercy of speculators. That is just wrong.

Today, I am introducing the Emergency Oil Market Stability Act to act as the circuit breaker Americans need in this crisis.

Mr. Speaker, I ask you and my colleagues to send this legislation to the President as soon as possible. Then we will see how much the White House wants to prevent the crash of 1990.

TAPPING OF STRATEGIC PETROLEUM RESERVE WOULD RELIEVE PRESSURE ON OIL PRICES

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

Mr. CONTE. Mr. Speaker, we cannot sit idle as oil prices keep growing. We've got a ruthless dictator holding us by the oil sacks, and we are not doing a thing about it.

Oil prices jump every time Saddam Hussein opens his mouth.

They have climbed above the $38 plateau—double what they were before the invasion of Kuwait. The price at the pump is currently $1.38 a gallon and climbing. Home heating oil is above $1 a gallon and rising. And this is exactly what Saddam Hussein wants to happen. He wants to hurt our economy, and we're letting him do it.

We have a weapon under our control to combat the shakiness of the world oil market, yet we have been adamant in refusing to use it. This weapon is the strategic petroleum reserve.

There are 590 million barrels of oil sitting in the strategic petroleum reserve doing nothing. Why, Mr. Speaker? It is like keeping the lid on a barrel of water when your house is burning down.

Tapping the strategic petroleum reserve will tell the energy and financial markets that we are going to cap this gusher of oil price increases, and reassure consumers that we'll avoid shortages.

Mr. Speaker, what are we waiting for? Let us tap the strategic reserves, and let us do it now.

REPUBLICANS PUSH TAX CUT FOR THE RICH WHILE THE ECONOMY STUMBLES

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

Mr. HERTEL. Mr. Speaker, how did this happen? How did the deficit become larger in this decade then in the previous 200 years of this country? How did this Government triple the national debt in 10 years? How and why did it happen?

The Reagan administration doubled the defense budget and cut taxes for the rich. What does the current administration want now? This Monday we are looking at the Government shutting down, we are looking at people being laid off, we are looking at people losing their jobs and government services being stopped, and what does the Republican administration want now?

They want another tax cut for the rich. That is what they want. That is what is most important to them, another tax cut for the rich.

The middle class, the lower income people, did not get a tax cut in the last decade. In fact, they are paying more. But the Bush administration today stands for a capital gains tax cut for the rich as their most important principle. One more tax cut for the rich, that is what they stand for.

FIVE DAYS TO ARMAGEDDON

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

Mr. GUNDERSON. Mr. Speaker, it is time to change the calendar again. Yesterday it was 6 days, today it is only 5 days to Armageddon. The summitters are tired, and understandably so. They were up until 3 o'clock this morning, but we need them to go back in at noon because we are looking at chaos, we are looking at Armageddon if the Congress of the United States does not meet its deadlines.

It is only 5 days, actually 4 days and 13 hours if we want to be exact. We had a budget 8 months ago, and 6 months ago we missed our budget deadline. Five months ago the President offered to have a summit and offered to bring revenues on the table.

It is obvious there is no agreement on defense, no agreement on entitlements, no agreement on enforcement, and no agreement on revenues, and now we are looking at thousands of Federal employees being laid off. We are looking at chaos across this country. We are looking at innocent citizens being the victims of our inability here in the Congress to govern.

It is 5 days to Armageddon, Mr. President. It is time we in Congress got our job done.

"KING KONG" GOES TO JAPAN WHILE AMERICA'S PROBLEMS ESCALATE

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

Mr. TRAFICANT. Mr. Speaker, while American soldiers are putting

their lives on the line in the Persian Gulf and American taxpayers continue to spend billions to defend Japan, listen to what Japan is doing with their money. Their giant electronics firm, Matsushita, has paid $7.5 billion to buy MCA as the parent company of Universal Studios.

That is right, Japan is buying "E.T.", "Jaws," and "King Kong" now in one big swoop.

I would like to say this to the Congress: We must be crazy. We are in danger this Monday of closing our Government down, laying off our workers, and cutting back on our programs, and we are spending billions and billions of dollars defending Japan and Germany, and now they are buying "King Kong" over here. I think that explains it all.

Mr. Speaker, I think the first thing the summiteers should do is develop a big bill and send it to Japan and Germany and have them pay it before Monday.

□ 1050

AMERICAN SOLDIERS BEING HELD HOSTAGE BY DEMOCRATS IN CONGRESS

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

Mr. McEWEN. Mr. Speaker, the newspaper reports, and we are all aware, that yesterday in the United Nations the world joined together against the Government in Iraq in its effort to hold hostage anyone who is not a citizen of that country.

Then on the inside of the Washington Post this morning we have one of the most despicable acts that I think we have ever been involved in. It says there was an effort in which to take the $2 billion necessary for our soldiers in the Middle East and hold it hostage to political games. In an effort to force the President to either shut down the Government or abandon our soldiers on the front lines in the Middle East, the Post says, "Democrats acknowledge that they stand little chance of overriding a Presidential veto unless the Desert Shield money is included in their program." On a party line vote yesterday Democrats added the funding for our soldiers in the Middle East to their effort to continue wasteful spending.

Mr. Speaker, it is no wonder that Americans are becoming increasingly cynical of the actions of the Congress. Unfortunately, all of us are smeared by the stench of this effort to hold the American soldiers hostage to their political gains. It is despicable and is digging a new low in the performance of politics in this Chamber.

ACTION URGED ON MAGNUSON ACT TO PROTECT MARINE RESOURCES FROM DRIFTNET FISHING

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

Mrs. UNSOELD. Mr. Speaker, foreign driftnets, 30, 40, even 50 miles long, are moving through the oceans of this planet raping and pillaging. As abundant as are world's marine resources, they cannot be sustained under the onslaught of these curtains of death. In the North Pacific they are actually stealing our salmon, our steelhead under the guise of fishing for squid.

Eight months ago this House, as a part of the Magnuson Act, overwhelmingly adopted my legislation to direct the Secretary of State to enter into negotiations with the driftnetting nations to ban the use of these nets.

After 8 months those nets are still raping and pillaging and the Senate has barely moved on the Magnuson Act. The bill they are beginning to move is inadequate. It will result in studies and studies and studies until the oceans are bare.

If the Magnuson Act is allowed to die in the other body in the remaining days of this Congress, the next 8 months will see millions of our salmon and steelhead pirated by driftnet vessels from Taiwan, South Korea, and Japan as they continue to assault the North Pacific.

Mr. Speaker, the Senate must act now.

NATIONAL BREAST CANCER AWARENESS MONTH

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

Mrs. VUCANOVICH. Mr. Speaker, I would like to take a moment today to remind all American women that October is National Breast Cancer Awareness Month. I would also like to commend my colleagues who have supported this effort each year.

Mr. Speaker, breast cancer is certainly an awareness issue. With tragic regularity, the number of American women who die of breast cancer increases each year; and the death toll is expected to rise to an alarming 44,000 in 1990. This epidemic cannot continue to destroy lives and to damage more families each year.

Scientists and researchers in the public and private sector grow closer to recognizing some of the causes for breast cancer, but still there is no cure. I was happy to see this body increase funding for breast cancer research, and we must continue to fund valuable research projects that may lead to a cure.

However, until there is a cure, there is only one way to avoid death by breast cancer, and that is early detection. I know this to be a fact, since I am a breast cancer survivor.

Unfortunately, I had never been asked to have a mammogram before I was elected to the House of Representatives in 1982. The Capitol physician suggested that all the freshman Members get a routine physical and that I have a screening mammogram. I was very lucky. My breast cancer was diagnosed and prompt surgery saved my life.

I don't believe a woman should have to be elected to Congress to make regular screening mammograms part of her medical routine. This is an important component to National Breast Cancer Awareness Month, particularly for women over the age of 35. Although we are making progress in raising awareness of the need for mammograms among women and their physicians, there is still a critical need to educate women on this life-saving procedure particularly poor women and minorities.

Mr. Speaker, I am dedicated to making screening mammography available and affordable to all women, and to helping to make women aware of the lifesaving value of mammograms. It's going to take a strong and bipartisan effort in the Congress to get this accomplished, and I am committed to see it succeed. We need to reinstate the screening mammography benefit within Medicare. We need to expand upon the legislation that we accomplished during this Congress and that is to begin a demonstration project adding screening mammography coverage for poor women eligible for Medicaid.

Until there is a cure, early detection is the best solution, and I am determined to do everything in my power to help women become aware of their need for regular screening mammograms, and to stop the tragic rise in deaths from breast cancer.

BUSH PROTECTING PROFITS OF OIL COMPANIES

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

Mr. FRANK. Mr. Speaker, the oil producers, the large domestic ones and the international ones, have a problem, but they also have a protector. Their problem is how they are going to hide their profits next week. They have driven profits way up using the current crisis as an excuse, when there is in fact no reality behind that. There is no real shortage. So their problem is how to hide their profits.

But they have a protector: George Bush. I join with my senior colleague

from Massachusetts, Mr. CONTE, who said we should be using the strategic petroleum reserve. As are the rules of the House, he addressed his comments to the Speaker. But in fact he has to address those to the President of the United States.

Americans have been taxed for years to build a strategic petroleum reserve. Oil prices now go up and up and up without real justification in terms of a shortage. One way to put a very severe limit on that would be a decision to begin to release oil from the strategic petroleum reserve until prices begin to come down. There is one reason and one reason only we are not going to do it: George Bush does not want to. George Bush is protecting the oil companies by refusing to allow the American people the benefit of the strategic petroleum reserve, for which they have paid, as they are confronted with oil prices which will fatten oil company profits, and are not—are not—physically caused by the events in the Middle East.

JUDGMENT DAY IS APPROACHING

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

Mr. BARTON of Texas. Mr. Speaker, Judgment Day is approaching. On Monday, October 1, the new fiscal year begins. Unless we have a budget agreement between now and then, Gramm-Rudman sequestration goes into effect.

I think a few facts are in order. First of all, Gramm-Rudman-Hollings has worked. The budget deficit is $480 billion less, almost half a trillion dollars less, than it would have been without Gramm-Rudman.

Second, Gramm-Rudman is forcing the difficult budget choices that are now being worked out between the President and Republicans and Democrats in the House and the Senate. I think we all agree that a budget agreement is preferable to sequestration.

Third, however, a sequester is preferable to some sort of a gimmicked-up continuing resolution that waives Gramm-Rudman and acts like we do not have a budget problem and we can just be ostriches and stick our heads in the sand.

Finally, I think President Bush is absolutely right to insist on some economic growth and job creation incentives like capital gains tax rate differential.

CONGRESS SHOULD PLAY MORE ACTIVE ROLE IN OPERATION DESERT SHIELD

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

Mr. BENNETT. Mr. Speaker, I recently introduced a resolution that provides that the United States should make an effort to try to see if we can get the United Nations to take on the primary responsibility of confronting Saddam Hussein and of getting other countries besides just the United States involved in the situation in the Middle East.

This morning I received an anonymous letter from someone on Capitol Hill suggesting that the United States has sovereignty and can do all this itself if it wants to.

A concern about this matter is that I think other nations should give more to this effort than they are giving now, and furthermore, I do not want to see us slip into a war without the proper consideration being given in the House of Representatives.

Mr. Speaker, at this point in the RECORD I include the resolution which I have introduced.

H. CON. RES. 372

Resolved by House of Representatives (the Senate concurring),

SECTION 1. APPROVAL OF INITIAL RESPONSE TO THE INVASION OF KUWAIT.

The Congress finds that the United States of America acted properly and justly in response to the brutal and illegal invasion of the sovereign state of Kuwait by the nation of Iraq. The President of the United States deserves great credit for his able leadership in mobilizing widespread international diplomatic opposition to the unprovoked Iraqi aggressions. The Congress and the people of the United States support necessary actions to maintain the borders of Saudi Arabia against aggression and to protect the safety of United States armed forces stationed in that nation.

SEC. 2. URGENCY OF CONGRESSIONAL AUTHORITY FOR FURTHER OPERATIONS IN THE PERSIAN GULF.

The Congress finds further that the Constitution of the United States vests all power to declare war in the Congress of the United States. Any offensive action taken against Iraq must be explicitly approved by the Congress of the United States before such action may be initiated.

SEC. 3. ESTABLISHMENT OF A UNITED NATIONS COMMAND IN THE PERSIAN GULF.

The Congress finds further that the United States of America should exercise its leadership to transform the allied military activity in the Persian Gulf from a United States action with limited allied participation into a United Nations police action with United States participation. The liberation of the people of Kuwait and the security of the peoples and states of the region, and the full economic, diplomatic and military participation of the nations of the world in this liberation and in this maintenance of security can be best ensured through the establishment of a United Nations command in control of the allied defenses against further Iraqi aggression.

STRONG HAND—OR A BLUFF?

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

Mr. THOMAS of California. Mr. Speaker, the current budget battle has been characterized as either a game of chicken or a game of poker. Using the poker analogy, when someone ups the ante, it is an indication that they either have a strong hand, or they are bluffing.

In today's Washington Post, Chairman JAMIE WHITTEN is quoted as saying that letting the automatic budget cuts take effect without a budget agreement would, "bring this country to its knees."

He added that he was forced to, "question whether anybody who would let the country go to pot is patriotic or their judgment is sour."

What do you think? Strong hand—or a bluff?

And while I'm quoting. How about the one from Samuel Johnson, who once said, "Patriotism is the last refuge of scoundrels."

□ 1100

REPUBLICAN INTRANSIGENCE ON BUDGET

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

Mr. DURBIN. Mr. Speaker, the President has promised to veto the continuing resolution which would keep Federal agencies at work until October 20. President Bush and the Republicans have said they would rather shut down the Government than give up on their plan to give more tax breaks to the rich. The Republicans would rather have sequestration on Monday than abandon their quest to cut the capital gains tax for the wealthy.

The President's party would rather see layoffs in veterans' hospitals than ask Donald Trump to give up a new tax break.

The Republican strategists would rather furlough air traffic controllers and cut domestic airline flights than ask the superrich to pay their fair share.

They would rather cut back Federal prison guards and drug prosecutors than require those with incomes over $180,000 to give up a tax break.

After more than 2 months of negotiation, the budget summit has broken down over one issue: A bigger capital gains tax break for the rich. It is time for Congress to return to the constitutional process of passing a budget resolution and send the President's summiteers back to the White House to fantasize about the lifestyles of the rich and famous on their own time.

THWARTING THE WILL OF THE MAJORITY ON A CRIME BILL

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

Mr. ROHRABACHER. Mr. Speaker, once again the liberal Democrat leadership has shown its contempt for fair play, contempt for even the wishes of the majority of this House, and contempt for the people of this country.

Yesterday, a majority of Members recognized the extreme unfairness of the rule for the Comprehensive Crime Control Act of 1990, a title which is a misnomer in anybody's book. A majority recognized that this Michael Dukakis approach to crime is not going to make it. We saw that the American people are not going to put up with a bill that guts capital punishment and which does not allow for major reforms in the criminal justice process even to be proposed.

The unfair rule for this bill was overwhelmingly defeated; yet, the Democrat leadership refuses to yield to the majority and bring the bill back to the House floor with a fair and open process. Given a chance, this House will pass a strong crime bill. Why is the Democrat leadership opposing anticrime legislation?

Mr. Speaker, it is bad enough that the leadership tramples on the rights of the minority in this House. Now they trample on the rights of the majority and thwart the will of the people. Give us the right to vote for real anticrime legislation. We do not want an election year sham bill that guts the death penalty and further ties the hands of the police.

Voters, take note who is thwarting the war on crime.

NO MORE TAX BREAKS FOR THE WEALTHY

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

Mr. APPLEGATE. Mr. Speaker, this must be the craziest legislative body in the world. We are running $200 billion to $300 billion deficits, we have got a $3.75 trillion debt we are carrying, yet the summiteers are out here at Andrews Air Force Base trying to find out some way to tax the little guy.

We give trillions of dollars to the Nation's very wealthiest and to corporate America, and yet we blame the little guy in this country.

Let's find out where it really is. First of all, let us start out by eliminating the 5 percent discount on tax rates that we give to the wealthy of the country. Let us tax foreign companies at the same rate we tax domestic companies that get a break. Let us change our trade policy and instead of bringing in all of this cheap foreign stuff, let us bring back the jobs, the good paying jobs in this country. Let us start getting back some of the money that some of these wealthy taxpayers are cheating the Government out of today, and let us stop the Government waste, Government waste which amounts to some $100 billion, especially in defense.

Yes, it is crazy to give these big tax breaks to the very wealthy, and then to quadruple the senior citizens' Medicare premium and cut veterans' benefits.

CRIME BILL

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

Mr. DOUGLAS. Mr. Speaker, last night four members of the Republican Study Committee walked for 2 hours with a neighborhood crime patrol in the Benning-Marshall Heights neighborhood of southeast Washington, DC. Those ordinary citizens, without any police support, march through that neighborhood for 2 hours a night, every night of the year because they want to do something about crime and drugs in their neighborhood. They have done more than the House liberals have done with their procrime bill that they got tripped up on yesterday on the floor of this House.

Those people are out on the front line of the war against crime while we are trying to pass a bill that will screw up habeas corpus, will make it easier to blow up an airliner, and easier to assassinate the President of the United States. I wish all of the House liberals would go out and march for 2 hours and see what it is like to be on the front lines in the war against crime and drugs. If they would do that we could vote for the Hyde amendment, and that will permit us a real crime bill, not a procrime bill.

CAPITAL GAINS TAX CUT IS NOT A TRADEOFF OF FAIRNESS FOR GROWTH

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

Mr. MOODY. Mr. Speaker, with the falling away of Republican congressional support for a capital gains tax cut, it is important to take another look at this one big stumbling block that—at White House insistence—continues to prevent a budget agreement at the summit that the entire Nation needs.

Everyone should read Robert Samuelson's column in today's Washington Post, entitled "The Capital Gains Obsession."

Samuelson's article shows that the issue is not—repeat, not—between fairness and growth, as the White House claims. For alleged growth is the White House's last refuge, since they admit it's both a big revenue loser—making the deficit worse—and predominately benefits incomes over $200,000.

Samuelson points out that even under optimistic calculations, a capital gains tax cut would add no more than six-tenths of 1 percent to GNP—less than the normal statistical error. So growth is not the tradeoff to capital gains ill effects on fairness.

WE NEED A REAL ANTICRIME BILL

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

Mr. McCOLLUM. Mr. Speaker, yesterday we were to have on the House floor a crime bill that would have allowed us to vote on key proposals to restore the death penalty at the Federal level for a number of Federal crimes, to change the rules of evidence so that contraband from searches and seizures in drug cases would more easily be allowed into evidence to get convictions, and to enact a death penalty for drug kingpins who traffic in extremely large quantities of narcotics.

But the Rules Committee sent to the floor a rule that was very unfair, that would not have allowed the offering of an amendment that embodied the recommendation of the Powell Commission to come up, finally, with a change in the law to restrict the endless appeals that those convicted of heinous crimes, who are given the death penalty, have been using to avoid the carrying out of their sentences. Those appeal-after-appeal-after-appeal situations in Federal district court, under the habeas corpus laws of this Nation, have been something that the American public has wanted changed for ages. We were not allowed to offer that, and therefore the rule was defeated because the vast majority of the Members of this body understood how unfair and wrong it was.

Now the question is will the liberal leadership on the Democratic side of the aisle allow the majority the opportunity to vote. Will the Rules Committee be permitted, will it be ordered to come back with a rule, and let us consider the crime bill this session or not? I think the American people have every reason to question that leadership and the 36 years of Democrat control of this House if we do not get a chance to vote on a responsible crime bill this session of Congress.

SADDAM HUSSEIN'S STRATEGY

(Ms. KAPTUR asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, before the United States gets drawn into a prolonged and expensive land war in the Middle East, it is worth examining the political context in which our troops have been placed. I would like to put in the RECORD this morning an article by Robin Wright, renowned U.S. war correspondent and foreign affairs editor for the Los Angeles Times, in which she states:

> Under seige economically and diplomatically [Saddam Hussein] wants to make Iraq look like the victim rather than the aggressor.
>
> Hussein is seeking to link three issues that have served to motivate all popular Arab movements in the post-colonial era: Islam, Pan-Arabism and, in a region where 6 percent of the population controls 50 percent of the wealth, social justice.
>
> Although his success so far has been mixed, Hussein has tied all three issues to the emotional question of a foreign presence. He has managed to win the support of about 20 percent of the Arab world, while confusing the rest by turning the question of foreign troops into an issue that competes with the invasion of Kuwait.
>
> Saddam will continue to exploit these differences in the Arab world in an effort to puncture holes in the embargo.

And we saw that already happening this morning with the air embargo and what has happened in Jordan.

As far as Kuwait goes, in another 6 months we will not be able to recognize it because a third of the population has fled, and Iraqi passports have been given to people who are currently citizens of Kuwait. And of course, the dinar has now been used as the currency in Kuwait, and Iraqi currency is going to be the official currency in that country. So even if Kuwait is regained, what do we have when it is regained?

While the United States must exercise restraint and power, our President and Congress must be redoubling efforts to keep up international pressure for a peaceful settlement in the region. We should use the billions of dollars now being spent on the military to improve the standards of living of the people in the region, to protect them for sure, but to operate with restraint and full recognition of the political context in which the United States is operating.

□ 1110

A BLATANT GRAB FOR YOUR WALLET

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

Mr. COX. Mr. Speaker, while the President of the United States pursues a pro-growth, pro-jobs policy of reducing tax rates on capital gains in order to raise revenues, the Democrats are talking about raising taxes on just about everything. Most of their tax-increase proposals are stealth tax-increase proposals. They are talking, for example, about bursting the bubble.

Supposedly the Democrats are concerned about a lack of symmetry in our rate structure. It goes from 28 percent to 33 percent marginal income tax rates. In fact, there is no such thing as this bubble. There is no 33-percent rate in our income Tax Code. What there is, instead, is a 5-percent surtax that applies to a fraction of your income.

Let me give you an example. If you make $80,000 a year, you will pay that 5-percent surtax on a fraction of your income. The total tax you pay will be 23½ percent. If you make $100,000, it will be 25½ percent, and so on, until you max out at 28 percent.

No one in America pays more than 28 percent. But the simple fact is this: The more money you make, the more tax you pay, and the more money you make, the higher your rate until you reach 28 percent.

What the Democrats want to do, plain and simple, is raise that top rate on everyone to 33 percent.

Next time you hear somebody talking about bursting the bubble, hear it for what it is, a blatant grab at your wallet.

CAPITAL GAINS TAX CUT WILL ADD $20 BILLION TO DEFICIT

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

Mr. OBEY. Mr. Speaker, it is mind-boggling that in the context of an effort to reduce the deficit, the President is insisting that we pass a capital-gains tax cut which will add to the deficit by over $20 billion.

The Republican response to our objection that 85 percent of the benefits under capital gains will go to the wealthiest 5 percent of the people in this country is to say, "Oh, do not forget this will cause job growth and economic growth."

To check that out, we asked the Joint Economic Committee executive director to analyze that claim using the Treasury Department's own study in 1985 of the 1978 capital-gains tax reduction. That analysis concluded, and this is incredible, that under the most optimistic scenario you might create up to 55,000 jobs over the next 5 years, but at a cost to the taxpayer of $410,000 per job slot created.

Can you imagine the cries of outrage from the Republican side of the aisle if the Democrats had such an incredibly economic inefficient package that tried to develop job training job slots or Job Corps job slots at a cost of $410,000 each. We would be laughed off this floor under those circumstances, as they most surely ought to be laughed off this floor for pushing that kind of a turkey proposal with that kind of incredible cost to taxpayers.

THE PEPPER COMMISSION REPORT ON HEALTH CARE

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

Mr. JAMES. Mr. Speaker, the long-awaited final report by the Pepper Commission on the status and future of health care in this country came out yesterday. It tells a sorry tale of the current system and outlines proposals for a new system that would address the current health-care problems that exist.

I want to commend the Pepper Commission for its work. Health care in this country has reached crisis proportions for many of the citizens.

The Commission makes a valid point that, while many Americans have access to the most advanced technology available, many Americans do not have access to even the most basic health-care services. Clearly that must be changed.

The Commission has made some very strong and positive suggestions such as encouraging business participation in providing health care to their employees and coming up with a basic package of health-care services that can be provided to all individuals.

However, there are some proposals that I have problems with such as the cost of the program and mandates as to who must participate. Clearly, a business mandate is a form of regressive tax that will be passed on to the middle- and low-income worker, and without other controls implemented, there will be problems created.

However, the report is a step in the right direction. It identifies serious problems and comes up with some specific solutions.

While it is not perfect, Congress must pick up the ball and move toward fixing the health-care mess in this Nation. The American people are waiting.

BASIS FOR UNDERSTANDING BETWEEN BLACK AMERICANS AND JAPANESE PEOPLE SOUGHT

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

Mr. PAYNE of New Jersey. Mr. Speaker, I rise to express my extreme disappointment in and disgust for the offhand comments made by Japan's Minister of Justice, in which he compared African-Americans to prosti-

tutes and suggested that African-Americans ruin white neighborhoods.

What disturbs me most, Mr. Speaker, is that the Japanese Justice Minister's racial remarks are not an isolated incident. They are just another example in a long line of racially discriminatory statements made by high ranking Japanese Government officials which belittle black Americans.

These derogatory remarks are especially damaging at a time when United States relations with Japan are already being strained by Japan's perceived lack of effort in the Persian Gulf and America's persistent trade deficit with Japan.

Now, more than ever, it is important for us to form links of understanding between black Americans and the Japanese people. While the Justice Minister's egregious comments are a setback, I still hold out hope that African-Americans and the Japanese can become working partners in a world which is increasingly characterized by interdependence.

STATISTICS ABOUT WHO PAYS THE MOST TAXES

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

Mr. DORNAN of California. Mr. Speaker, during our district break, a glorious event happened in the Dornan clan. My wife, Sallie, and I welcomed our eighth grandchild, Robert Kenneth Owen Dornan III.

So when people talk about debt that we are leaving to future generations, I feel that in a flesh-and-blood way. But at the same time I sit over here and mumble to myself, "Lies, lies, lies," every time somebody gets up on the majority side and starts engaging in class warfare, bashing the rich, saying they are paying less in taxes because of the two Republican Presidents. They do so without ever telling us who these rich are or how much they make.

Here are the most recent IRS statistics on taxes paid by income class for Jimmy Carter's penultimate year, 1979, and 1988, Ronald Reagan's last year. Take the top 5 percent, and every single Member of this Chamber is in that top 5 percent of earning Americans.

The top 5 percent of income earners paid 37.6 percent of all taxes in 1979. It is now up to 45.9 percent. Take the top 10 percent, they paid 49.5 in 1979. That is now up to 56.9 percent. Take the top 25 percent. Their share has risen from 73.1 percent to 77.8 percent.

What is this, folks? Is the Laffer curve working? Does it mean that if we reinvest in our country and create jobs there is more income tax? Of course it does.

Now, let us look at what two Republican Presidents did for lower income Americans, the bottom 50 percent. Their share of taxes fell from 6.8 percent in 1979 to only 5.8 percent of our income tax in 1988.

I heard one of my class-warfare friends from New York wailing the other day about how we are not socking it to the rich enough and that the tax rates on the rich were lower than ever. But what is the point of having higher tax rates if they raise less revenue? Does that make sense? I do not think so. It seems to me that the class-warfare crowd on the other side of the aisle is more interested in showing how much they hate the rich than in increasing Government revenue. I just wish they would stop the lying that is going on in this Chamber.

WORKING PEOPLE WILL PAY AND PAY AND PAY

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

Mrs. BOXER. Mr. Speaker, why is there a problem reaching a summit agreement?

It is very clear that Republicans want to help the winners of the war on poverty, the top, top, top millionaires and billionaires.

Who will pay? The working men and women of America will pay and pay and pay.

□ 1120

The Republicans talk about growth. They talk about investment. Those are good words. I want growth and investment. However, the truth of the matter is, when it comes from them, it is cover for the real agenda, for those whose lifestyles need no more help from this Government, whose lavish lives have been guaranteed by the tax policies of Ronald Reagan.

The bubble, it allows the millionaires and the billionaires to pay a lower tax rate than the middle class. Let Members not make the 1990's another decade of greed. Let Members fight this greedy agenda.

LEGISLATION FOR PRESIDENTIAL EMERGENCY POWER

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

Mr. GINGRICH. Mr. Speaker, we are hearing a lot today from Democrats who have a lot of rhetoric, but they have to face reality. Their party has controlled this House for 36 years. On Monday morning, Federal employees across this country face a furlough in large part because the Democratic leadership of Congress will not cooperate with the President of the United States, a President who can cooperate with 25 different countries in the Middle East, but for some reason cannot find Democrats reasonable enough to work with.

We will be introducing a bill today to give the President 7-day emergency power beginning Monday morning to allow him to shift funds within the sequester for public safety and public health to keep meat inspectors on, to keep air traffic controllers on, to keep drug enforcement agents on, to keep veterans' hospitals running.

I hope if the Democratic leadership failed when we come back into session on Sunday, that day will make in order an opportunity to keep America working, to save jobs, to save public safety, and to save public health by giving the President of the United State 7 days emergency power in the light of the Congress' failure.

REPUBLICANS ADMIT CAPITAL GAINS CUT IS OBSTACLE

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

Mr. DORGAN of North Dakota. Mr. Speaker, I noticed a while ago there was a chart on the floor that was labeled "Armageddon." Well my friends, the road to Armageddon is paved with the President's demands that we give another tax cut to the rich. That is not me saying that. Senator DOLE said that in the paper. He said that the capital gains tax cut is the stumbling block at the summit the capital gains tax cut.

Now, I would like to suggest that if we bring charts out here, let Members bring one other chart. It would be a chart showing $25,000. A country that is choking on debt finds a President demanding that we give an average $25,000 tax cut to those Americans whose incomes are $200,000 or more. What kind of proposal is that? We are supposed to reduce the deficit, not increase the deficit.

This talk about growth economics is nonsense. No Member believes that nonsense. The people back home that play pinochle and go bowling and work for a living do not believe that economic baloney for a minute.

My friend from California took the gentleman from Georgia, Mr. GINGRICH's words, from the Gingrich dictionary, and he used the word "lying" three times. While I will not claim credit for the use of the words from the Gingrich dictionary, the word just above it describes better the condition of the proposals that hang up this summit. NEWT's word is "pathetic."

BUSINESS AS USUAL IS NOT WORKING

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

Mr. DELAY. Mr. Speaker, I just had a revelation. The Democrats on that side of the aisle all morning have been wanting Jimmy Carter to come back to our economic situation, and they want to do it by taxing the rich. Once again they want to lead Members down the path of economic recession. The revelation is, they get all their economics in the politically pompous Committee on Joint Economics that they hire, they control, and they tell to bring in the studies to prove their weak economics. Instead of progrowth and projob proposals that we have been enjoying over these years, they want to advance Jimmy Carter economics.

Instead, the Democrats are pushing for, what else? Spending increases in the negotiations. This time we only want $30 billion in increased spending over the next 5 years. Republicans want to freeze the total level of domestic discretionary spending and allow increases only for inflation. Democrats want to disguise user fees as entitlement cuts. Republicans want entitlement cuts of $120 to $130 billion over 5 years. Democrats want to scrap Gramm-Rudman. Republicans believe Gramm-Rudman is our only fiscal discipline and we have to keep it.

The bottom line, Mr. Speaker, is that the Democrats want business as usual. They want to bring back the economics of Jimmy Carter. The problem is that the American people want Members to do something about the deficit. Business as usual does not get Members there.

TAX REDUCTIONS TO RICH LED TO DEFICIT

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

Mr. DEFAZIO. Mr. Speaker, how long, O Lord, will we blame Jimmy Carter for the problems of the 1980's and 1990's? We all thought that brinkmanship went out with the cold war, but our President, Mr. Bush, has revised the high art of brinkmanship in a catastrophic way.

Is it for a high principle? Is it for the defense or the freedom of the people of the United States and the freedom of the world? No, it is for one thing: A tax break for the richest people in America. The richest one-half of 1 percent have already had their taxes reduced by more than 50 percent in the last decade, leading to catastrophic deficits.

What would this President cut next Monday? Housing? Student financial assistance? Medicare? Air traffic control? Federal law enforcement? Maternal and child health? Energy conservation? Centers for disease control? Veterans health care? Unemployment programs? Is that kinder and gentler? Is that the way to reduce the wasteful spending of the Federal Government?

Now, Mr. President, you are standing up here for the rich, the one-half of the 1 percent, how about the other 99½ percent of the people in America? Let Members have a fair budget. Let Members have fair taxes. Let Members go forward together into the 1990's, but not with this vision. Not with no taxes for the rich.

AMERICANS DESERVE VICTIMS' RIGHTS

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

Mr. HOLLOWAY. Mr. Speaker, It goes without saying that not all crime bills are created equal. Some are real, some are not. Some fight crimes, and some do not.

I think the American people at this time demand more of Members. Capital punishment works, but it only works if we do it in a way that is prompt and sensible. We give a guy his rights, his appeals, and properly so, but we have to create a speedier process and then it will work.

We have so many attorneys in this House, so many attorneys in the State legislatures of this country that want to protect the special interests, to make sure we drag the process out for 10 years, that it cannot work. The American people of this country demand rights for victims. They should. They are tired of the emphasis given to the rights of criminals. They believe everyone should enjoy their civil rights. If, in the end, they have committed a very serious crime that bad, let the Government put them to death. Let the Government give them sentences that are unparolable, sentences that will take care of the people on the streets of this country, and then we will have a better street to walk on, and a better world to live in.

CAPITAL GAINS TAX CUT SHOULD INCLUDE INDEXATION

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

Mr. LEVIN of Michigan. Mr. Speaker, it is rather strange that the Republican rank and file comes here this morning to espouse a position that the leader, their leader here, has essentially abandoned, and that the Republican leader in the Senate has abandoned, this total fixation on a capital gains cut.

It was said in the paper this morning by a leading economist, Mr. Samuelson, that the staff of the President is saying what he wants to hear. They have exaggerated the economic benefits of a tax cut.

If we are going to consider any aspect of a capital gains tax, it should be indexation. I have proposed we look at that. But two points: first, it is distributionally still not equal, and we have to look at something else to balance it; second, if it is done fully, there is an immense revenue loss that must be offset.

The minority whip came here and said the Democrats have controlled the Congress over the last 20 years. But the President has controlled economic policy for the last decade.

□ 1130

And I just say to the Republicans who think the politics of sequestration is on their side, "You are likely to be hoisted on your own finger-pointing." Look at the interest of the Nation; with sequestration, you will lose politically.

CONGRESS SHOULD NOT ADJOURN UNTIL BUDGET AGREEMENT IS REACHED

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

Mrs. SAIKI. Mr. Speaker, this Congress should not adjourn until a responsible budget agreement has been reached.

In the past few weeks, there has been much talk about the possibility of a lameduck session, or a long-term continuing resolution which would delay the need for a budget agreement until later this year or even next year. Either of these tactics would be grossly irresponsible and would demonstrate that the Congress is not serious about reducing the deficit.

The people sent us here to deal with the problems of our Nation including the budget deficit. Yet every day we go without a budget agreement, the deficit increases and the national debt accumulates. We cannot justify going home to campaign, or put off for the next Congress, the problems for which we and previous Congresses are responsible.

Therefore, Mr. Speaker, until we have passed a budget agreement that seriously and responsibly addresses the deficit, I will oppose any attempt to adjourn the 101st Congress.

COL. WENDELL WADE BLACK

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

Mr. MONTGOMERY. Mr. Speaker, today marks the last day of active service in the U.S. Army for Col. Wendell W. Black.

For more than 28 years, Colonel Black has served his country with distinction. His is a familiar name to many of my colleagues in this great Chamber due to the outstanding manner in which he has carried out his duties as chief, House liaison division, Department of the Army.

Colonel Black has had the unenviable responsibility of developing and carrying out numerous congressional delegation trips in the United States and abroad. I'm sure we would be the first to agree that it is not easy to coordinate the infinite details of a trip to the other side of the world for as many as 15 Members of Congress and staff, while remaining sensitive to their respective needs and concerns, as well as the political and protocol demands of the countries visited. But like no one else, Wendell Black has done just that. From personal experience and from accounts of my colleagues, I have long known that if Wendell Black is assigned a task, it will be done right.

An unassuming gentleman, he has captured the utmost respect and admiration of Members of Congress and his colleagues for his professionalism and unfailing courtesy. I'm sure that my colleagues who have traveled with Colonel Black would agree with me that his proficiency has been a key factor in the success of their congressional delegation trips here in the United States and abroad.

But before he came to Capitol Hill, this highly decorated serviceman and outstanding American had already made an indelible mark.

Col. Wendell Wade Black was born in Saluda, SC, on May 24, 1940. He was commissioned a second lieutenant in the infantry and awarded a degree in industrial management from Clemson University on August 25, 1962. He also holds a master of public administration degree from the University of Missouri, Kansas City.

Colonel Black's military education includes completion of the infantry officer basic and advance courses, the U.S. Army Command and General Staff College, and the U.S. Army National War College.

Colonel Black has held a variety of command and staff positions. They include: security platoon leader, 23d Ordnance Company, 101st Ordnance Battalion, Heilbron, Germany; scout platoon leader and tank company commander, 2d Battalion, 70th Armor, 2d Brigade, 24th Infantry Division—mechanized—Augsburg, Germany; rifle company commander and assistant brigade S3, 2d Battalion, 16th Infantry, 2d Brigade, 1st Infantry Division, Vietnam. His two key commands were the 1st Battalion, 17th Infantry mechanized, 2d Brigade, 2d Infantry Division, Korea, and later, commander of the 2d Brigade, 2d Infantry Division, Korea. His key staff assignments have included duties as staff officer, headquarters, military assistance command, Vietnam; management analyst in the office of the chief of staff, headquarters, Department of the Army; and two tours as chief, House liaison division, office, chief of legislative liaison, office, Secretary of the Army. He has served 2 years as the assistant professor of military science, Washington University, St. Louis, MO.

Colonel Black has been highly decorated for his service. His decorations include the Silver Star, Legion of Merit (One Oak Leaf Cluster), Bronze Star with Valor, and the Purple Heart. He has also received the Meritorious Service Medal (Three Oak Leaf Clusters), Air Medal, Joint Service Commendation Medal, Army Commendation Medal (One Oak Leaf Cluster), National Defense Service Medal, Vietnam Service Medal (Five Campaigns), Army Service Ribbon, Overseas Service Ribbon, Vietnam Campaign Medal, Vietnam Cross of Gallantry with Bronze Star, Vietnam Honor Medal, Vietnam Staff Service Medal, Combat Infantryman's Badge, Ranger Tab, Parachute Badge, and the Army General Staff Identification Badge.

I know that my colleagues will join me in commending Col. Wendell W. Black upon his retirement from the Army. Colonel Black, your country is truly indebted to you for your exceptional military career. We wish for you only the best.

PERU REJECTS OUR MILITARY ANTIDRUG ASSISTANCE

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

Mr. GILMAN. Mr. Speaker, I find it disheartening to read in today's Washington Post that our negotiations with Peru over our proposed $37.5 million in military assistance to help that beleaguered nation combat drug trafficking have collapsed and that Peru has refused to accept our military assistance.

This announcement is bad news for the international community which has been intensifying its efforts to combat narcotics trafficking and drug abuse and obviously good news for the drug traffickers who are able to corrupt the political, economic, and social institutions of that great Andean nation.

This announcement also comes at a time when there are record harvests of coca leaves that are used to produce cocaine, harvests originating primarily in Peru's upper Huallaga Valley, which is controlled by the narcoterrorists and a region that urgently needs intensified law enforcement and military presence.

Peru is the lynchpin of our recently announced Andean antidrug strategy, a cooperative strategy that was supported by the Presidents of Bolivia, Colombia, Peru, and the United States at the Cartegena conference that was held last February in Colombia.

Peru's rejections of our military antidrug military assistance also jeopardizes the $67.5 million military aid program that has been proposed for fiscal year 1991, thereby further jeopardizing the implementation of the Andean strategy and international efforts to combat the drug traffickers.

Mr. Speaker, let us urge President Alberto Fujimori to reconsider his position, to reenter discussions with our negotiators, and to accept military antidrug assistance. If the war against drug traffickers is going to succeed, then the international community, including Peru, must pool their resources, personnel, equipment, and technology to develop and implement a comprehensive, coordinated drug strategy. That is what the Andean strategy is all about. Winning the war against the drug traffickers means law enforcement and military assistance linked with drug education, prevention, treatment, and rehabilitation programs. A break in any of these links destroys the chain for an effective antidrug strategy, permitting the drug traffickers to win the war.

BUDGET FIGHT IS OVER WHO IS GOING TO RUN AMERICA

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

Mr. BURTON of Indiana. Mr. Speaker, make no mistake about it, this budget fight is over who is going to run America, the Democrat Party or the President of the United States, George Bush.

The fact of the matter is the last time the Democrats had control of this Congress and the White House, we had 21½ percent interest rates, we had 14 percent inflation, we had 12 percent unemployment, and the economy was going right down the tubes.

Remember those days?

Under Ronald Reagan we created 21 million new jobs. The capital gains tax cut would continue economic growth by creating 2½ million more new jobs. But not these guys. They want to raise taxes and raise spending. That is what it is all about, folks, raise taxes and raise spending, eliminate Gramm-Rudman, the only teeth that we have in the budget process, so they can spend this country into oblivion.

WHAT THE WYLIE AMENDMENT WOULD DO IN THE COMPREHENSIVE CRIME BILL IF MADE IN ORDER

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

Mr. WYLIE. Mr. Speaker, yesterday we defeated the rule on the comprehensive crime bill. Mr. GINGRICH and Mr. SOLOMON referred to the exclusion of the Hyde amendment and the Wylie amendment as reasons for not supporting the rule.

Member have asked me, "What does your amendment do?"

Mr. Speaker, the Wylie amendment or the S&L amendment would amend the bankruptcy code to preempt State laws which allow persons who have committed fraud or have been convicted of savings and loan crime from taking bankruptcy to keep palatial palaces at the expense of the taxpayer. Taxpayers do not understand how a person convicted of S&L crimes continues to use money taken from depositors to maintain their lavish life styles.

A picture is worth a thousand words. Well, here are two pictures explaining my amendment.

(Home of David L. Paul of CenTrust Savings—$1.5 to $2 billion taxpayer loss; Home of Simon Edward Heath of Guaranty Federal Savings & Loan, Galveston, TX, convicted August 16, 1990, on 10 counts of bank and wire fraud, FDIC seeking $10 million in restitution.)

I cannot understand why the Committee on Rules did not make my amendment in order.

THE RECESSION CONGRESS AND THE GRAMM-RUDMAN DEADLINE

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

Mr. BARTLETT. Mr. Speaker, time is running out. The deadline for the agreement, the deficit agreement, is this Sunday. It appears that the recession Congress is intent on missing that deadline also.

By missing that deadline, thus driving the country into a recession, as the recession Congress has been trying to do since the first of this year.

Let us review the issues that lead us to this deadline and to this recession: The recession Congress has refused to cut the spending, the recession Congress has continued indeed in 1989 and 1990 to adopt new spending programs; the recession Congress has refused to even consider a capital gains and thus put 2 million Americans back to work; the recession Congress has forced the President to agree that taxes would be on the table but spending cuts are still not on the table; the recession Congress has refused good-faith negotiations to agree on a deficit agreement and has refused any enforcement of spending cuts.

The recession Congress will seek tomorrow to give up the last hope to avoid the recession, and that is to have a short-term sequestration. I do not like sequestration either, but as for me, if forced to choose between sequestration or recession, I will choose sequestration and use that sequestration to force this Congress into a budget agreement that eliminates both a recession and sequestration.

WHY CAN'T CONGRESS SOLVE THE BUDGET DEFICIT PROBLEM

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

Mr. KYL. Mr. Speaker, the American people are asking, "What is the matter with this Congress? Why can't it solve the deficit problem?"

Well, here are some answers: As budget negotiators talk, the Congress continues to spend. As a matter of fact, we have added over $40 billion in new expenditures already this year. The Democrat congressional negotiators will not even talk about cuts in domestic discretionary spending. The only question is how much new spending will be permitted under the agreement.

Another problem is enforcement. The Democrat budget negotiators will not even talk about the line-item veto and other effective enforcement of spending limitations.

Another problem is taxes, not exactly the way to help people in a soft economy, taking away more money out of their pockets. But that is the philosophy of the Democrats, the liberals in this Congress who want to tax and spend.

The Congress is the problem, not the solution.

The American people will know who to blame, not the Presdident, not the Members of Congress who oppose big spending, but the liberal leadership of this body which will not even meet the President half way.

SHOULD STRATEGIC PETROLEUM RESERVE BE USED TO INFLUENCE PRICES?

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

Mr. PETRI. Mr. Speaker, there are those in the administration who argue that the strategic petroleum reserve [SPR] should not be used to influence prices. They say it should only be used to relieve actual shortages of oil.

Now, Mr. Speaker, that argument is just plain nonsense. No matter what the initial shortage, economists know there is always some price at which the market will clear, and the shortage will disappear. At $40 a barrrel, we will not have any oil shortage. We may have a recession—we will surely have higher inflation—but one way and another we will use a lot less oil at $40 a barrel than we used at $20 a barrel, and there won't be any shortage of oil.

In short, if we are not going to use the SPR to influence prices, we are never going to use it, and we should get rid of it. Otherwise, let us discard that totally ridiculous argument and start pumping oil from our 590 million barrels of reserves. There is no need for us to suffer the consequences of $40 oil. It is time to wake up, dust off our brains, start pumping our huge oil reserves. amd get these unwarranted prices down before it is too late.

□ 1140

IT'S AN ALICE IN WONDERLAND WORLD

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, there has been lots of talk about the President's control of the White House and the Democrats' control of Congress and who is responsible for the budget stalemate. But the simple fact is that the President proposed a budget in January, and the Congress, controlled by the Democrats in both the House and Senate, have not proposed a budget in 10 months.

Mr. Speaker, for the first time in my experience in this House there was no budget resolution between the House and Senate through which we agreed even to the basic defense number. It is like an Alice in Wonderland world. We mark up on this House floor budget increases of 10 and 12 percent while the summiteers negotiate cuts and while my constituents at home vote down budgets that are increasing spending 2 and 3 percent.

Who is the Congress kidding with this duplications actions?

Mr. Speaker, I call on the summiteers to come to agreement. They can come to agreement today every bit as well as tomorrow, or next week, or the week after.

What is at stake? Not just the poor Federal employees, some of whom make $13,000 to $16,000 and do not deserve to be furloughed without pay. What is at stake is the jobs of millions of Americans throughout this country.

In my home State of Connecticut, where the economy is very soft, we must, we need, we desperately need, a summit agreement to send a signal to Wall Street that we can discipline our-

selves, that we can control our financial affairs and that we can firm up this economy and prevent a recession in America.

The leadership has got to do its job because Congress has not for 10 months.

THE LEADERSHIP OF INCOMPETENTS IS FRIGHTENING

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

Mr. WALKER. Mr. Speaker, today we have heard from the liberal Democrats whose economic policies failed a decade ago and now want to return to those good old days.

Mr. Speaker, the tax and spend Democrats are back, and at full voice, on the House floor. Meantime, those same liberals are showing daily how incompetent they are at running this House. This continuing resolution scheduled for today gets postponed while the country demands action. The crime bill is so bad that it cannot even get a rule. Behind closed doors the Democrats do everything they can to torpedo the budget summit and thus push the Nation closer to economic chaos.

Mr. Speaker, the leadership of incompetents in this Congress is frightening, and it is these same folks who now want to take control of economic policy. The tax and spend Democrats will then emerge as the recession Congress, or maybe they already have.

AMERICANS SHOULD HOLD DEMOCRATS RESPONSIBLE FOR RAISING TAXES

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

Mr. PARRIS. Mr. Speaker, I have been listening to Members' statements on the floor this morning, and one of my colleagues just a moment ago asked, "How long are we going to blame Jimmy Carter for the 1980's economic failures?"

Mr. Speaker, I would like to suggest to my colleagues that the Democrats have been blaming Herbert Hoover for 50 years, so I guess they have a little more time to go.

Another colleague has suggested that Presidents Reagan and Bush reduce taxes on one-half of 1 percent of the wealthy in America. That is ridiculous. Do my colleagues think anybody in America really believes that? The President does not make tax law; the Congress does.

Mr. Speaker, the Committee on Ways and Means, which writes the tax laws in this House, has 23 Democrats on it and 13 Republicans, almost 2 to 1. There is an 81-vote Democrat margin in the House, 257 Democrats and 176 Republicans, and that is who raised the taxes. Americans should hold them responsible on election day, and I think they will.

BUSH WANTS TO BE A STEALTH PRESIDENT TOO

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

Mr. SWIFT. Mr. Speaker, I have been listening with some care to a whole set of speeches that seem to derive from Alice's land today. It occurs to me that it is very strange, and I recall very clearly, that the deficits rolled up during the years that Franklin Roosevelt was President were the Roosevelt deficits, and those were followed by the Truman deficits, and, yes indeed, those were followed by the Eisenhower deficits, and those by the Kennedy deficits, and the Johnson deficits, and the Nixon deficits, and the Ford deficits, and the Carter deficits, and in 1980 it became Congress' deficits.

Mr. Speaker, Congress certainly has shared responsibility, because we passed the fiscal policy that was demanded by Ronald Reagan. Ronald Reagan was the stealth President. He could go absolutely invisible when the inconsistencies of his policies showed up. What we face today is the result of having let him get away with it then. What we are facing in the budget crisis today, is having let him get away with it.

Mr. Speaker, we cannot let another President get away with it now, simply because he wants to try and be a stealth President as well.

APPOINTMENT OF CONFEREES ON H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5400) to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. THOMAS of California moves that the managers on the part of the House at the Conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 5400 be instructed (A) to accept Senate provisions of Secs. 411, 412, and 414 relating to reporting and limitation of expenditures for franked mass mailings; and (B) to accept the Senate provisions banning Federal contributions by connected Political Action Committees and limiting Federal contributions by unconnected PACs to $1,000.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] will be recognized for 30 minutes, and the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, Prof. Larry Sabato, University of Virginia, well-known professor of government and an expert on campaign financing; as a matter of fact, one of the members of the six-member panel that the Senate asked to assist it in putting together campaign finance reform; has issued what he calls a mid-term report card on the campaign finance reform proposals. The Senate-passed package, S. 137, receives a grade from Professor Sabato of F, failure. H.R. 5400, the House-passed package, receives from Professor Sabato a grade of D-minus. The President's package, which he has proposed as his ground rules for campaign finance reform acceptance on his part, has received a C-minus from Prof. Larry Sabato.

Mr. Speaker, all of us know that the final exam will be issued by the President. That is, do the Democrats have the ability in conference to put together a campaign finance peckage composed of the Senate's product, which is currently an F, and the House product, which is currently a D-minus, to receive a passing grade? The President has said that the ground rules on campaign reform, as far as he is concerned, and I think his interests should be presented here because I do not think they are too outlandish as a matter of fact; he says, No. 1, there should be no taxpayer financing of campaigns. Especially in this deficit period it seems a little unseemly that Congress is rushing to provide taxpayer money to pay for candidates' bumper stickers and campaign buttons, and he says there ought to be another way.

□ 1150

Indeed there is. The Republicans offered here and in the Senate fundamental reforms of campaign finance that did not involve taxpayer financing. One of the proposals the Republicans offered was to require that a majority of the money that a candidate raises in running for office come from the individuals who reside in the district itself. That is, the people who

vote for the candidate determine how much money is going to be spend in a campaign. If one cannot get a dollar from the people who live in the district, one cannot take a dollar from the outside. That position was rejected here on the floor by a virtual straight party vote.

The President has also said that the campaign finance reform package that he signs has to reduce special interests in campaigns.

We have seen over the 1970's, and especially over the 1980's because individual contribution amounts have been limited and because the role of a political party, the institution in our society primarily charged with carrying out campaign activities, has been limited by law, that special interests have continued to grow in their influence in campaigns. That is the only margin of growth provided under the law today. On the other side of the coin is the President who has asked for incentives for individuals to play a greater role in campaigns, and for political parties to play a greater role in campaigns, thereof, reducing the influence of special interests.

Then, lastly, the President has said, "Let's get honest." What is in that House package, H.R. 5400, is not the only thing that affects campaign. Two areas that he said the Congress should look at are, first, the franking privilege of the House, the ability of an incumbent Member to sign his or her name in the upper right hand corner of a piece of mail and have it delivered at taxpayer expense. No candidate who challenges an incumbent has this capability. Incumbents have this capability.

Now, there is no question that a portion of the franked mail that is sent by incumbents is carrying out the constitutional duty of informing constitutents and responding to constitutent mail, but I think it is fairly difficult with a straight face for any incumbent to say that all of the franked mail that is sent not only meets that high standard of the constitutional requirement, but has no campaign content whatsoever and, therefore, should not be considered at all when we talk about campaign reform.

Then finally—and really this is the most fundamental concern the President has and that the American people have—the whole concept of our Government is that when we do not like the person who is in, we have a chance to remove that person. Unfortunately, more and more we have seen, because of the technological capability with computers to draw districts, that when a State legislature or a commission, or whatever the instrument is for drawing congressional districts in a particular State, draws a district for partisan reasons—the gerrymandering concept—it is virtually impossible to dynamite out an incumbent, and, therefore, the whole area of redistricting ought to be part of the campaign finance reform as well.

We are going to conference on these two bills, one an F and one a D-minus. What comes out of conference, as I said, will be the final test.

Our side is offering a motion to instruct conferees. I am not going to refight the campaign finance legislation battle that we had. The Democrats won, we lost. The proposal from the House that is going to conference contains taxpayer financing and a number of other items the President has said he would veto. So what I am asking, in the spirit of Prof. Larry Sabato, is that the motion to instruct simply be a quiz, not a final exam on the House of Representatives, but just a quiz, a quiz that contains two provisions, and if this House cannot accept those two provisions, then in my opinion, there is no question that the Congress will fail the final exam on offering the President campaign finance reform legislation that he can sign.

What does the motion to instruct contain? Although Professor Sabato gave S. 137 an F grade, and although the overall effort was graded a failure, within it there are areas that merit some examination or consideration. As a matter of fact, Professor Sabato in the Senate bill pointed out a positive aspect of the Senate package, and that was that the provision for limiting the special interests, the political action committees, was a good one in the Senate. What the Senate proposed to do, was to deny the ability of a connected PAC, a so-called connected PAC, one whose administrative costs are financed by the labor union or by the corporation, a kept PAC, to participate in the system. But an unconnected PAC, one that pays all of its costs out of the Federal money which it receives, would be able to contribute $1,000. That passed the Senate. All this motion to instruct asks is that the House agree with the Senate.

Let us take a look at some numbers. When we examine all of the contributions to all of the candidates, Democrats and Republicans, challengers and incumbents, what we see from 1974 to 1988, is a continual decline in the percentage of individual contributions and a continuous increase in PAC contributions. This is what has caused the concern and the alarm of the President and others, about the growing influence of special interests.

The House of Representatives campaign finance package did not include the kind of limitation on political action committees that this motion to instruct requests. As a matter of fact, to a very great degree, it was business as usual under the Democrats' proposal, and as a matter of fact, when it came to the union type of political action committees, it looked as though they were giving a bonus to those over others.

Why would we see the Democrats taking a different approach from the approach of the Senate? This might help a little bit. This is the same chart over the same period of time. The red line shows the individual contributions to Democratic candidates, a decline of personal contributions, individual contributions, and the blue line is the increase in political action contributions. As we might see, those two lines are very, very close to converging. One of the things I found that Democrats do, is that they do not tend to shoot themselves in the foot. They do tend to wrap themselves in the flag, but they do not tend to shoot themselves in the foot.

Because it is entirely likely that by 1990, those lines will have crossed, absent campaign reform which limits special interests, the Democrats will be receiving more money from those special interests than from individuals. Now we begin to understand why the Senate provision was not in the House language.

We are asking all Democrats in the House to stand up and say no to special interests, to say no to special interests in a way that the President would grade them not even just with a "C" but with an "A," and that portion of the campaign finance package would certainly pass scrutiny.

Second, in terms of franking, we are not going to ask that the House of Representatives ban franking. That is absurd. I think there are good and useful constitutional purposes in franking. All of us can recognize good and useful constitutional reasons for allowing us, as elected representatives, to communicate with our constituents. The concern is what has happened in terms of skewing the playing field of politics. Elections are not where one individual suits up on January 1 in an election year, and the other individual suits up on January 1, and they both take the field to play the game. No, incumbents are suited up a year ahead of time because they are using taxpayer money to send out their material, perhaps vaguely constructed name ID material which clearly could sometimes be interpreted as material to assist them in a campaign. What do I mean by that? Let us take a look at this chart.

□ 1200

This chart compares incumbent franked mail costs and total House challenger campaign spending, 1982-90. Understand what is going on in this particular graph. The blue bars represent what House challengers spend for their campaigns. During an entire election cycle, all the money that is spent by challengers is indicated by a blue bar.

The red bars are just the taxpayer-financed franking of the incumbents. Not the campaign costs for mailing of incumbents, but just the taxpayer-financed mailings of incumbents.

Take a look in 1988. The challengers pulled together $41.6 million for their entire campaign activities. The taxpayers ponied up $122.1 million for incumbents to send out mail.

Nowhere on this chart does it show you what incumbents paid out of their campaign coffers. We all know that incumbents have enormously more resources for mailing out of their campaign war chests than do challengers.

Now, as I said, there is no question that there are constitutional reasons for sending out franked mail. But if you will look at the next chart, you may begin to understand that perhaps at some point Members on the other side of the aisle will stand up, perhaps with their heads slightly bowed, and say, "You are right. There is some relationship between campaigning and franking."

Oh, they will not say it now. They will stand fast and say there is no relationship.

Would Members please examine this chart? This is the franked mail costs of the House of Representatives between 1972, carried out to 1991.

This is one of those classic charts, is it not? It almost looks like you have made it up. There are peaks and there are valleys, and there are peaks and there are valleys. The peaks and valleys are much higher in terms of costs, but there are peaks and there are valleys.

Do you notice that there is a peak and a valley following each mark on the chart? It corresponds to years. Are you ready? Let us try this test on you.

Are the peaks in the even-numbered years, or the odd-numbered years? Are the valleys in the even-numbered years, or the odd-numbered years? And when do incumbents run? Is it not an amazing coincidence that every time there is a peak, it corresponds to a campaign by an incumbent?

There is no question, the evidence is irrefutable: Incumbents utilize taxpayer dollars by franking to assist them in getting reelected. It should be part of any campaign finance reform package.

What this motion to reinstruct asks is not that we ban franking, not that we cut it back, but that we just disclose it.

The Senate provision that we are asking Members to endorse simply says that the House of Representatives tells the public who is spending what. That is all, disclosure.

This motion to instruct is a quiz. It determines whether or not we can prepare ourselves for the final exam. Frankly, I am not too concerned about how many Members are going to support the motion to instruct on my side. My concern is how many Democrats are going to guarantee that the conference fails by voting down a reasonable and rational position on PAC limitations, which the Senate has already approved, and simple disclosure in the area of franking, which the Senate, by the way, has also passed. The vote on the motion to instruct will pretty well determine the final grade.

Mr. SWIFT. Mr. Speaker, I yield myself 15 minutes.

Mr. Speaker, what we have here is a dead horse. It has always seemed strange to me that there are people who like to sit around and beat a dead horse, but apparently there are those who get their jollies doing that sort of thing.

You would not know if you had just listened to the presentations so far that the House had ever addressed the issue of franking. The fact is that the Ethics Task Force, which passed a bipartisan proposal several months ago, addressed the entire issue of franking. The House has addressed the issue of franking on several occasions since.

The horse is dead, and I suppose I am getting, at least as one Member, tired of trying to prevent people who like to beat dead horses from beating them. Go ahead. Go ahead. Beat this one again.

There have been a few abuses of franking in the past, there is no question of that. The House has addressed those over the years, going back 20, 25 years, when we established the Franking Commission and all the rest.

Content of the mailing pieces that we send out is even reviewed, and rather strictly regulated. The number of times you can say "I" on a page is regulated. The number of pictures you can put is regulated, and so forth and so on.

We have added in recent months additional restrictions on the number that can be sent out, and so on and so forth.

The horse is dead. If you want to continue to beat it, go ahead. I am tired of trying to deal reasonably with that issue.

But I will point out that in an American Enterprise publication, "Vital Statistics on Congress," it says on page 128:

> The explosive growth since 1981 in franking is a reflection of grass roots lobbying. In other words, the first wave of growth was stimulated by Members, the second by constituents.

It is also worth noting that postage rates have gone up, necessarily driving up the costs of Members of Congress sending out their mail.

We have addressed the legitimate concerns with franking in other forums and at other times. It is interesting to note, and this has been brought out in previous debates, that Republicans had even issued through their campaign committee suggestions to their Members on how to use the frank for campaign purposes. Now to find that side of the aisle continually beating this horse seems to me, and I will use a gentle word, inconsistent. The fact is that you can make a good case that there have been legitimate abuses of the frank and you can also make the case that Congress has responded repeatedly to those and has dealt with it.

This Congress, this very Congress, the 101st, has dealt with it a number of times. One suspects rather that what we have here is a continuation of the effort to try and destroy the confidence of the people in this institution.

I have been listening for 10 years now as some among us have begun a long campaign of Chinese water torture to erode public confidence in this institution at every conceivable opportunity. Their purpose is simply that they want to tear the institution down in the hope of being able to gain control of it. They do anything necessary to cause sufficient political instability, that they may be able to take political advantage. It is a sad thing. It is a dangerous thing. It is a very troubling thing.

It is marvelously reflective of some things that we were told during the 1960's by those young left wing radicals who said, "We must tear this society down, in the hope that something better might grow back in its place."

Mr. Speaker, I would suggest that there is an effort within this institution, by, interestingly enough, right wing rather than left wing people, that say, "We must tear this institution down, in the hope that something better; that is, 'we,' become the majority."

Thirty-two years, we heard the gentleman from Georgia [Mr. GINGRICH] say earlier during the 1-minutes, the Democrats have had control of the House. In that time the Republicans have not been able to get control of the House.

□ 1210

But they now claim that it is a variety of incumbent advantages that have locked that in place, incumbent advantages, one presumes, that were put in place 32 years ago. No, we hear that these are recent things. But the fact is Republicans do not do very well in open seats where incumbency is not even beginning to be an issue. The fact is the two parties have very unique and characteristic ways of responding to their inability to be successful at the polls. Democrats have not been very successful at the polls on the Presidency in recent years, and the kind of characteristic way Democrats deal with that is that they sit around and stir through their own entrails trying to find out what they did wrong. And as impatient as I get with that at times, at least it suggests that

one might look at themselves for an answer.

Republicans, when they fail constantly to be able to win at the polls tend to want to blame it on the institutional structure and want to go out and change that structure. In enormous frustration that they could not defeat Franklin Roosevelt and Harry Truman, the Republicans changed the Constitution and put a two-term limit on Presidents, and ironically it is only Republicans who since have elected Presidents who could have probably been reelected to a third term, probably Dwight Eisenhower and probably Ronald Reagan. They do that instead of looking to themselves.

I can understand the frustration in not being able to achieve your electoral goals. I am enormously frustrated that we do not have a Democratic President. I can understand the frustration. I cannot understand the willingness to destroy an institution in order to achieve that partisan end. And it is not that this specific proposal is going to destroy this institution. Clearly it is not. But it is the drum beat that has gone on now for a decade, a drum beat that has emanated largely from this well during 1 minutes and during debate, a constant drum beat from the other side of the aisle that suggests this institution is an evil institution, and the people in it are evil, and that is wrong.

This is a great institution. What this whole approach for the last 10 years has done is to obscure what the purpose of this institution is.

This institution was not ever designed to be efficient. The Founding Fathers put us here as a huge committee of 535 people, and the Founding Fathers knew you do not create such a thing as an efficient committee. That is an oxymoron. We were here to protect liberty. We were here as a check and balance on the President so he could not become a tyrant.

We are inherently inefficient. We are inconsistent. I have always said that if we took 100 of the finest minds who ever lived in the history of mankind and formed them into a committee, it would take them about 30 minutes to do something dumb. It is the nature of group decision making. It is inconsistent. It is difficult because it brings different ideas, different points of view, and that is not efficient.

To criticize Congress for most of what we hear Congress being criticized for over the last decade is the same thing as criticizing a Volkswagen because it does not fly very well. It was not designed to do that. And as a person who believes very strongly that the representativeness of our Government is housed primarily in Congress, and primarily in the House of Representatives, the people's House, I have become disillusioned, disturbed, depressed, and finally angry that for the narrowest and pettiest of partisan reasons we have undergone a decade of self-flagellation that has been enormously destructive of this institution, and therefore destructive of what this institution can achieve.

One more effort to beat the dead horse of franking is another example of that continued effort. At some point we have to understand what it is that this great institution is, and we have to stand up for it. At some point, if we do not rise in defense of this institution as the greatest single protector of the liberties of people, as it was intended to be by the Founding Fathers, then how can we expect the columnists or the citizens groups or the people of America to understand it?

So it is time we begin defending the House of Representatives, and it is time we begin calling a spade a spade in terms of some of the kinds of attacks that have been made on this institution.

Let me comment very briefly, and then I will yield to an eminent colleague of mine to deal with it in greater detail in a moment, but let me just briefly deal with the PAC portion of this proposal.

Much was made of this midterm report card by Larry Sabato in which the House got a D minus and the Senate, I am told, failed altogether. In it, Larry Sabato, the author of this report, says on page 12;

> As this author has explained more thoroughly elsewhere, the attack on PACs is one of the phoniest issues of modern time.

That is on page 12 of the report. Let me repeat:

> As this author explained more thoroughly elsewhere (See Larry J. Sabato, PAC Power: Inside the World of Political Action Committees) the attack on PACs is one of the phoniest issues of modern times. * * * before the PAC mechanism and disclosure rules were mandated in the 1970's, the money flowed in far less traceable and more unsavory ways.

Again, it is time to try and put reason and some facts into this debate, and to that end I will shortly yield to a colleague of mine who has been one of the greatest leaders on campaign reform over decades in this institution.

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

Mr. THOMAS of California. Mr. Speaker, I yield 5 minutes to the always cogent and witty gentleman from Kansas [Mr. ROBERTS], a member of the Elections Subcommittee of the House of Representatives' Committee on House Administration, which was not able to participate in the drafting of campaign finance because of a task force creation.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding time to me.

My colleagues, this really is the last chance to get on the campaign reform stage that leaves Dodge so we can achieve some kind of real reform. It is the last chance I think to really board a campaign reform train that will actually get to a reasonable destination, some conclusion, something we can all agree on instead of heading for a veto and derailment and more politics as usual.

I would say to my friend and colleague from the State of Washington, and my chairman who serves as the able chairman of the Subcommittee on Elections, this is not a dead horse. Old "Frank Privilege" is not a dead horse. He is alive and well and kicking in the stable. As a matter of fact, every election year, as the chart over here shows, he gets rode hard and put up wet, and then we get to the off election year and those numbers go down.

However, it is not my intent to abuse the franking privilege, or to abuse this institution, or to abuse the very real need for Members to communicate with their constituents. That is not the point.

□ 1220

Yes, we do have limits, thank goodness, on the frank. We even say how many pictures of a Member can be in a report back home, and the size of the pictures. We are even supposed to send a copy, should send a copy to the Franking Commission so we do not get too partisan. We are limited to three postal-patrons a year, and that was a reform and a step in the right direction, six per session, but what happens is when we go through those postal-patrons and the limit is reached, it does not take too much imagination or effort on the part of the Member of Congress to really communicate a little bit more during these election years by converting those kinds of lists to every virtual mailing list known to mankind, in this case the Dead Horse Society.

Mr. SWIFT. I do not know what Harry Truman, FDR, the institution of this fine House of Representatives or the Founding Fathers or the election process or Republicans or Democrats has anything to do with public disclosure. My goodness, I do not think that our Founding Father, Benjamin Franklin, the first Postmaster, issued a postal-patron. What has that to do with full public disclosure?

I remember the debate on campaign reform several weeks ago, and it ended unfortunately in a very partisan stalemate, and I will be the first to say that we have strong philosophical differences, strong political differences on what really represents reform of our campaign system. I guess at this time of the year that is about all we have around here in terms of differences. I think that is unfortunate.

This motion does not include anything in regard to taxpayer financing

or bundling or soft money or campaign limits. This is a motion to instruct the conferees on something everybody can support. It is simple. Everybody agrees, No. 1, we have to lessen the influence of PAC's. Some of us believe we ought to get rid of PAC's. This, at least, reduces the influence of PAC's.

I think publicly everybody would agree that we need full disclosure on franked mail. What is wrong with full disclosure?

I come to this mass mailing, franking privilege and disclosure a little differently from the rest of my colleagues. I serve on the Committee on House Administration, and every even-numbered year, every election year, I have to approve, along with my subcommittee chairman, a virtual army of part-time employees in this body for the Doorkeeper of the House just to move out all of the postal-patrons and the newsletters and the columns and the notices of public meetings. That became a real problem. We are talking about hundreds of thousands of dollars extra out of the House Administration Committee budget just to hire the part-time employees to move the mail out. Now, that is not right.

With what became a real problem last year, we adopted what we thought might mean at least a possible solution until we got to true franking reform, and we said to Members, "You have a 60-day deadline that you have to get this material down to the folding room." That did not work. And so we said, "We are going to have another 60-day deadline so that these people can get this material out." That means that this vital information that my colleagues across the aisle will talk about is 120 days late some of the time getting to our constituents. So much for timely information.

My colleagues, the very least we can do is to provide public disclosure on these mailings. The National Taxpayer Union is already doing that. They have already taken a look at the postal-patron number. They put it in our newspapers. What is wrong with that? If you believe in franked mail, if you believe in really communicating with your constituents, there is nothing wrong in simply having public disclosure.

I send a questionnaire out to my people. Over 20,000 people respond. It is an exercise in real democracy, and we do not abuse that. What is wrong with public disclosure?

As the gentleman from California [Mr. THOMAS] said, we are going to go to conference. It may be an exercise in futility. We do not need another exercise in futility, another so-called reform bill full of all sorts of unintended effects.

I say to the proponents of taxpayer financing, of banning PAC's, of defining PAC's, all those who want to reduce the cost and increase the availability of television if it could be done constitutionally, everybody interested in campaign reform, you can support this. You can support this. We can do this. We should do this. Vote for the motion to instruct our conferees to make sure that we lessen the influence of PAC's and have full disclosure of franked mail. That is all this is.

It is a winner for Democrats. It is a winner for Republicans, and most of all for our election process. It will revive that dead horse and we can harness him to the stage to achieve true campaign reform, yes, in a limited way, but at last some reform.

Mr. SWIFT. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, let me simply say in response to the comments of the last speaker that this motion might be a winner for Democrats and a winner for Republicans, but it would be a loser for the average middle-class working family in this country. I would like to tell you why.

The last campaign finance reform bill that passed this House before the Swift bill earlier this year was mine. It was the Obey-Railsback bill back in the mid-1970's, and I have been deeply involved in virtually every campaign reform effort from that time.

I used to think that if you simply limited PAC's that you would really improve the condition of American politics, but the fact is that the political system has changed a lot in the last 10 years. People who contribute to political campaigns have learned a whole lot more in terms of sophisticated routes by which they can put their money in political campaigns, and that means that if you provide the kind of action which this motion to instruct calls for you will, in fact, disadvantage average working people, and you will make the only effective power centers in this country the very wealthiest people in this country, in terms of contributions to campaigns.

Here is why: The original purpose of a PAC was to enable average people to band together to take small contributions, put them together to counteract the contributions being made by the high flyers in this society. The original ideas was that you could take 100 paper workers or 100 farmers, they could contribute $10 or $20 apiece, they could pool their money and in that way balance off the fact that the boss in the front office was writing a $1,000 check to his favorite congressional candidate.

I still favor the principle of limiting the amount of money that can be contributed in total by PAC's to political candidates, because I think there needs to be a fair balance between organized giving and individual giving.

But if you pass this motion to instruct today, what you do is you simply enable 20 front-office executives in any major corporation in this country to each contribute a thousand smackeroos apiece, 20,000 bucks to the same candidate, same day. And what do the guys do who are working on the line? Well, they are out of business, because even if you have a thousand people working in that same company, they cannot get together in an organized way to try to influence the political process. So they are just put out of business.

If you really want a proposal that makes the American political system something defensible and something that we can be proud of, you have to do it all. This motion simply deals with one little piece of the problem in a way which builds in a huge advantage to high-income people, and it would also mask the money trail in the American political system.

□ 1230

Let me give Members some examples. Right now, the Drexel, Burnham PAC, contributed $122,000 to political candidates. But officers of Drexel, Burnham individually contributed $299,000 to congressional candidates. Salomon Brothers, $121,000 contributed by their PAC, but their corporate executives contributed $201,000 individually. Now, you think that was not an organized operation? Merrill Lynch contributed $207,000 through their PAC, but they contributed $218,000 from individual contributions from the high rollers at Merrill Lynch. Do you really think that was not an organized operation?

If you really want to influence or limit the influence of big money in politics, why don't you go further with the recommittal motion and also limit the amount that high-income people can contribute? Why not take down the individual $1,000 limit to $500, so that we cut in half the influence of high-income people in the political system? Why not also limit the ability of Members of the Senate to use campaign contributions to fund the operation of their own offices?

My point is simply that unless we do it all, what we really have is an operation which appears to be campaign reform but in reality is going to transfer political power to the very wealthiest and most organized people in this society. That is not what we ought to do.

Let me just ask one additional question in closing. Members have talked about the problem of the S&L scandal. They have talked about campaign finance reform because of the S&L scandal. I want to remind you that Charles Keating did not influence the political process by going through PAC's. I want to remind you that Charles Keating and his buddies managed to get together and contribute

200,000 bucks in individual contributions. There is nothing in this motion that deals with that, and so it seems to me that if we want to have real campaign reform, what we will do is allow the conferees to go into this conference, untrammeled, so that we can take all of the limitations that make sense, so that they can prevent all of the people or organizations from influencing the political process in a way which is detrimental to the average American.

This amendment appears to be campaign reform. It is really, in my judgment, phony campaign reform. It masquerades as something which, in fact, it really is not. Therefore, I would simply urge my colleagues to turn down the motion and send the bill to conference so that we can get movement all across the board rather than simply focusing on the one way that will simply drive campaign money underground, hide it from the public so that they can no longer track the way the big boys in this country actually influence the political process.

Mr. SWIFT. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in opposition to this motion to instruct for several reasons. First and foremost, I want to agree with the comments made by my colleague, the gentleman from Wisconsin [Mr. OBEY] that simply to eliminate contributions by political action committees is not really going to do anything about the problem of special interest money in political campaigns in this country. It is simply going to bring Members back to the point we were at a number of years ago, back in the 1960's and in the 1970's when money traveled underground, under the table, to the very people who are required to publicly disclose the sources of their campaign funds.

Certainly, limiting PAC's in what they can contribute, fine. Limiting the total amount that PAC's can contribute to any given Member in a campaign, fine. Democraticizing PAC's so more people have to contribute to PAC's so they can give, perhaps, a percentage more to campaigns, that is a step in the right direction. However, the meat ax approach simply falls right into the hands of people who have large sums of money at their personal disposal, who are interested in playing an inordinately large influence in political campaigns and that, of course, is best exemplified by the gentleman from Wisconsin, Mr. OBEY's, reference to Mr. Keating and others of that ilk.

Let me go on to the other part of the proposal made by the gentleman from California [Mr. THOMAS], and that relates to the frank. We always have to battle with charts, and I thought perhaps we could bring some new information to this debate about what is actually occurring in terms of the frank here in the Congress of the United States, specifically in the House of Representatives. If we look at this chart, it points out that as we record the cost from year to year, an average trend shows that, in real dollars, we are not spending more but actually spending less than we were in 1982. Our costs are less by about one-half percent per year in real dollars. That is the actual result when we take out the increasing cost of postage, and it shows that we are not abusing this privilege that we have had since the Constitution was formed. We are simply using it at a slightly reduced trend line and almost all, in fact, I would argue all of the additional costs are really a reflection of the significant rate increases that all postal rate payers in this country have had to pay.

So we should take some of the overhype that we have heard in recent times out of this debate. We are not profligate users and abusers of the frank. In fact, last year, we enacted reforms that reduced our frank usage from six newsletters a year to three. I think most Members discovered that there was only a relatively small percentage, perhaps 100 Members out of the 435, who were really abusing newsletter privileges and using more than half of what we were allowed to use under the law.

Let me show Members another trend line that I think is very indicative of what we are up against, and that is the amount of incoming mail. Since 1975, when we received some 55 million pieces of incoming mail, we are now up to 228 million pieces of mail in a period of less than 15 years. This is an incredible rate of increase, 10.7 percent a year. It reflects the very calculated use by special interest groups of direct mail impact on Congress. We have been victimized by mass mailing campaigns that are really not speaking so much to the fundamental concerns of the people we represent. Instead, special interests show callous disregard for the public benefit or the commonwealth by distributing limited information and with a very easy approach to the voters they figure out a way to inundate Members with mail which we must respond to, or which we must attempt to respond to, hopefully in a way that will educate our constituents as to the weal issues we are debating.

Now, let me talk to Members briefly about what is in the offing, because this motion to instruct comes at a time, I am sure, when Members are interested in further changes in the way in which we use the frank. I had an amendment prepared to offer in the House Committee on Rules that will become an amendment to the legislative branch appropriations bill that would radically change the way in which we use the frank. It deals specifically with the question of disclosure. I propose, and I hope the House will join me, and we will be able to enact this year, language that will establish an account for each Member, so that each Member of Congress would be limited to just so much money per office to mail communications to their constituents. In fact, there would be really no issue of disclosure, although disclosure would be accommodated, because everyone would be getting a specific amount per address, per postal patron in each district.

□ 1240

Our goal obviously is to make sure that districts that change in size or that have more of one type of postal patron than another are not advantaged or disadvantaged. This would be fair to us all. It would be a system that would work very much like our clerk hire or our office account for expenses that we incur in running our Washington and district offices. Our allowance useage would be published several times a year. We discussed the possibility of a quarterly filing, or at least a filing each half year, with the Clerk of the House of Representatives, which would be published for all to see. The issue of disclosure would go away and we would all be dealing with the same allowance money. There would be no abusers, nobody who mails an excessive amount and then, of course, out in the light of day there would be the benefits from additional disclosure. There would be no need for the typical votes against funding the frank here on the floor, looking as if they are somehow immune from those abuses that we all do understand occasionally occur.

This proposal that I will offer is far stronger than the proposals that were included in the Senate legislation that this motion to instruct would ask us to adhere to.

By the way, my amendment would cover all mail. It is not just mass mailings, as the Senate provision in section 412 would. After funds are exhausted in each office, the Member would be simply out of luck. No more mail would flow.

In the Senate, of course, that will not be the case, for all sorts of mailing other than mass mailings are not covered in their bill.

We would not just register with the Clerk as the Senate provision in section 414 would have it. We still require Members to go to the House Franking Commission and get approval, not just registration, but approval so that abuses, overuse of a Member's name or hyping a Member's accomplishments would no longer be allowed.

Our proposal is less costly on recordkeeping than the Senate provision in Section 411. It is far better in timely reform.

I ask you to reject this motion to instruct and accept the franking reforms that will be coming to the floor very shortly.

Mr. THOMAS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, the last two colleagues from the Democratic side are friends of mine. They are good legislators and they are good debators. Frankly, you have got to be a good debater to say what they have said about this motion. Nothing could be further from the truth.

What we are talking about here today is a motion to instruct the conferees to accept not something that the Republicans have advocated, but something that has passed as a part of the democratically controlled Senate campaign reform bill, and this is not even partisan. Yet here you come to the floor of the House and try to make a big partisan issue that we are for big money.

Well, I have got to tell you something. Your bill does not include one thing to deal with Charles Keating's donations. If that is so important, why did you not include it in your bill, and why do you not find a way to do this properly?

And second, you have to deal with the Constitution. The gentleman knows that better than I do. He has been involved in campaign reform longer than I do.

Then our colleague, the gentleman from California, gets up and says we have to do all this stuff in franking. Where in the House campaign reform bill is there anything on franking? What we are saying is yes, we agree with you, and that is what this motion is all about, and if the trend line in mail is such that we are getting more and more mail, then what is wrong with disclosure? The most recent disclosure that I saw on franking said that it was the Republicans doing too much franking, not Democrats. You ought to be for that.

We are saying it is time to put up and put into the public exactly what is going on.

What does this motion do? It simply says that we accept three specific provisions of the Democratic Senate controlled campaign bill on franking, and it says that we accept two of the provisions to reduce the influence of PAC's.

If the goal of campaign financing reform is to lower the role of special interests, to lower the role of big money, and to lower the advantages of incumbency so that we have a more level playing field, more clean positive campaigns where the public participates, then accept these provisions in this motion to instruct the conferees.

Mr. THOMAS of California. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. HILER], a member of the Subcommittee on Elections of the Committee on House Administration, a Member who would have had a chance to work on a campaign finance bill had that legislation followed the ordinary course of legislation in this House.

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

I do wish it had gone through our subcommittee and through the full Committee on House Administration, but let me just say that I wholeheartedly subscribe to the motion of the gentleman from California to instruct. I think we need to break it down to very simple terms.

As the gentleman from Wisconsin said, what on earth is wrong with quarterly reporting of the amount of franked mail that each Member of the House sends out? How can that possibly be objectionable? What is wrong with there being a public accounting so that we can all know where the abuses take place and Members can be held accountable? What is wrong with saying that when the appropriation for the use of the frank has been expended that there is no more franking? How can we say in a time of over $150 billion budget deficits that we would be opposed to a provision which would say that the Congress itself cannot send out any more free mail after we have used up our budget?

What can be wrong with having an annual reporting of all the mass mailings sent out by each House Member, including a copy of the mailing and a description of the group to whom it was mailed?

It seems to me that sections 411, 412, and 414 that the gentleman from California is asking us to accept make eminent good sense and cannot have any objections in this House.

As it relates to PAC's, the fact is that the campaign finance system is badly out of balance. Today over half the winning candidates in this House of Representatives receive over half their money from political action committees. As the source of campaign finance more and more comes from inside the beltway, Members become more and more insulated from their voters back home, and as we see the balance of PAC contributions to incumbents versus PAC incumbents to challengers, we see an even greater imbalance in favor of the incumbent.

Let us restore some balance. Let us try to level out the playing field.

The instruction of the gentleman from California and the provision passed in the other body does not eliminate PAC's. It does not say that each individual PAC is bad. It does not say that contributions to a PAC are bad. What it does say is the need to restore the balance by limiting PAC contributions to what an individual can contribute and to making sure that in the management of that PAC that only clean dollars, only dollars that have been contributed to the PAC are actually used to manage the PAC, as opposed to union members' dues or corporate funds being used to manage that PAC. It seems to me these two provisions in this motion to instruct make a good deal of sense, ought to be noncontroversial, ought not to rankle anyone.

As the gentleman from Wisconsin said, both of these key provisions were adopted in the Democrat-controlled Senate, and to see the partisanship erupting here on the floor over these provisions that were accepted in the Senate by the democratically controlled Senate seems to me to be without substance.

So I would urge my colleagues to accept this motion to instruct.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to our final speaker, the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, my colleagues, my fellow Americans, my name is MIKE SYNAR. I do not take PAC money. I also do not intend to take my 2 minutes to defend PAC's, but I stand before you to tell you that I am strongly opposed to these instructions. They are not good. They are not good for a number of reasons.

First of all, they are not good because they do not really limit special interests as they are being portrayed, because limiting PAC's without touching big donors and improving disclosure rules is not reforming. You are not really dealing with the special interest problems that have strangled this place for too long.

For those who stand here today and ask us to join them in these instructions, I remind them, they had the opportunity to do that very thing almost a month ago when I offered an amendment, along with the gentleman from Wisconsin [Mr. OBEY] that would have reduced the PAC contributions to 50 percent and also would have reduced an individual's contributions.

I find it incredible that the same people who did not vote at that time are now standing before you asking you to eliminate PAC's.

□ 1250

That was reform, they rejected it at that time. This is not legislating, in fact, this is legislating in its worst form and the American people will see through it.

We ought to give our conferees the opportunity who have some understanding of this whole process, to do their job without instructions. I ask all my colleagues to join with us and to

reject these instructions and let our conferees begin the process of reforming this body and this institution.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of California. Mr. Speaker, I said earlier that Democrats do not often shoot themselves in the foot. They often wrap themselves in the flag, but they do not so often shoot themselves in the foot.

What we have seen is a marvelous example of Democrats wrapping themselves in the flag.

What we heard was that the Founding Fathers did not intend an efficient institution in the House of Representatives.

It is not interesting that just recently we got a very good example of how inefficient the Democrats want the House of Representatives to be.

On this floor, the Democratic leadership was repudiated on the rule that was presented on the crime bill.

They do not want to go back and let the rank and file determine the direction of this body. Rather, through the very artfully crafted rules by the majority, they run this place with a ruthless efficiency.

Now, I do not think the Founding Fathers necessarily thought that the House of Representatives was supposed to be efficient; I do think they thought it was going to be representative.

I think that is one of the reasons in the Constitution, in article I, they said that all of the Members of the House were to be up every 2 years and that somehow the House was to be responsive to the people; that when they wanted change they could get change out of the House; and if they did not get change out of the House they could change the House.

We have seen the recent incumbent returns, yes, both Democrats and Republicans, and it must be attributed to something.

"Oh, I am good." The gentleman from Washington is good, the gentleman from Wisconsin is good. I do not think we as a body are 98 percent good. I think there is something else going on.

Is it not interesting that the Democrats said franking is a dead horse but they go to the trouble of charting the dead horse? Is it not interesting that even on their own charts you get the peaks and the valleys of the odd years and the election years? Is it not also interesting that the bottom half of that chart showed the Senate franking costs trending down?

Maybe it is because the Senate requires disclosure. Maybe the reason the House does not have a descending franking cost line is because you have managed to make sure that there is no disclosure on the House side.

Let us talk more about franking. The gentleman from Washington said it was a dead horse. We have charts on the dead horse. The gentleman from California [Mr. FAZIO] is a pretty good hot walker for a dead horse. You did not hear from the Democrats that the ethics package requires disclosure. You did not hear from the Democrats that the ethics package puts a limit on the amount that Members can spend.

You heard them talk about potential reform. You did not hear them talk about current reform. And you know the PAC proposals statement of the gentleman from Washington, read from the midterm report by Professor Sabato? What he did not tell you was what Professor Sabato's actual report card showed for H.R. 5400, seven great goals. One of them was limitations on PAC contributions. And he graded it plus, minus or zero, determined by whether or not it was good or bad.

Out of all of the rankings of all of the measures that Professor Sabato looked at, the House provision on limiting PAC contributions gets a minus 7, the most negative rating of any proposal on any of the campaign reform packages, Senate, House, or President.

Wrap yourselves in the flag, pick out the language you want that makes you look good, but the numbers show that your figures on PAC limitations gets the highest negative by Professor Sabato of any provision listed of any campaign package.

That is on page 6, if you want to look at it.

So, Mr. Speaker, here we are with a simple motion to instruct, not redebating the entire campaign finance proposal. We had that debate a month ago.

Republicans offered a reasonable proposal to change fundamentally the way in which we finance campaigns. We said let the people in the district determine how much money is going to be spent in a campaign; require a majority of funds to come from those who can actually vote in the campaign. We offered a multitude of changes. They were all rejected by the Democrats.

So we came with an attempt not to refight the entire campaign finance battle but to instruct conferees in two simple areas: First, adopt the Senate provision on PAC's; not eliminate PAC's, but to say that if you want to contribute to a candidate, you have no more influence than an individual and that if you want to use that PAC money you have got to make it the money you raised rather than some corporate or union money. Then we said let us just take our franking costs that we had in the House and disclose the amounts, let people know what we are doing. And look at the firestorm these two modest proposals generated.

Mr. Speaker, my colleagues, not only should we vote "aye" on the motion to instruct, it deserves an "aye."

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. THOMAS].

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 194, nays 225, not voting 13, as follows:

[Roll No. 385]

YEAS—194

Archer	Goodling	Meyers
Armey	Goss	Michel
Baker	Gradison	Miller (OH)
Ballenger	Grandy	Miller (WA)
Bartlett	Grant	Molinari
Barton	Green	Moorhead
Bateman	Gunderson	Morella
Bennett	Hall (TX)	Morrison (WA)
Bentley	Hammerschmidt	Myers
Bereuter	Hancock	Nelson
Bilirakis	Hansen	Nielson
Bliley	Hastert	Oxley
Boehlert	Hayes (LA)	Packard
Broomfield	Hefley	Pallone
Brown (CO)	Henry	Parker
Buechner	Herger	Parris
Bunning	Hiler	Pashayan
Burton	Holloway	Paxon
Byron	Hopkins	Petri
Callahan	Horton	Pickle
Campbell (CA)	Houghton	Porter
Chandler	Hubbard	Poshard
Clinger	Huckaby	Pursell
Coble	Hunter	Quillen
Coleman (MO)	Hutto	Ravenel
Combest	Hyde	Regula
Conte	Inhofe	Rhodes
Cooper	Ireland	Ridge
Coughlin	Jacobs	Rinaldo
Courter	James	Ritter
Cox	Johnson (CT)	Roberts
Craig	Johnson (SD)	Robinson
Crane	Kasich	Rogers
Davis	Kolbe	Rohrabacher
DeLay	Kyl	Ros-Lehtinen
Dickinson	Lagomarsino	Roth
Dornan (CA)	Leach (IA)	Roukema
Douglas	Lewis (CA)	Saiki
Dreier	Lewis (FL)	Sangmeister
Duncan	Lightfoot	Saxton
Dyson	Livingston	Schaefer
Eckart	Lowery (CA)	Schiff
Edwards (OK)	Lukens, Donald	Schneider
Emerson	Machtley	Schroeder
Fawell	Madigan	Schuette
Fields	Marlenee	Schulze
Frenzel	Martin (NY)	Sensenbrenner
Gallegly	McCandless	Sharp
Gallo	McCollum	Shaw
Gekas	McCrery	Shays
Gillmor	McDade	Shuster
Gilman	McEwen	Skeen
Gingrich	McGrath	Slattery
Glickman	McMillan (NC)	Slaughter (VA)

Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Watkins
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NAYS—225

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Berman
Bevill
Bilbray
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conyers
Costello
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Hoyer
Hughes
Jenkins
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Price
Rahall
Rangel
Ray
Richardson
Roe
Rose
Rowland (GA)
Roybal
Russo
Sabo
Sarpalius
Savage
Sawyer
Scheuer
Schumer
Serrano
Shumway
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—13

Brown (CA)
Crockett
Dannemeyer
DeWine
Dymally
Fish
Lent
Martin (IL)
Matsui
Moody
Oakar
Rostenkowski
Rowland (CT)

□ 1319

The Clerk announced the following pair:

On this vote:

Mrs. Martin of Illinois for, with Mr. Dymally against.

Messrs. HOYER, McCLOSKEY, and KOSTMAYER changed their vote from "yea" to "nay."

Messrs. HORTON, GLICKMAN, and HUCKABY changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees, and, without objection, the Chair reserves the right to appoint additional conferees:

Messrs. SWIFT, ANTHONY, BROOKS, MCHUGH, ANNUNZIO, SABO, SYNAR, FROST, OBEY, GLICKMAN, FAZIO, BERMAN, MILLER of California, RUSSO, DINGELL, FORD of Michigan, ECKART, THOMAS of California, VANDER JAGT, ARCHER, BUECHNER, FRENZEL, GUNDERSON, HORTON, OXLEY, ROBERTS, SUNDQUIST, and RHODES.

There was no objection.

□ 1320

APPOINTMENT OF CONFEREES ON H.R. 4487, NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none and appoints the following conferees:

Messrs. DINGELL, SCHEUER, WAXMAN, TOWNS, RICHARDSON, ROWLAND of Georgia, SYNAR, SLATTERY, COOPER, LENT, MADIGAN, DANNEMEYER, TAUKE, BLILEY, and BILIRAKIS.

COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990

The SPEAKER. Pursuant to House Resolution 468 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4450.

□ 1322

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4450) to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes, with Mr. KILDEE in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the Committee on Merchant Marine and Fisheries brings to the House floor one of the most important environmental bills of this Congress. H.R. 4450 amends and reauthorizes the Coastal Zone Management Act [CZMA].

This bill arms State coastal managers for the challenges of the 1990's. Increasingly, our Nation's population is concentrated along the coast. I don't need to remind my colleagues of the environmental problems which we are facing because of this growth. The CZMA is the only Federal law which provides assistance for comprehensive management of land uses and water uses in the coastal zone.

H.R. 4450 will encourage and assist the States in tackling tough problems, including coastal water pollution, wetlands protection, the potential for sea level rise. This bill is badly needed and it has very broad support from coastal States, Great Lakes States, and environmental organizations.

The administration is opposing this bill because of the so-called Federal consistency provisions. I want every Member to know, you can't support coastal zone management if you don't support the Federal consistency provisions. Back in 1972, we made a bargain with the States. If they developed CZM programs which met Federal standards and received Federal approval, we promised that Federal agencies would adhere to these programs. The problem is that Federal agencies have not lived up to this bargain.

The Federal consistency provisions of H.R. 4450 are key environmental provisions.

Our coastal zones are sick and they need strong medicine. H.R. 4450 is a good, strong bill. I ask my colleagues

to support this bill and oppose all weakening amendments.

Mr. Chairman, under the rule, an amendment in the nature of a substitute consisting of the text of H.R. 5665 will be considered the original bill.

Because I introduced the clean air bill only last week, there is no committee report or other appropriate documentation to provide the needed legislative history.

Our ranking minority Member, Mr. DAVIS, and I have prepared a joint, bipartisan statement which is to be construed as the relevant legislative history of the provisions of H.R. 4450, as amended by the text of H.R. 5665.

At this point in my statement, I am including this legislative history:

EXPLANATION OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

SUMMARY OF THE BILL

H.R. 4450, the "Coastal Zone Act Reauthorization Amendments of 1990", as amended by the text of H.R. 5665, is largely a recodification and updating of the Coastal Zone Management Act of 1972 (CZMA) that includes the repeal of antiquated provisions, necessary technical and conforming modifications, the reorganization of certain sections, and a clarification of some provisions. However, the bill also proposes to add a number of new concepts to the CZMA. In summary, H.R. 4450 includes the following major features:

(1) maintaining the program in the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) but specifying that the Under Secretary of Commerce for Oceans and Atmosphere (i.e., the NOAA Administrator) administer the CZMA;

(2) requiring that each state with a coastal zone management (CZM) program develop, in close consultation with state water quality authorities, a "Coastal Water Quality Protection Program" that will address nonpoint pollution of coastal waters;

(3) amending the "federal consistency" provisions to overturn the Supreme Court's 1984 decision in *Secretary of the Interior* v. *California*. This would clarify that all federal agency activities, whether in or outside of the coastal zone, are subject to the consistency requirements of section 307(c)(1) of the CZMA.

(4) repealing most of the Coastal Energy Impact Program (CEIP) which has not been funded for many years but retaining an important part of the CEIP—the Outer Continental Shelf State Participation Grants. This provision will help coastal states in fulfilling their responsibilities under the OCS Lands Act;

(5) establishing a "Coastal Zone Management Fund" consisting of CEIP loan repayments from which the Under Secretary shall pay for the federal administrative costs of the program and fund special projects, emergency state assistance, and other discretionary coastal zone management activities;

(6) reinstating Program Development Grants by authorizing the Under Secretary to provide assistance to a state for development of a CZM program and establishing a goal of 100 percent participation by all coastal states by 1995;

(7) encouraging each coastal state, under a "National Interest Improvements Program", to improve its CZM program in one or more of five identified national interest areas: coastal wetlands management and protection; natural hazards management (including potential sea and Great Lake level rise); public access improvements; assessment of cumulative and secondary impacts of coastal growth and development; and environmentally sound siting of coastal energy facilities;

(8) authorizing the Under Secretary to make annual "Walter B. Jones" achievement awards to appropriately recognize individuals, local governments, and graduate students for outstanding accomplishments in the field of coastal zone management; and

(9) authorizing appropriations for five years at increased levels. The current authorization for FY 1990 is $51.6 million. The proposed bill authorizes the following amounts: $63.67 million (1991); $76.125 million (1992); $88.675 million (1993); $96.323 million (1994); and $104.075 million (1995).

PURPOSES OF THE BILL

The purposes of H.R. 4450 are to:

(1) establish the improvement of coastal resource protection as a priority national goal under the Coastal Zone Management Act;

(2) establish improved incentives for state and local action to achieve better coastal resource protection;

(3) revitalize the federal coastal management program by establishing a mandate for federal leadership and technical and financial assistance in support of improved coastal zone management at regional, state, and local levels; and

(4) encourage voluntary participation by all eligible coastal states in the CZM program by setting a goal of 100 percent state participation by the end of 1995.

BACKGROUND AND NEED FOR LEGISLATION

The Coastal Zone Management Act: Brief History and Key Provisions

In 1969, the Commission on Marine Science, Engineering and Resources (known as the Stratton Commission) recommended that:

". . . a Coastal Zone Management Act be enacted which will provide policy objectives for the coastal zone and authorize federal grants-in-aid to facilitate the establishment of State Coastal Zone Authorities empowered to manage the coastal waters and adjacent land."

Largely as a result of the work of the Stratton Commission and the growing awareness of the substantial threats to the coastal environment caused by population and development pressures in coastal areas, including offshore development in both state waters and the Outer Continental Shelf, Congress enacted the Coastal Zone Management Act (CZMA) in 1972 (P.L. 92-583).

Congress envisioned a voluntary and cooperative federal-state program to protect coastal resources, uses and values from these pressures. The states were selected as the key to effective coastal management and protection, while the federal role was to encourage states to exercise their full authority over coastal areas by developing management programs meeting minimum federal standards.

Congress provided two major incentives to encourage coastal states to develop coastal management programs: (1) financial and technical assistance in program development and implementation; and (2) the requirement that federal activities and projects, as well as federally-permitted activities, must be consistent with approved state programs (the federal consistency provision). If a state does not choose to develop a coastal management program, the Federal Government is not authorized to develop one for the state.

The CZMA is administered by the Secretary of Commerce, with general authority delegated to the Under Secretary for Oceans and Atmosphere at the National Oceanic and Atmospheric Administration (NOAA). NOAA oversees all state grants and reviews state programs for compliance with the general federal requirements in the CZMA. Day-to-day responsibility has been assigned to the Office of Ocean and Coastal Resource Management (OCRM).

Procedurally, the CZMA established a two-stage, matching grant assistance program. The first stage provided grants (under section 305) to coastal states for development of coastal management programs meeting certain federal requirements. State programs which, in the judgment of the Secretary of Commerce, met the requirements of the federal Act, received federally-approved status and became eligible for the second stage of grants. These administrative grants (under section 306) involve ongoing federal assistance for states to implement their approved coastal programs.

Early state response to the CZMA was strong. By 1975, every coastal state had begun development of a management program under section 305. In fact, prior to passage of the CZMA, several states had already started independent efforts that could be loosely categorized as coastal management plans and they welcomed federal assistance and the national recognition of the need for such comprehensive management programs. Additionally, assurances of federal consistency provided incentives to coastal states seeking greater influence over federal agency actions affecting coastal resources.

During the development stage of CZMA implementation, the principal federal role was the provision of assistance to states, both financial and technical. During this period, the primary federal objective was to encourage state participation, and by using the incentives of financial aid and federal consistency, to weave national goals into state programs. From 1974-1979, NOAA provided roughly $67.5 million in program development grants to the 35 eligible coastal states and territories.

The program implementation stage began in 1976 when the State of Washington submitted the first program to be approved by the Secretary of Commerce. The State of Oregon followed in 1977. The majority of state programs were approved during the period 1978-1982. Therefore, while the CZMA was enacted 18 years ago, most state programs have been operating for only about half that long.

As of this date, 29 of 35 potentially eligible coastal states and U.S. territories have received federal approval for coastal management programs. The State of Virginia was the most recent entrant into the program, receiving program approval in 1986. Ohio is currently preparing a program and is expected to submit it for federal approval in 1991. Texas, Georgia, Illinois, Indiana, and Minnesota are not currently participating in the CZMA program. Considering the 29 state programs for which federal approval has been attained, the national CZM network covers 94 percent of the Nation's marine and Great Lakes coastline.

Federal CZMA funding, through fiscal year 1989, for assistance to eligible states

and territories has totaled $613,828,000. The actual amount of federal program implementation grants (section 306 grants), generally the largest portion of the state's federal grant, is determined by a formula that takes into account states' coastal area and population, with a weighting of 60 percent and 40 percent, respectively. Other large funding sources are grants and loans made under section 308, the Coastal Energy Impact Program.

The nature and structure of CZM programs vary widely from state to state. This diversity was intended by Congress. Some states, like North Carolina, passed comprehensive legislation as a framework for coastal management. Other states, like Oregon, used existing land use legislation as the foundation for their programs. Finally, states like Florida and Massachusetts linked existing, single-purpose laws into a comprehensive umbrella for coastal management. The national program, therefore, is founded on the authorities and powers of the coastal states and local governments. Through the CZMA, these collective authorities are structured to serve the national interest in effective management of the coastal zone.

In 1986, the CZMAS was reauthorized for five years, through Fiscal Year 1990 (P.L. 99-272). The 1986 amendments also added more specific policies and objectives to the statement of purpose, and provided for an increasing state match for federal program administration grants. Previous amendments, in 1980, directed the Secretary of Commerce to ensure that an increasing proportion of federal grant funds (up to 30 percent) was spent on "significant improvements" in meeting the statutory objectives.

The following is a synopsis of the major CZMA provisions.

Section 306: Program Approval and Administration Grants: The majority of state programs were approved in the late 1970's. To be eligible for federal approval, states had to demonstrate that they had the authority within the coastal zone to administer land and water use regulations, control development to ensure compliance with their management programs, and resolve conflicts among competing uses.

The coastal zone extends in the Great Lakes to the U.S.-Canada international boundary, and in other areas, extends seaward to the outer limit of the U.S. territorial sea. The zone extends inland only to the extent necessary to control the uses of adjacent lands which have a direct and significant impact on coastal waters.

How a state chooses to implement its CZM authority—whether through direct state control, or state standards with local implementation—is for the individual state to decide. Early in the program, the oil and gas industry challenged the Secretary's approval of the major state programs, including California and Massachusetts, on the grounds that they failed to meet federal approval standards and lacked specific policies to guide users of the coastal zone. These challenges were unsuccessful. *API* v. *Knecht*, 456 F. Supp. 889 (C.D. Cal. 1978), *aff'd*, 609 F. 2d 1306 (9th Cir. 1979).

Once its management program is approved, the state becomes eligible for section 306 program administration grants. The Reagan Administration had proposed, in eight consecutive budgets, that no money be appropriated for 306 grants, preferring to leave this function to the states. But, each year Congress restored funding for the CZM grants. The FY 1990 appropriation for section 306 grants is $34 million. These grants are allocated to the states based on the weighted formula described above.

The section 306 funds are used by the states to implement their approved management programs. A large percentage of the money is spent on personnel costs to implement state and local permitting authorities. States can pass federal funds to local governments provided the local land use plans are part of the approved state program.

A percentage of the section 306 funds, in NOAA's discretion, can be spent by the states on certain projects stipulated in section 306A. These are primarily low-cost construction or land acquisition projects for the purpose of increasing beach access and rehabilitating deteriorating waterfronts.

Section 307: Federal Consistency: After a state program receives federal approval, federal agencies generally must conduct their activities in or affecting the coastal zone consistent with the legally-enforceable policies contained in those programs. The consistency provisions of the CZMA can be a powerful management tool for the states to make certain that federal activities are coordinated with their coastal management programs.

The federal consistency provision is divided into four separate requirements: (1) federal activities and development projects in or directly affecting the coastal zone must be conducted consistent to the maximum extent practicable with state programs; (2) private activities affecting the land or water uses in the coastal zone for which federal licenses and permits are required must be consistent with state programs; (3) activities covered by exploration and production plans for oil and gas development from an area leased under the Outer Continental Shelf (OCS) Lands Act and affecting any land or water use in the coastal zone must be consistent with state programs; and (4) federal financial assistance for activities affecting the coastal zone must be consistent with state programs.

In the case of federal licenses and permits, including those for the OCS, and federal financial assistance, the Secretary of Commerce can allow the activity to proceed, notwithstanding its inconsistency with the state's program, if the Secretary finds that the activity is otherwise consistent with the objectives of the CZMA or is necessary in the interest of national security.

Section 312: Review of State Performance: The Secretary is required to conduct a continuing review of the performance of state programs following their approval. As part of the review or evaluation process, the Secretary must determine whether a state is continuing to adhere to its approved program and the terms of its grants. This evaluation generally takes place on a biennial basis.

If the Secretary finds that a state is not adhering to its federally-approved program or the terms nd its grants, and the deviation is unjustified, the Secretary has the authority to withdraw program approval and terminate federal financial assistance. Prior to program disapproval, the Secretary must provide the state notice and an opportunity for a public hearing, as well as a statement of actions it may take to remedy the deviation.

The Secretary has not withdrawn program approval from any state, although in 1988, the Secretary made preliminary findings to support "decertification" of California's program. California challenged the decision in court and was successful in obtaining a preliminary injunction. In *California v. Mack*, 693 F. Supp. 821 (N.D.Cal. 1988) the district court ruled that NOAA, under the section 312 evaluation process, does not have authority to revisit the approvability of a state CZM program. Subsequent to the injunction, the case was settled and the notice of intent to decertify was withdrawn.

In addition to withdrawing program approval, the Secretary is authorized to reduce the state's grant, but not below 70 percent, if the state is failing to make significant improvements in achieving the management objectives of the CZMA.

Section 315: National Estuarine Reserve Research System: Section 315 of the CZMA establishes a national estuarine reserve research system. The Secretary is authorized to designate as national estuarine reserves those estuaries which are suitable for long-term research and are biogeographically representative. Once designated, the coastal states within which the reserves are located are eligible to receive federal grants for acquisition of key lands within the reserves and for their long-term management. This section authorizes the Secretary to make grants, not to exceed 50 percent of the cost of the project, which enable coastal states to acquire, develop and operate estuarine research reserves. In 1985, Congress substantially revised section 315 to place more emphasis on the research objective of this program. The FY 1990 appropriation for section 315 is $3.49 million.

The first estuarine sanctuary, South Slough, was designated in Oregon in 1974. Currently, 18 sites compose the national system, with a complete system of 25-30 sites ultimately envisioned. Designation of a research reserve signifies that a state has agreed to advance estuarine science through long-term management, and provide information for use by coastal zone managers. In addition, the research reserves allow access by the general public to normally inaccessible natural areas, where, through interpretive programs, they can learn to appreciate coastal and estuarine ecology in an out-of-doors setting.

The Need for H.R. 4450: The Modernization of the CZMA for the 1990's

In very general terms, there are two reasons why H.R. 4450 needs to be enacted. First, the authorization for the Coastal Zone Management Act expires in Fiscal Year 1990. Therefore, if the program is to continue, it should be reauthorized this year.

Second, the Act needs to be modernized. It has not been thoroughly reviewed or updated since 1980. In the last decade, a number of existing provisions have become antiquated, a Supreme Court decision has created confusion and uncertainty about the applicability of the law's federal consistency section, and there has been a growing awareness that the Nation's stewardship of the coast has not kept pace with the myriad problems now constraining the "effective management, beneficial use, protection, and development of the coastal zone" [section 302(a), CZMA].

Ever since the original law was first reauthorized in 1974, all subsequent reauthorization bills have manifested the types of coastal issues of the time. H.R. 4450 is in keeping with this tradition of amending the CZMA. It builds upon existing law by updating it to account for the new and emerging coastal issues of the 1990s.

COASTAL ENVIRONMENTAL PROTECTION

During the decade of the 1980s, the continued decline of coastal environments has

become increasingly evident. Medical wastes, domestic sewage, and plastics have resulted in the closure of public beaches. Productive fishing and shellfishing areas continue to be closed. Pollution of coastal waters is increasing. The filling and alteration of coastal wetlands is further reducing the habitat for fish and wildlife populations. These obvious inadequacies in our current management of the coastal zone are compounded by the certainty that coastal populations will continue to grow at an ever increasing rate. In addition, coastal managers are confronted with new and complex issues like the potential for sea level rise in response to global warming.

The Administration recognizes the growing pressures on the coastal zone. As noted in NOAA's "Biennial Report to Congress on Coastal Zone Management" (April, 1990), increasing coastal populations are creating new pressures for coastal amenities and taxing the productive but fragile coastal environment. By the year 2010, coastal population will have grown from 80 million to more than 127 million, an increase of almost 60 percent nationwide. Excluding Alaska, this coastal area encompasses only 11 percent of the Nation's land area.

In view of continued growth in coastal population and the accompanying environmental problems, the Committee has, in H.R. 4450, proposed a number of amendments to provide a greater emphasis on environmental protection values in the administration of the CZMA. This is not to say that the Committee has abandoned the fundamental balancing character of the CZMA. The statute continues to recognize the need for economic growth in coastal areas. However, H.R. 4450 shifts the balance to emphasize more strongly a priority for maintaining the function of natural systems in the coastal zone.

The CZMA was last reauthorized in 1986, under the threat of a Presidential veto. However, with a new President in the White House—a President who stood on the coastal zone of Lake Erie (ironically a state without a coastal zone management program) and declared himself an environmentalist—the Administration has requested funding for state administration grants under the CZMA and has propsed its own bill to reauthorize the Act. Although the Committee has determined that the Administration's bill is lacking in a number of critical areas, including inadequate authorization levels, it does acknowledge that the very existence of an Administration reauthorization bill is in sharp contract to the Reagan White House which provided no funds in eight consecutive budgets for state CZMA grants. In this political climate, support to refocus the CZMA on coastal environmental issues has blossomed.

COASTAL POLLUTION

In 1987, the Office of Technology Assessment (OTA) issued a report entitled "Wastes in the Marine Environment". OTA found that, as a result of numerous pollution activities, the overall health of coastal waters is declining or threatened. The report concluded:

"In the absence of additional measures, new or continued degradation will occur in many estuaries and some coastal waters around the country during the next few decades (even in some areas that exhibited improvements in the past)."

Degradation of coastal water quality can result in loss of submerged aquatic plants, effects on fish and shellfish productivity, beach and shellfish bed closures, and sediment contamination.

The OTA report was a catalyst for some 13 hearings on the general issue of coastal pollution conducted by the Committee's Subcommittees on Fisheries and Wildlife Conservation and the Environment, and Oceanography and Great Lakes during the 100th and 101st Congresses. An oversight report on the hearings was published by the Committee last year (House Document 101-38). Entitled "Coastal Waters in Jeopardy: Reversing the Decline and Protecting America's Coastal Resources", the report concludes that many coastal areas are in poor condition and risk further decline unless current trends are reversed.

"Coastal Waters in Jeopardy" also analyzed the possible interrelationships between coastal zone management and coastal pollution, primarily focusing on nonpoint source pollution. This type of pollution is not discharged from pipes or other discrete sources, but insidiously runs into coastal waters as water drains from land areas; carrying various pollutants. Nonpoint pollution is estimated to contribute over half of the phosphorus, chromium, copper, lead, and zinc in our coastal waters and, in the Great Lakes alone, deposits more than 100 million tons of sediment. Because the source of nonpoint pollutants is often difficult to determine, involves large land areas, but can be remedied through construction techniques or the erection of barriers, it is particularly susceptible to control through land use measures.

In 1972, the Congress envisioned that a primary purpose of the CZMA was to control land use activities which have a direct and significant impact on the coastal waters. During Senate debate on S. 3507, which was enacted as the CZMA of 1972, the bill's sponsor (Senator Hollings) made the following statement:

"The bill I propose today is aimed at saving the *waters* of our coasts and the land whose use has a direct, significant, and adverse impact upon that *water*. We all know that the *coastal water* and our delicate estuaries are the breeding grounds of life in the sea. Yet we use the land of the coastal zone with little or no concern for how its use will affect the *water* . . . The *waters of this zone*, again, are our primary target of concern." (Emphasis added).

Through extensive oversight, the Committee has concluded that this basic underlying purpose of the CZMA has not been effectively implemented. H.R. 4450 rectifies this deficiency by requiring specific state action to more clearly focus state CZM programs on this primary target.

WETLANDS MANAGEMENT AND PROTECTION

In recent years, the broad values of wetland environments have been increasingly recognized. These values include flood control; barriers to waves and erosion; sedimentation control; habitat for fish, shellfish, and wildlife; recreation; filtration of water pollutants; and food and timber production. Concurrently, the rapid rate of loss and conversion of wetlands has also been documented.

Although there is disagreement over the exact figure, the U.S. is losing between 400,000 and 500,000 acres of wetlands per year. The U.S. Fish and Wildlife Service (USFWS) estimates that 482,000 acres of saltwater wetlands were lost during the period from the mid-1950's to the mid-1970's. Wetland loss, some occuring naturally, is attributed to several factors including erosion, flooding, draining, filling, excavation, diversion of water or sediment, clearing, and pollution. The USFWS has identified 6 million acres of coastal zone wetlands as facing significant threats from destruction, along with 10 million acres of the Florida Everglades, 7 million acres of the Mississippi Delta, and 2 million acres of marshes in coastal Louisiana. In fact, in coastal Louisiana, scientists have estimated 50 square miles of wetlands are lost each year due to a combination of natural and human factors.

The 1972 Congress foresaw the need to manage and protect coastal wetlands through effective coastal zone management. During debate in the House on H.R. 14146, the bill's sponsor (Congressman LENNON) implored the House:

"I rise at this time to urge the support of this committee for H.R. 14146, the coastal zone management bill, because I am convinced that it is imperative to implement such a program now before this Nation witnesses the tragic and wanton destruction of an irreplacable natural resource, our estuaries, *our wetlands*, and our shorelines." (Emphasis added).

Since enactment, the CZMA has been a harbinger of coastal wetlands protection at the state and local level. All federally-approved state CZM programs currently address the protection of wetlands by requiring state or local approval for direct and significant alteration of wetlands. Most states also require some form of mitigation for wetland loss. The State of New Jersey, for example, used a wetlands mitigation agreement with a major utility to obtain funds to acquire critical wetlands habitat along the Delaware Bay, which serves as a landing place for over 1,000,000 migrating shorebirds each spring.

The Conservation Foundation issued a seminal report on wetlands conservation in November, 1988, entitled "Protecting America's Wetlands: An Action Agenda". This report, the product of the National Wetlands Policy Forum, concluded that the United States needs a better mechanism for protecting and managing its wetlands, coastal and inland. The Forum recommended a national wetlands protection policy to achieve an interim goal of "no overall net loss of the nation's remaining wetlands base" with a long-term view to "increase the quantity and quality of the nation's wetlands resource base." President Bush has stated his support for a no net loss of wetlands goal, although the specific mechanism to implement this goal is yet to be developed. Reauthorization of the CZMA—the principal federal statute dealing with comprehensive coastal land use planning and management—provides an important opportunity to improve management and protection of coastal wetlands.

NATURAL HAZARDS MANAGEMENT

The widespread havoc wreaked by Hurricane Hugo provided a vivid demonstration of the fragility of coastal development. While a storm as virile as Hugo would threaten even the most well-planned coastal development, it is clear that the protection of natural buffers and the employment of sound construction techniques make excellent economic sense.

The CZMA has assisted state and local efforts to manage and deter development in hazard-prone areas. One such method is to prevent inappropriate shoreline development through the adoption of so-called "setback" requirements. Currently, 13 states have some form of setback requirement for coastal development. Many other states

have laws to protect natural protective features, such as sand dunes, which are the first line of defense against storm surges.

The State of North Carolina, through its coastal program, has adopted a strong program to protect lives and property from coastal hazards. The state has developed an approach which augments and extends the National Flood Insurance Program standards to protect coastal development. Setback lines have been established in designated ocean hazard areas to provide protection from coastal storms and insure at least 60 years of protection from coastal erosion. Infrastructure development that would serve ocean-hazard areas, such as roads, bridges, water and sewer lines, and erosion-control structures, is allowed only if it will be reasonably safe from coastal hazards and will not promote additional development in hazardous areas. Finally, the state provides hazard notices to all permit applicants, which gives the erosion rate in the area, notes that bulkheads and seawalls are not allowed, and notes that the area is hazardous and that the property owner is at risk.

Despite strong progress in the area of hazards management, the certainty of population growth in coastal areas requires stronger state and local policies to manage the increasing risk to life and property. States should be further encouraged to curtail development and redevelopment in coastal high hazard areas. Comprehensive hazard mitigation programs are needed in every coastal state, including evacuation planning, enhanced building code standards and enforcement, and protection of physical features which provide protection to coastal structures.

Effective management of hazardous coastal areas is complicated by the potential for sea level rise in response to global warming. Global climate change and its potential impacts on physical, biological and human environments have become major public policy issues. If surface temperatures increase, a number of changes could occur in the environment, one of the most catastrophic being accelerated sea level rise. Numerous studies have predicted that global sea levels could rise anywhere from 50 to 368 centimeters by the year 2100, and a rise of one meter over the next century is often used as the "median" of sea level rise scenarios for planning purposes. Obviously, a rise of sea levels within the predicted ranges would have substantial negative impacts on many coastal communities.

Predictions of rising sea levels are fraught with troubling uncertainties. However, the issue presents a management issue of such proportion and complexity that the Nation's coastal managers should take notice. Moreover, some coastal areas are already experiencing a relative rise in sea level due to subsidence, reduced sedimentation, and chronic erosion and are actively pursuing policies to ameliorate its effects. The issue of sea level rise, whether caused by global warming or by the less dramatic but more probable sinking of coastal lands, is an issue that bears directly on the management of natural hazards and is properly addressed through the reauthorization of the CZMA.

While the Great Lakes are generally insulated from sea level rise by the natural barrier provided by Niagara Falls, the lakes experience their own water level problems. Unpredictably, Great Lakes levels rise dramatically because of increased precipitation and decreased evaporation. Higher lake levels exacerabate erosion and flooding, particularly waves that are driven by severe winter storms characteristic of the Midwest.

Coastal zone programs can be equally effective in planning for and preventing damage caused by lake level rise. The State of Michigan has taken the lead in this area, using CZMA funds to help identify vulnerable shorelines and instituting setbacks and other shoreline building requirements.

In many states, the lack of technical baseline information and the resources to apply it, remains an impediment to policy development, planning, and enforcement. Many states face legal challenges from the owners of property where restrictions are applied or contemplated. State CZM programs are the one institution capable of addressing the issue of natural hazards management, including sea and lake level rise, in a comprehensive and systematic way.

PUBLIC ACCESS

Of the 21,724 shoreline miles of the 28 coastal states, only 1,790 are publicly owned. Coupled with growing coastal population and heightened interest in water-related recreation, demand for public access to the shores for recreation is increasing at the same time available acreage is decreasing. Land values along the coast have skyrocketed, pollution is closing many otherwise accessible areas, and land is slowly being lost to the sea and Great Lakes through erosion, flooding, and economic development.

Resolving conflicts among various uses of the coastal zone is the primary purpose of the CZMA. These conflicts include development and preservation of the coast; oddly, both courses of action can be seen as obstructing public access depending on the activity for which the access is desired. Passive recreational activities, such as swimming, fishing, and birdwatching go more in hand with conservation of a coastal area in its natural state. Conversely, marinas, dune buggy races, and large-scale recreational complexes require some development of the shore.

In general, housing, industry, and transportation all can pose impediments to recreational uses of the coastal zone. When housing is constructed along shorelines, it physically blocks access to the sea, and coastal wetlands are often dredged and filled. Housing also entails greater population stresses, leading to coastal pollution problems and saltwater intrusion as freshwater is siphoned for drinking. Transportation requirements—roads, parking space, airports, harbors, and shipping channels—ironically can increase access to the coasts, while robbing valuable land area for recreation and wildlife. When direct ingress and parking is not provided, vehicles can be driven onto fragile dunes or beaches, resulting in resource damage. Finally, industry dependent on close proximity to the sea and Great Lakes for large amounts of water, access to ocean resources, or for waste disposal can limit public opportunities for ocean and Great Lakes recreation.

The public is already guaranteed some limited access to the coast through a rule of common law known as the public trust doctrine. Under this principle, dating back to Roman times, the area between the high and low water tidal marks has traditionally been available to the public for certain specified uses, including navigation, mooring of boats, and fishing. Attempts to expand this doctrine to areas beyond the "wet-sand strip" or for recreational uses such as swimming have not been wholly successful. Moreover, getting to the wet sand can be a problem if the beaches are surrounded by private land. Even when entree is available, other types of barriers can be erected such as high beach access fees, limited parking facilities, and prohibition on food and beverages or children.

This last method was recently challenged in the Supreme Court. In *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), the Court found that the Commission's public access condition for a coastal building permit amounted to an unconstitutional taking without just compensation under the Fifth Amendment to the Constitution. As a condition for a permit to substantially expand their beachfront home, the California Coastal Commission required the Nollans to allow citizens to traverse the dry beach in front of the seawall fronting their home to reach a public beach. The Supreme Court found the condition amounted to a "permanent physical invasion" of the Nollan property, and that it did not advance the legitimate public interest expressed in the development permit law—visual access to the coast.

The holding in the *Nollan* decision means that states must not only demonstrate that public easements over private coastal property have a legitimate public purpose, but that the easement must have a specific nexus to the public purpose. As California had relied on its building code permit conditions to require public access to beach areas for over 25 years, additional challenges to this authority can be expected. The decision may also have a chilling effect on other coastal states' use of permit conditions as a means of enhancing public access to the shore.

Purchasing private beachfront lands to allow public use is a popular but expensive way to guarantee increased recreational access to our shores. For example, 1.2 acres of waterfront property in Falmouth, Massachusetts, sold for $475,000 in mid-1986; its price jumped to $750,000 six months later. In Cape Code, Massachusetts, land prices are rising by 5 percent a month.

When first enacted, the CZMA had no statutory recognition of the need to provide increased public access to the coastal zone. This was changed in 1976, when the Act was amended to require "a planning process" for increasing public access to the shores as part of an approvable state coastal zone management program [section 305(b)(7)]. However, no goals for increased access were mandated nor were specific methods prescribed.

In 1980, the CZMA was again amended to authorize low-cost construction projects in the coastal zone through section 306A, based on a successful program begun in the State of Michigan. States have used the funds available under this section to construct boardwalks and other physical access means, post public easements, acquire coastal lands, and disseminate public information on access points. CZMA monies can also be used to develop a regulatory or permit process that can be used to acquire access rights for the public.

This program has been very successful. New Jersey has used 306A funds to initiate a shuttle bus service to one of its state oceanfront parks. The State also purchased movable platforms to place on shifting beach sands to allow handicapped citizens greater access to the beach. North Carolina has spent $149,000 in CZMA dollars to purchase oceanfront land to provide public access in Carteret County. Maine purchased a half-acre parcel in Blue Hill for parking space to expand the use of an existing access site.

Federal consistency under the CZMA can also be used to enhance public access. Disposal of surplus Federal coastal land by the General Services Administration (GSA) can trigger consistency review by state coastal zone agencies, which can encourage sale or donation of the property for public access needs or inform interested state or private groups of the availability of the property for acquisition for public access. The application of Federal consistency to GSA surplus property transfers has been clouded by a 1983 Federal district court decision in *Ono* v. *Harper*, 592 Fed. Supp. 698 (D. Ha. 1983). The court held that a GSA property transfer of two missile sites in the Hawaii state coastal zone was merely a "paper transaction" which had no direct effects on the land or water uses of the coastal zone.

On June 29, 1987, the Subcommittee on Oversight and Investigations held a hearing in Warwick, Rhode Island, on the public's right to the visual and physical aspect of the shorelines of lakes and oceans. The witnesses at the hearing reiterated a greater need for public access to the oceans and Great Lakes, and stated that greater Federal assistance is needed to accomplish this. Many witnesses pointed to the CZMA as an excellent tool for assisting states and local governments in increasing access to the shores.

In H.R. 4450, the trend toward greater recognition for increased public access to the oceans and Great Lakes is continued. First, the bill states a preference for water-dependent uses along the coasts, thereby discouraging developing with little nexus to the water. Funding for low-cost construction projects under section 306A is also increased, as are funds for section 315 (Estuarine Research Reserve System). More importantly, increased public access is now identified as an area of national interest under section 310.

CUMULATIVE AND SECONDARY IMPACTS

The Nation's coasts, and their estuaries and wetlands, are being lost in a piecemeal war of attrition: a road here; a condominium there; a putting green today; an 18-hole golf course tomorrow. A boat-ramp is followed by a marina, and a gas station, and a convenience store, and a bait and tackle shop, and a restaurant, and a motel, and on and on.

Cumulative effects are the changes attributable to the collective effect of numerous activities which may or may not be related to one another. Although the impact of a particular land or water use may constitute a minor change in itself, the combined effect of numerous such piecemeal changes can result in a major change in coastal ecosystems. This is the most insidious and intractable management issue facing today's coastal managers. It is an area where great improvements can be made in coastal zone management.

Secondary effects are effects that are associated with a land or water use activity, but do not result directly from the activity itself. Some examples of secondary effects might include fluctuating downstream water levels associated with the operation of a dam, or septic tank leaching and surface runoff from residential or commercial developments.

Effectively assessing, considering and controlling cumulative and secondary effects of coastal land and water use is priority area for improvement in coastal zone management. If better approaches are not forthcoming, then there is little hope of stemming the nationwide decline in coastal environmental quality.

COASTAL ENERGY DEVELOPMENT

The CZMA has always recognized the need to develop as well as protect coastal zone resources, including offshore minerals and fossil fuels. This is apparent in the findings of section 302 (c), (f), and especially (j), and section 303(2)(C) of the existing CZMA. The need to consider the national interest in the siting of coastal energy facilities is not diminished by H.R. 4450.

Today, crude oil imports are at a higher level than just before the 1973-74 Arab oil embargo, with imports during January, 1990, meeting 54% of U.S. oil needs, an all-time monthly high. The decline in domestic oil production is expected to continue. These trends are significant for coastal areas for two major reasons: first, oil is imported by tanker which means greater traffic through the coastal zone; and second, declining domestic production will eventually lead to pressure for increased development of offshore resources that will adversely affect coastal zone resources.

There is a national interest in the siting of necessary coastal energy facilities and this interest will continue and likely grow in the future. Therefore, state CZM programs must continue to consider these national interests and improve procedures for the siting of required facilities while providing full protection of coastal zone resources and uses.

FEDERAL CONSISTENCY WITH STATE CZM PROGRAMS

The requirement that federal agencies act in a manner which is consistent with federally approved state CZM programs is at the heart of the voluntary program envisioned by the CZMA. To induce state participation in the program and compliance with the substantive and procedural requirements of the law, the Federal Government promises that its actions will not be inconsistent with the enforceable provisions of a state management program. As CZM programs have matured, and competition for coastal resources has increased, the federal consistency requirements have grown in significant as a management tool.

In the majority of instances, the federal consistency provisions are exercised without controversy and result in improved coordination of state and federal management programs. For example, during 1983, the coastal states concurred with 93 percent of the approximately 400 federal agency activities reviewed, including numerous OCS lease sales; states concurred with about 82 percent of the approximately 5,500 federally licensed or permitted activities reviewed; states concurred with about 99 percent of the nearly 435 plans for OCS exploration, development and production; and states concurred with over 99.9 percent of the nearly 2,000 federal assistance proposals. There are, however, problem areas where the implementation of the federal consistency provisions must be improved.

A. Georgraphic Scope

In 1984, the U.S. Supreme Court, in *Secretary of the Interior* v. *California* (464 U.S. 312), ruled that oil and gas lease sales are not activities that directly affect the coastal zone and, therefore, are not subject to the consistency review under CZMA section 307(c)(1). Since the ruling, other federal agencies have broadly interpreted the case in a manner that would exclude their activities from undergoing a federal consistency review. For example, the Department of Justice has filed amicus briefs in several lawsuits arguing that federal consistency is restricted geographically to activities inside the coastal zone. In addition, the Corps of Engineers, in proposing amendments to regulations governing its operation and maintenance dredging activities, proposed to limit the scope of consistency review to activities within the coastal zone:

"Section 307 of the Coastal Zone Management Act (CZMA) requires that any activity that a Federal agency conducts or supports within a state's coastal zone or in a Federal enclave within the geographic area of a state's coastal zone be consistent with the Federal approved state management program to the maximum extent practicable." (Federal Register, April 26, 1988).

Further complicating this matter, the Corps has stated that despite its interpretation that the CZMA is geographically limited in scope, it will comply with the consistency requirements "as a matter of comity."

This interpretation by the Corps of Engineers is directly contradictory with the long-standing NOAA regulations implementing this provision (15 CFR 930.35). In a letter of December 15, 1989, NOAA expressed its strong disagreement with the Corps' position. In particular, NOAA argues that the Supreme Court decision in *Secretary of the Interior* v. *California* addressed the question of OCS lease sales only and that the broader issue of the CZMA's geographic scope was not an issue decided by this case.

Additionally, the Environmental Protection Agency (EPA) has suggested that the designation of ocean dumpsites outside the coastal zone may not be subject to consistency review by the states. However, EPA has determined that it will comply with the federal consistency provisions "as a matter of Policy" in designating ocean dumping sites, while asserting that the legal requirements of the Ocean Dumping Act and the CZMA are "subject to debate".

B. Preemption

Another federal consistency issue is also raised by the Corps' operation and maintenance regulations. Under the Ocean Dumping Act, the Corps designates sites for the disposal of dredged materials and issues permits for these activities. However, the Ocean Dumping Act contains language which prohibits states from adopting or enforcing "any rule or regulation relating to any activity regulated" by the Act. The Corps has interpreted this provision to also preempt states from exercising their consistency authority under the CZMA.

In response, the coastal states assert that they are granted authority, through the federal Coastal Zone Management Act, to implement coastal management requirements and that these requirements are binding on all federal agencies. NOAA has supported the position of the coastal states, arguing that the use of the federal consistency provisions is implementation of a federal statute and not state regulation. Therefore, unless another federal law supersedes the CZMA, compliance with section 307 is mandated. The Corps has indicated that it will "voluntarily apply" for a federal consistency determination, but that it reserves its legal rights in cases where states make a negative consistency determination.

C. Directly Affecting

In *Secretary of the Interior* v. *California*, the Supreme Court ruled that OCS lease sales had no "direct effect" in the coastal zone, and other courts and federal agencies

have expanded the categories of activities which have no direct affects. For example, a federal court in Hawaii held that transfer of General Services Administration surplus property is only a "paper transaction," without effects in the coastal zone. EPA has also attempted to use this argument with regard to designation of ocean dumping sites under the Ocean Dumping Act.

These problems with administration of the consistency provisions spring from the Supreme Court's 1984 decision and buttress claims that a legislative response to that decision is warranted. The federal consistency provisions are at the heart of the Nation's coastal zone management program and it has become increasingly clear that the combination of Supreme Court dicta and federal agency belligerence are a troublesome combination.

SECTION-BY-SECTION ANALYSIS

Title I: General Provisions

Section 101. Short title: "Coastal Zone Act Reauthorization Amendments of 1909."

Section 102. Findings and Purposes: Subsection (a) enumerates the findings which underlie H.R. 4450, which emphasize the ever increasing pressures on coastal zone resources.

Title II: Coastal Zone Management Act

Section 201. Reauthorization of Coastal Zone Management Act: This section consists of an amendment in the nature of a substitute for the Coastal Zone Management Act of 1972. Most of the existing law is retained but substantial reorganization, revisions and modifications are made. Thus, what follows is essentially an analysis of the CZMA, as amended by H.R. 4450.

Section 301. Short Title: "The Coastal Zone Management Act." This title drops reference to the original year of enactment.

Section 302. Findings: The existing findings are modified to place greater emphasis on environmental protection. For instance, the amended section 302(1) provides—

"It is in the national interest of the United States to manage, protect, and develop with proper environmental safeguards, the coastal zone."

This finding reflects the Committee's position that the CZMA should continue to be a balancing statute which recognizes alternative uses of coastal zone resources, but at the same time, clarifies that all uses should be sensitive to the priority for maintaining natural systems in the coastal zone as reflected in section 302(8).

The findings are also amended to emphasize the need to protect coastal water quality by controlling adjacent land uses. It is stated that coordination with state and local governments is necessary to achieve expeditious and environmentally sound energy development in offshore areas.

Section 303. Declaration of policy: The policy statements are modified to reflect increasing emphasis on environmental protection, maintaining coastal water quality, and mitigating the effects of potential sea-level rise.

Section 304. Definitions: Section 304(1) amends the definition of the term "coastal resource of national significance" to incorporate "esthetic" considerations.

Section 304(2) defines the existing term "coastal State."

Section 304(3) amends the existing definition of the term "coastal water" by including, within it, wetlands adjacent to coastal waters.

Section 304(4) defines the new term "coastal wetlands" to mean any wetlands within the coastal zone of any coastal State. The Under Secretary is required to promulgate a rule, by June 1, 1991, defining the term "wetlands" for purposes of this law. The Under Secretary is directed to hold at least 4 public hearings in promulgating this rule. The intent of the Committee in taking this approach to defining the term "coastal wetlands" was twofold: First, following intense controversy surrounding the wetlands Memorandum of Agreement (MOA) signed by the Environmental Protection Agency and the U.S. Army Corps of Engineers on November 15, 1989, President Bush ordered the Domestic Policy Council, through its Interagency Task Force on Wetlands, to review implementation of the MOA and the "no net loss" policy. The Committee chose not to adopt a statutory definition of the term "coastal wetlands" that might restrict the deliberations of the Domestic Policy Council, although the Committee recognizes that the definition of the term "wetlands" is not addressed in the MOA between the Corps and the EPA, and is not a specific charter to the Council in the *Federal Register* notice of February 15, 1990 (Vol. 55, No. 32). Second, the Committee wants to ensure public input into the definition of this critical term.

The Committee intends that the rulemaking process and definition developed pursuant to this section shall be applicable only for purposes of this law. However, to the extent possible, the Under Secretary should work with state and federal agencies to ensure that multiple, conflicting definitions are avoided.

Section 304(5) amends the definition of the term "coastal zone" to provide greater encouragement for states to expand their inland coastal zone boundaries (especially as needed to effectively control land uses which result in nonpoint pollution of coastal waters) and to expressly limit the seaward coastal zone boundary to the extent of state ownership and title (in most cases, three nautical miles). The latter portion of this amendment is necessary to clarify uncertainties raised by Presidential Proclamation 5928 (December 27, 1988).

Section 304(6) adds a definition of the new term "critical coastal area" for use in the section 306B Coastal Water Quality Protection Programs provision.

Section 304(7) adds a definition of the new term "enforceable policy". Under NOAA's existing regulations, this term is applied in several respects, but it is not defined under current law. This definition is intended to endorse existing NOAA and state practice. The Committee does not intend that this definition be construed to reverse, in whole or in part, the judicial decision in *American Petroleum Institute* v. *Knecht*, 456 F. Supp. 889 (C.D. Cal. 1978), aff'd, 609 F.2d 1306 (9th Cir. 1979).

Section 304(8) defines the new term "estuarine area". An estuarine area may be designated as a national estuarine research reserve under section 315, provided that it meets the requirements of that section. The existing definition of the term "estuarine sanctuary" has been deleted.

Sections 304 (9), (10, (11), (12), and (13) are definitions of the existing terms "estuary", "land use", "local government", "management program", and "person", respectively. These definitions have been modified only slightly, if at all.

Section 304(14) adds a definition of the new term "sea level rise". The definition defines sea level rise in a way that is most relevant to coastal management: an increase in the level of the sea relative to the level of adjacent land. It matters not whether the sea is rising or the land is subsiding or both, because similar management problems arise in each case.

Section 304(15) defines the existing term "special area management plan".

Section 304(16) defines the term "Under Secretary" to mean the Under Secretary of Commerce for Oceans and Atmosphere. The Under Secretary is the Administrator of NOAA, and as such, is the nation's premier coastal zone manager. Accordingly, the amended CZMA allocates all CZMA administration responsibilities to the Under Secretary.

Section 304(17) defines the new term "water-dependent use". This replaces the existing term "coastal-dependent use". The new term is more specific and more relevant from a coastal zone management perspective. The concept of "water dependency" is a concept that the federal and state agencies have been applying in a regulatory and management context for over a decade. For instance, a water dependency test has been applied in the context of federal wetlands permitting since 1975. The term which is replaced—"coastal-dependent use"—has proven difficult to define and apply in a management context. The Committee has defined the term "water-dependent use" in a manner which is intended to create a presumption that there are practicable alternatives to uses which are not water-dependent.

Section 304(18) defines the existing term "water use".

Section 305. Management Program Development Grants: Much of the existing law relating to "program development" is transferred to section 306 or repealed. Subsection (a) authorizes discretionary program development assistance for fiscal years 1991, 1992, and 1993. A state may receive up to $200,000 in federal assistance for two successive years. The Committee has endorsed a goal of 100 percent state participation in the coastal zone management program by fiscal year 1995 and this authorization for program development supports this goal.

Section 306. Administrative Grants: Subsection (a) authorizes the Under Secretary to make matching grants to any coastal state. The state must match a federal grant equally, except state programs which are approved after the enactment of this Act. Those states will be phased in, over 4 years, to the equal match requirement. The Committee hopes this will be a further encouragement to state participation.

Subsection (b) conditions the Under Secretary's authority to issue grants under this section. The state's coastal zone management program must have been approved under section 306(d), and the state must be in compliance with applicable requirements. This latter condition must be read in conjunction with the provisions of section 312. The Committee does not intend that state programs be subjected to annual reapproval to determine if they meet "all applicable requirements of this title" and any decision to deny funding under this subsection must be predicated on evaluations properly conducted under section 312.

Subsection (c) requires the Under Secretary to allocate grants based on a formula which considers both shoreline mileage and coastal population. The current NOAA regulations provide 60 percent weight to shoreline mileage and 40 percent to coastal population. This subsection also requires the Under Secretary to establish maximum and minimum grants.

Subsection (d) consolidates the existing "program approval" standards or requirements from various sections in the existing law: sections 305(b) and 306 (c), (d), and (e). Unless otherwise specified herein, any modifications in this subsection (or of section 303 which is incorporated as a program requirement by reference) should be considered technical changes and not new substantive requirements.

Subsection (d)(8) requires that each state program provide for ". . . adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities . . .". This provision has been broadened from existing law to reflect the Committee's view that the national interest in coastal zone management is multifaceted, including fisheries management, navigation, wetlands protection, reduction of natural hazards, mineral resource development, and pollution control. Existing law defines the national interest only in terms of facility siting, and while the Committee does not intend to diminish the importance of facility siting, it considers this construction too narrow.

Subsection (d)(13) adds a requirement that each management program must provide for inventory, designation, and protection of coastal resources of national significance. This provision (section 306(i) of existing law) was previously a condition of eligibility for state grants under section 306A and every state program has been determined to be in compliance. Therefore, the Committee action to add this to the list of program requirements is intended to have no effect on existing programs. Programs submitted for approval subsequent to enactment of this Act will be required to demonstrate compliance.

Subsection (d)(14) adds a new "public participation" requirement under which each state program must provide for involvement by the public in permitting processes, federal consistency determinations, and other decisions. Under section 202 of this title, each state must demonstrate compliance with this new requirement within two years of enactment.

Subsection (d)(15) adds a new requirement that each program include a mechanism to ensure that state agencies are complying with the management program. This provision is coupled with amendments to section 312(a) which require that program evaluations review state agency compliance.

Subsection (e) authorizes coastal states to amend, modify, or otherwise change their management programs. It outlines the procedures for submission, review, and approval of amendments, modifications, or changes. Subsection (e)(4) authorizes the Under Secretary to approve a program amendment, modification, or change on a preliminary basis. This preliminary approval may extend for no more than six months and may not be renewed. Preliminary approval of a program amendment, modification, or change, allows the state to begin implementation using federal funds but does not allow the state to use the new provisions for purposes of section 307.

H.R. 4450 amends section 306 substantially. Since this section governs approval and administration of state management programs, concern has been expressed that enactment of the bill may create the implication that existing programs must be reapproved pursuant to the amended section 306. The Committee unequivocally rejects this view. These amendments neither require nor authorize the reapproval of state management programs, and existing state programs shall remain eligible for grants after enactment of H.R. 4450. To the extent that new requirements have been added, the bill contains deadlines, sanctions, or incentives for compliance which are the exclusive mechanisms through which the Under Secretary is authorized to act.

Section 306A. Resource Management Improvement Grants: This section provides matching grant assistance for improvement of coastal zone resources. This section was added in 1980 and has supported a diverse array of improvement projects from wetlands restoration to waterfront revitalization. Existing law is changed only slightly.

Subsection (a) is amended to provide that a state may not expend funds for activities under this section unless it is making continual and satisfactory progress in improving its management program under section 310—the National Interest Improvements Program.

Subsection (b) is amended to specifically authorize grants under this section to implement a comprehensive coastal wetlands restoration program adopted under section 310(a)(1), and to restore and enhance shellfish production from publicly owned lands.

Section 306B. Managing Land Uses Which Affect Coastal Waters: Subsection (a) requires each state to develop a "Coastal Water Quality Protection Program" to implement coastal land use management measures for controlling nonpoint source pollution. A maximum of 3 years is provided for each coastal state to comply with this requirement.

Subsection (a)(2) details the manner in which the program shall be coordinated with other related programs, in particular, sections 208, 303, 319, and 320 of the Clean Water Act.

One of the more significant points raised by many witnesses during the hearings on the legislation was the manner in which this coastal zone effort would relate to other ongoing efforts under state water quality and agricultural programs. In essence, witnesses offered two suggestions. First, state coastal programs can—and should—play an important role in protecting and restoring coastal water quality with their state water pollution control counterparts. Second, any water quality work of a state coastal program must be well coordinated with the work of other state authorities, including state water pollution control authorities.

The intent of the Committee is to focus the type of coordination necessary to harness the coastal zone management capabilities of state and local governments to help address the coastal pollution problem. The Committee was disturbed to find, in a majority of coastal states, substantial institutional distance between coastal management authorities and water quality authorities. Likewise, at the federal level, the Committee found a similar schism between NOAA and EPA.

The Committee sought to address these issues in several ways. First and foremost, the provision reinforces existing requirements for effective land use control, and affirm that state coastal programs should play a major role in developing and implementating coastal land use management measures that will assist in controlling nonpoint pollution.

Second, the states are provided maximum flexiblity in establishing the state and local institutional arrangements to accomplish this formidable task. This flexibility has been a hallmark of the CZMA, and a key to its success.

Third, the provision requires that the program be coordinated with several of the other key programs pertaining to coastal water quality under the Clean Water Act. And finally, it requires that the state coastal agencies consult with state water quality authorities and other state officials at key points in the implementation process.

The Committee does not intend that the requirement of section 306B(a) be viewed as an attempt to construct a surrogate program for controlling pollution of coastal waters. First, state CZM programs are neither authorized nor capable of fulfilling that responsibility. Second, as provided in section 307(g), state coastal programs are required to incorporate and enforce the standards and requirements of the Clean Water Act. This latter requirement dates to the original enactment of the CZMA in 1972 and the Committee strongly endorses it. State coastal zone management programs should work with water quality management authorities to control land uses which affect the coastal waters. The requirements of this section should be viewed as a directive for better coordination and cooperation and does not supplant any existing authority, standard or requirement under the Clean Water Act.

The primary federal statute dealing with regulation of water quality is the Clean Water Act, and this title does not alter that law either explicitly or by implication. The principal obligation to develop and implement a water quality standards program is—and remains—with state water pollution control authorities. They establish water pollution control standards, and they must ensure that the designated uses of waters are achieved and maintained. Nothing in this program alters those basic responsibilities.

The Committee intends only to better enlist the land use capabilities and authorities of state coastal zone management programs to assist in this effort. This intent is fully consistent with the basic underlying purpose of the CZMA as defined by one of the original authors:

"The purpose of limiting the inland reach is to restrict the operation of this legislation to its *basic underlying purpose*, that is, the management and protection of the coastal waters. It would not be possible to accomplish that purpose without to some degree extending the coverage to the shorelines which have an impact on those waters." (H. Rpt. No. 92-1049, to accompany H.R. 14146) (Emphasis added).

Subsection (b) describes the required contents of a Coastal Water Quality Protection Program. There are eight separate but related elements.

First, the program must identify land uses which may, individually or cumulatively, contribute to degradation of coastal waters. Subsection (b)(1) is intended to refer to: those individual undertakings which will themselves affect coastal water quality and habitat, such as large housing or commercial developments in coastal areas; and those land uses which individually may not significantly affect coastal waters but which, taken together with other activities which may be separated by time or distance, would do so.

This section targets land uses that affect coastal water quality. The Committee has received extensive testimony on the causal relationship between land use and water quality in coastal areas which support two

broad conclusions. First, there is widespread agreement on the basic types of land uses that pose water quality problems. Second, establishing precise empirical links between a specific land use activity and a water quality impact is very difficult.

The Committee does not intend that subsection (b) be read as requiring establishment of precise causal relationships. This would entail a research and development effort which H.R. 4450 does not authorize or intend. Rather, the Committee believes that current capabilities to establish qualitative linkages are sufficient to intitiate this program. As management practice and expertise increase, more sophisticated approaches will be developed.

By referencing in subsection (b)(1)(A) both water quality standards and designated uses, the Committee recognizes the separate but complementary role of each. The fundamental objective of the water quality standards program is to protect the designated uses of surface waters. The program relies heavily on the use of water quality standards as the principal means to judge if those uses are protected. There may be instances, however, where compliance with standards does not mean that the uses are in fact protected, or instances where standards are being achieved but the fish are nevertheless contaminated because they absorb contaminants from the sediments. In these instances, the obligation to protect designated uses comes into play, notwithstanding compliance with the water quality standards themselves.

Subsection (b)(2) requires the program to provide for the identification of critical areas in the coastal zone within which new land use activities or the expansion of existing land use activities will be subject to land use management measures to reduce nonpoint pollution. This identification is intended to create the presumption that, in certain critical coastal areas, all land use activities will affect water quality.

Subsection (b)(3) requires identification of the broad range of coastal land use management measures that the program will apply to the land uses and critical areas identified under subsections (b)(1) and (2). In accordance with section 307(g), coastal land use management measures shall be consistent with and incorporate any applicable requirements adopted by the state pursuant to or in accordance with the Clean Water Act or any more stringent requirement established by a state water pollution control agency pursuant to corresponding state law. A land use management measure which will result in water quality that is better than compelled by the state water pollution control agency may, however, be adopted under this section.

Subsection (b)(4) requires each program to identify and designate outstanding resource waters within the coastal zone. This process of designation can occur in conjunction with, or independent of, designation of critical coastal areas under subsection (b)(2). Designation of outstanding resource waters is intended to serve as a signal to surrounding municipalities that land use activities must be particularly sensitive to nonpoint pollution problems.

Subsection (b)(5) directs the state program to provide technical assistance to local authorities on how to implement land use measures to protect coastal waters. This does not authorize establishment of a research and development program, but implores the state agency to fulfill a crucial clearinghouse function to assist in identification of effective management measures. Since the principal mechanism for implementation may, in may instances, be local authorities, the success of the overall program is very much tied to the effectiveness of the technical assistance provided to those authorities.

Subsection (b)(6) requires the program to provide adequate opportunites for public participation at all key points. The success of the efforts to identify land uses, critical areas, outstanding resource waters, and coastal land use management measures will depend ultimately on the level of public support for these undertakings. That support can best be assured by a meaningful public participation program. For the designation of outstanding resource waters, the Committee intends that the public participation measures shall include a public nomination process.

Subsection (b)(7) requires each progam to establish specific administrative mechanisms to ensure close operating relationships among the various state authorities that must be involved in a broad effort to manage and protect coastal water quality and habitat. These mechanisms are intended to provide the formal conduits through which the necessary cooperation will be achieved. The Committee expects the state programs to adhere closely to this requirement, and expects NOAA to oversee its implementation with equal diligence.

Subsection (b)(8) directs the state coastal management agency to modify the inland boundaries of the state's coastal zone, as the agency determines necessary and appropriate, for effective management of the land uses and areas identified in subsections (b)(1) and (2). The Committee has carefully considered this directive, and intends that it provide a necessary stimulus to assess the adequacy of the coastal zone boundary as it pertains to the control of land uses which affect coastal waters. The Committee is well aware of the sensitivity associated with boundary questions, but believes strongly that the need to address these boundary issues directly outweighs the uneasiness the exercise apparently entails for some state programs. If the boundaries are not adequate to do the job, the issue should be recognized and resolved, not avoided. In any respect, the ultimate decision with regard to inland boundaries continues to reside in the state.

Subsection (c) governs submission of Coastal Water Quality Protection Programs. If a state fails to submit an approvable program as required in subsection (a), the Under Secretary must withdraw a portion of the state's grant under section 306 until the state submits an approvable program: 10 percent after year three; 15 percent after year four; 20 percent after year five; and 30 percent in each year after year six. Funds withdrawn under this section are to be redistributed to coastal states for which Coastal Water Quality Protection Programs have been approved. The Committee intends that such redistributed funds be used only for those approved water quality programs.

Subsection (d) requires the Under Secretary and the EPA Administrator to administer a program of technical assistance. The Committee does not authorize or intend the establishment of a program of research and development. Rather, the Committee envisions that the Under Secretary will assist in transferring to the coastal states and local governments proven methods for the management of coastal land uses.

Subsection (e) requires that the Under Secretary, in consultation with the EPA Administrator, evaluate the inland boundary of each coastal state and make recommendations to the state for modifications necessary to effectively protect coastal waters. This requirement shall be read in conjunction with the requirement of subsection (b)(8). The Committee is directing the Under Secretary to review the coastal zone boundary and make recommendations to the coastal state for necessary changes. However, the decision to modify the inland boundary resides with the state.

Subsection (f) authorizes matching grants to implement this section. The grants are to be allocated based on regulations issued under section 306(c) that take into account extent of shoreline, coastal population, and other relevant factors. The Under Secretary may set aside up to 30 percent of the funds appropriated for this section to assist states which are making exemplary progress in complying with the requirements of the Coastal Water Quality Protection Program.

Section 307. Coordination and Cooperation: This section amends the "federal consistency" provisions of the CZMA. The Committee's principal objective in amending this section is to overturn the decision of the Supreme Court in *Secretary of the Interior* v. *California*, 464 U.S. 312 (1984) and to make clear that outer Continental Shelf oil and gas lease sales are subject to the requirements of section 307(c)(1).

This intent was confirmed clearly in a colloquy between Chairman Walter Jones and Subcommittee Chairman Gerry Studds during full Committee markup of H.R. 4030 (the text of H.R. 4030, as ordered reported by the Committee on Merchant Marine and Fisheries on April 18, 1990, is the predecessor of the substitute amendment being considered today). Chairman Jones stated that section 307(c)(1) of the bill establishes a simple rule of law that every federal agency activity, regardless of its location, must be consistent, to the maximum extent practicable, with approved state management programs if the activity will affect any natural resources, land uses, or water uses in the coastal zone. As a matter of law, there are no exceptions or exclusions from this requirement on federal agencies.

The Committee had two basic avenues to accomplish this purpose: first, specific federal agency activities (e.g., outer Continental Shelf oil and gas lease sales) could be enumerated in the statute; or second, the statutory construction of subsection (c) could be altered to reestablish a general rule of law that is equally applicable to all federal agency activities. The Committee chose the latter approach.

The Supreme Court's central holding in *Secretary of the Interior* v. *California* was that outer Continental Shelf (OCS) oil and gas lease sales are not activities which "directly affect" the coastal zone within the meaning of section 307(c)(1) of the CZMA, and thus, a consistency review is not required before such sales are held. This holding was supported by three central findings of the 5-4 majority opinion of the Court:

First, the legislative history of section 307(c)(1) discloses that Congress did not intend the section to reach OCS lease sales. The "directly affecting" language was aimed primarily at activities conducted or supported by federal agencies on federal lands physically situated in the coastal zone but excluded from the zone as formally defined by the CZMA (so-called "federal enclaves"). In supporting this finding, the

Court argued that the "geographical scope" of the CZMA is limited and that Congress believed that the statute's purposes could be adequately effectuated without reaching federal activities conducted outside the coastal zone.

Second, lease sales do not "directly affect" the coast, since they are mere paper transactions, only entitling lessees to conduct "preliminary activities." Thus, in and of themselves, they do not directly affect the coastal zone.

Third, the structure of section 307 suggests that an OCS lease sale is not an activity "conducted or supported" by a federal agency, and thus, is not intended to be covered by section 307(c)(1). Section 307(c)(3), which deals with the activities of non-federal parties authorized by a federal agency license or permit, is the provision that is more pertinent to OCS lease sales, and that provision does not require consistency review of lease sales.

As disturbing than the central holding itself is the so-called "shadow effect" of the Court's decision (i.e., its potentially erosive effect on the application of the federal consistency requirements to other federal agency activities). Despite testimony before this Committee from the U.S. Department of Justice in 1984, that the Court's decision is narrowly applicable to only OCS oil and gas lease sales, and the promulgation of a regulation by NOAA which excluded only OCS oil and gas lease sales from federal consistency review, federal agencies have construed the Court's decision broadly to exempt a variety of agency activities from this requirement. In amending section 307(c)(1), the Committee intends to overturn the Court's holding, and also to dispel any doubt as to the applicability of this requirement to all federal agency activities that meet the standard for review.

As amended by H.R. 4450, subsection (c)(1) provides that—

"Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out in a manner which is, to the maximum extent practicable, consistent with approved State management programs."

This amended provision establishes a generally applicable rule of law that any federal agency activity (regardless of its location) is subject to the CZMA requirement for consistency if it will affect any natural resources, land uses, or water uses in the coastal zone. No federal agency activities are categorically exempt from this requirement.

This new provision responds to each of the Supreme Court findings enumerated above. First, the "directly affecting" standard which was the central feature of the Court's decision has been struck and replaced with a new triggering standard: "affecting any natural resources, land uses, or water uses in the coastal zone." In addition, the Committee has used this standard as the single threshold applicable to all of the federal consistency provisions. The Committee expects this will lead to greater predictability and easier administration, as state and federal agencies and applicants become accustomed to working with a uniform threshold standard.

Second, the Committee dispels the misplaced notion that the CZMA's geographical scope is limited by inserting the phrase "in or outside of the coastal zone" to modify the term "federal agency activity". Although the NOAA regulations clearly provide that the consistency provisions apply to activities outside of the coastal zone, this phrase makes clear Congressional intent and puts to rest any question about a shadow effect of the Court's decision. Since an explicit statutory reference in this subsection might imply that other consistency review authorities (e.g., sections 307(d)(1) and (e)) do not have similar geographical scope, the Committee inserted the same phrase in those subsections. The Committee considers this a technical change since the NOAA regulations clearly provide, pursuant to existing law, that those sections apply beyond the coastal zone (see 15 CFR, 930.53(b), and 930.95(b)), and they have been applied, in numerous instances, to activities outside of the coastal zone.

Third, the interpretation that an OCS lease sale is not subject to subsection (c)(1) because it is not an activity "conducted or supported" by a federal agency is addressed by striking those words.

Whether a specific federal agency activity will be subject to the consistency requirement is a determination of fact based on an assessment of whether the activity affects natural resources, land uses, or water uses in the coastal zone of a state with an approved management program. This must be decided on a case-by-case basis by the federal agency conducting the activity. What the Committee has done is to make clear what it thought had been well-understood prior to the Supreme Court's decision; it has established a general rule of law that applies equally to all federal agency activities, whether those activities occur inside or outside of the coastal zone.

The question of whether a specific federal agency activity may affect any natural resource, land use, or water use in the coastal zone is determined by the federal agency. The Committee intends this determination to include effects in the coastal zone which the federal agency may reasonably anticipate as a result of its action, including cumulative and secondary effects. Therefore, the term "affecting" is to be construed broadly, including direct effects which are caused by the activity and occur at the same time and place, and indirect effects which may be caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

If a federal agency activity may affect the coastal zone, then the activity must be consistent, to the maximum extent practicable, with that state's federally approved coastal management program. NOAA has interpreted the term "maximum extent practicable" in a manner which requires strict adherence to the enforceable policies of state programs where a federal agency has discretion (15 CFR 930.32). The Committee supports this long-standing interpretation.

H.R. 4450 deletes a provision of existing law dealing with federal development projects in the coastal zone (former section 307(c)(2)). This provision was considered duplicative with the requirement of section 307(c)(1). A federal development project which is situated physically in the coastal zone is clearly a federal activity which will affect natural resources, land uses, or water uses of the zone.

H.R. 4450 adds a new section 307(c)(2) which authorizes the President to exempt a specific federal agency activity if the President determines that the activity is in the paramount interest of the United States. The provision is based on similar exemption provisions in other environmental statutes, including section 313(a) of the Clean Water Act, section 118(b) of the Clean Air Act, section 4(b) of the Noise Control Act, section 6001 of the Solid Waste Disposal Act, the Medical Waste Tracking Act of 1988, the Safe Drinking Water Act, and section 403 of the Powerplant and Industrial Fuel Use Act of 1978.

The exemption authorized in section (c)(2) is not applicable to a class of federal agency activities but only to a specific activity. In addition, the Committee has closely prescribed the circumstances under which an exemption can occur because the Committee intends that the exemption be used only in extraordinary circumstances.

First, a federal court of competent jurisdiction must conclude, in a final decision, that the federal agency activity is not in compliance with the substantive requirements of section 307(c)(1). In other words, the court must have determined that the agency activity is not consistent with enforceable policies of a state CZM program, but has complied with the procedural requirements by providing a consistency determination to the state. Second, the Under Secretary must certify that mediation under section 307(h) is unlikely to result in compliance. If each of these requirements is satisfied, then the Under Secretary may, in writing, request that the President exempt the activity from compliance. The President may exempt an activity only if the activity is in the paramount interest of the United States, and may only exempt those elements of the activity that the federal court found inconsistent with the state program. A Presidential exemption granted pursuant to section 307(c)(2) shall exempt the specific federal agency activity from compliance with section 307(c)(1) of the CZMA only, and shall not constitute an exemption from compliance with any other federal law.

This exemption provision reinforces the Committee's position that no federal agency activities are categorically excluded from the consistency provisions of section 307. Section 307(c)(2) is the only exemption authorized or intended for section 307(c)(1) activities.

Section 307(c)(3) clarifies the requirement that each federal agency carrying out an activity which affects the coastal zone must provide a consistency determination to the appropriate state agency. This determination must be provided at the earliest possible time but not later than 90 days prior to final approval of the activity. This new statutory provision codifies an existing CZMA regulation (15 CFR 930.34(b)).

Subsections (d) (1) and (2) repeat provisions of existing law (formerly sections 307(c)(3) (A) and (B)) with only minor, technical changes. These provisions govern the consistency of private activities for which federal licenses or permits are required. The Committee intends that H.R. 4450 not alter the statutory requirements as currently enforced under sections 307(c)(3) (A) and (B) of the CZMA. These requirements are outlined in the NOAA regulations (15 CFR 930.50–930.66) and the Committee endorses this status quo. The Committee wants to make it clear that the changes made to existing section 307(c)(3)(A) are technical modifications. Neither the modifications contained in section 307(d), nor any other amendments made by this bill, change the relationship between that section and the provisions found in section 307(f) of the bill. Specifically, the legal relationship between new sections 307 (d) and (f) is thus identical to the existing relationship between sections 307 (c)(3)(A) and (e). Taken together,

the provisions of the bill's section 307(d) and section 307(f) (section 307(e) of the existing CZMA) clarify that laws applicable to federal agencies are not altered.

This issue was the subject of debate and discussion during the Committee on Merchant Marine and Fisheries markup of H.R. 4030. Congressman Owen Pickett offered an amendment providing that nothing in H.R. 4450 affected any project or activity for which the Army Corps of Engineers had issued a permit under section 404 of the Clean Water Act prior to the date of enactment of the Coastal Zone Act Reauthorization Amendments. This amendment addressed a project to divert up to 60 million gallons of water per day from Lake Gaston, which straddles the North Carolina-Virginia border, to Virginia Beach, Virginia.

Although the State of North Carolina is opposed to the project and to issuance of a required permit under section 404, the state did not argue that a consistency certification was required under the CZMA, but contained its objections to procedural compliance under the National Environmental Policy Act. Notwithstanding those objections, the Corps issued a permit for construction of the pipeline and the permit issuance was upheld by a federal district court. An appeal is pending.

Because the Lake Gaston project may require additional federal approval in the future, Mr. Pickett expressed concern that H.R. 4450 may broaden the standard by which states could exercise their consistency review authority and that North Carolina could attempt to halt the project given a second chance. Mr. Pickett wanted reassurance that this pending project would not be affected by any change in consistency authority. Congressman Bateman joined Mr. Pickett in support of the amendment.

The Chairman voiced his opposition to the amendment. Mr. Jones stated that the requirement for consistency review of federal licenses and permits is not altered by H.R. 4450 nor by the substitute. In addition, he agreed that Congress should not interfere with a pending proposal. Committee counsel confirmed that the bill made no change in existing law in the way in which states could exercise their consistency review authority under section 307(c)(3)(A), the provisions for which are in section 307(d)(1) of H.R. 4450. Counsel noted further that nothing in the bill affects the validity of the section 404 permit that was issued to Virginia Beach. Chairman Jones noted his impression that the bill does not change existing law with respect to the Lake Gaston case and Counsel confirmed that impression. With this assurance, Mr. Pickett withdrew his amendment.

Subsections (e), (f), (g), and (h) restate requirements of existing law with only minor changes. In paragraph (2) of subsection (f), the word "any" has been substituted for the word "existing" to avoid the possible interpretation that the paragraph is applicable only to laws in existence on the day of enactment. The Committee intends that the phrase ". . . any laws applicable to the various Federal agencies; . . ." in paragraph (2) includes those laws that have been enacted since enactment of the original, 1972 CZMA. Such laws include, but are not limited to the following: Solid Waste Disposal Act (42 U.S.C. 6901); Toxic Substances Control Act (15 U.S.C. 2601); Noise Control Act of 1972 (42 U.S.C. 4901); Safe Drinking Water Act (41 U.S.C. 300f); and the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601).

In particular, the Committee intends that a federal agency not be shielded from compliance with the more stringent environmental requirements of other federal or state laws by a finding that it is consistent "to the maximum extent practicable" with the CZMA. Subsection 307(f) clarifies that the other statutory requirements applicable to federal agencies are unaltered. Therefore, if another statute holds a federal agency to a higher standard, the agency is not relieved of that duty by virtue of compliance with this law.

In subsection (h), the Under Secretary is explicitly authorized to mediate a disagreement between two or more states regarding the implementation of the CZMA. This includes the authority to mediate between a participating state and a non-participating state, including non-coastal states.

The Committee is aware of recent controversial cases involving interstate applications of the federal consistency provisions. Clearly, if a federal agency action within one state will affect any natural resource, land use, or water use within another state, the requirements of section 307 properly apply. This has been NOAA's long-standing interpretation, and is clearly reflected in agency regulations. However, the Committee is concerned that the consistency provisions are neither used nor perceived as a method for one state to squash or delay legitimate economic development within another state. The expanded mediation authority is evidence of the Committee's concern in this regard, and the Under Secretary is encouraged to explore specific mechanisms to resolve interstate conflicts promptly.

Subsections (i) and (j) authorize state and federal fees, respectively, to recover costs associated with administration of the consistency provisions for federally licensed or permitted private activities. These fees are limited explicitly to the reasonable costs of administering the consistency requirements of subsection 307(d).

Subsection (k) authorizes a permit applicant to waive the right to administratively appeal a state consistency objection. Thus, an applicant need not exhaust the administrative remedies available as a predicate to obtaining judicial review of the validity of a state objection. The Committee does not intend that this provision be used to circumvent administrative resolution of conflict, but has added the provision because, in judging appeals under this section, the Under Secretary assumes that the state has acted correctly. Therefore, exhaustion of administrative remedy can be a barrier to resolving conflicts which concern the propriety of the state objection. The Committee notes, however, that only the Under Secretary is authorized to override a state objection on the grounds that an activity is "consistent with the findings and policies of this title or is otherwise necessary in the interest of national security."

Subsection (l) clarifies that a state may not enforce the consistency requirements of subsection (c), (d) or (e) unless its CZM program is federally approved, or if federal approval has been withdrawn pursuant to section 312(d).

Subsection (m) provides that federal agencies and applicants are required to be consistent with the "enforceable policies" of a state CZM program. They shall give adequate consideration to program provisions which are in the nature of recommendations. This provision codifies the existing regulatory practice [15 CFR 930.39(c) and 930.58(a)(4)]. Federal agencies and applicants must be consistent with those policies which are enforceable under state law.

It is not the intent of the Committee that this subsection be construed to overturn, in whole or in part, the judicial decision in *American Petroleum Institute* v. *Knecht*, mentioned earlier. Federal agencies and applicants are assured that they will not be subjected to policies which are not enforceable under state law. However, this provision is not intended as a guarantee that the provisions of a coastal program will be so specific that users of the coastal zone must be able to rely on its provisions as predictive devices for determining the fate of projects without interaction with the relevant state agencies. Individual projects must be reviewed on a case specific basis and states may identify mitigation and other management measures which are not specifically detailed in the management program but which, if implemented, would allow the state to find projects consistent with the enforceable policies of the program.

Section 308. Coastal Energy Impact Program: The existing Coastal Energy Impact Program (CEIP) is effectively repealed. A more limited program is proposed.

Subsection (a) requires the Under Secretary to recommend to the Congress a new Coastal Energy Impact Program by January 1, 1993. In particular, the Committee directs the Under Secretary to recommend a program of financial and technical assistance to the coastal states related to impacts caused by coastal energy activities.

Subsection (b) retains the OCS State Participation grants from existing law (section 308(c)(2)). Under this provision, the Under Secretary may provide financial assistance to states in carrying out their responsibilities under the OCS Lands Act. The Committee notes that the coastal states are burdened substantially when the Federal Government holds an OCS lease sale. For many states this involves the hiring of technical and legal experts, the collection and review of complex scientific and environmental data, and the conduct of hearings and meetings to inform and involve the public. Subsequent to a lease sale, the coastal state is responsible for reviewing individual proposals for exploration and production. These responsibilities most often are delegated to the state coastal zone management program. The grants authorized by this subsection will assist the coastal programs in fulfilling this vital role.

Subsection (c) establishes that obligations to repay outstanding loans made under the CEIP are not affected by this legislation. From 1977 through 1983, nearly $130 million in loans were distributed to coastal states through the CEIP. Approximately $87.5 million in CEIP loans are still outstanding.

Subsection (d) requires that CEIP loan repayments be retained by the Under Secretary as offsetting collections and deposited into the Coastal Zone Management Fund established pursuant to section 309. In recent years, annual loan repayments have ranged from a low of $4 million to a high of $15 million, with an annual average of some $6-$8 million.

Section 309. Coastal Zone Management Fund: The existing section 309 (Interstate Grants) is repealed. The new section establishes a Coastal Zone Management (CZM) Fund which will be used to fund administration of this Act.

Subsection (a) directs the Under Secretary to establish and maintain a CZM fund,

which shall consist of loan repayments collected and retained under section 308(d). Therefore, the Committee anticipates an annual expenditure of between $6 million and $8 million through the CZM Fund.

Subsection (b) authorizes the Under Secretary to expend amounts in the Fund for administration of the coastal zone management program and for specified discretionary activities: regional and interstate projects (formerly section 309); demonstration projects; emergency assistance; awards pursuant to section 314; program development grants pursuant to section 305; state participation grants under section 308(d); and to assist states in applying the public trust doctrine in the implementation of their CZM programs. The first use of amounts in the Fund is program administration and the Committee expects a vigorous federal program to assist the states in coastal zone managment. The Under Secretary is then authorized to expend remaining amounts for the other specified activities.

The Committee encourages the Under Secretary to provide discretionary technical support to state management programs in establishing geographic information systems (GIS) for lands and waters within the coastal zone. Mapping of the coastal zone, at an appropriate scale, and integrating a diversity of information sets, can be of great benefit to coastal management at the state and local level. However, prior to authorizing any expenditure of federal funds for this purpose, the Under Secretary should consider establishing uniform guidelines for development and implementation of a GIS system.

Subsection (c) requires an annual report to Congress on the deposits to and disbursements from the CZM Fund.

Section 309 and the CZM Fund are integral to achieving the objectives of H.R. 4450. The CZMA establishes a national network of state coastal zone management programs. Federal leadership is vital to meld these disparate state programs into a national network and this section is intended to provide adequate resources and authority for the Under Secretary to fulfill a strong leadership position in coastal zone managment.

Section 310. National Interest Improvements. Subsection (a) establishes a program, beginning in fiscal year 1991, to encourage continual improvements in state management programs in five national interest areas.

A. Coastal wetlands management and protection: The coastal states are encouraged to improve management and protection of coastal wetlands, including development of new enforceable policies and a comprehensive wetlands restoration program. Improvements in management and protection must be consistent with a goal of achieving no overall net loss of the Nation's remaining wetlands base.

In November 1988, the National Wetlands Policy Forum issued a report entitled "Protecting America's Wetlands: An Action Agenda." Among many recommendations, the report recommended establishment of a clear national goal to guide government programs affecting wetlands. Specifically, the Forum recommended the following interim goal: "To achieve no overall net loss of the nation's remaining wetlands base".

The Committee has adopted this interim goal as the national goal guiding improvements in state coastal zone management programs. The Committee does not intend that any coastal state be required to demonstrate compliance with this goal. Rather, the Committee is directing the Under Secretary to encourage and assist the states in making improvements to their programs which are consistent with this national objective. Because the Domestic Policy Council's Interagency Task Force on Wetlands has been directed by the President to develop recommendations regarding attainment of the goal of no net loss of the Nation's wetlands, the Under Secretary should coordinate closely with the Council in administering this provision.

The National Wetlands Policy Forum recognized that the goal of no overall net loss of wetlands may be difficult to achieve in some areas:

"[T]he goal may have to be implemented at different rates in various regions of the country to reflect regional wetlands needs, conditions, and types. For example, continuous arctic or high latitude wetlands underlain by permafrost pose unique scientific challenges to successful restoration and creation. It may also be more difficult to achieve the goal along the Louisiana Coast, where loss rates are exceptionally high, than in other parts of the country."

The Committee expects the Under Secretary to implement this provision in recognition of these unique factors and difficulties.

Section 310(a) requires the Under Secretary to begin administration of the National Interest Improvements Program in fiscal year 1991. Section 304(4) requires a public rulemaking process to define the term "wetlands" and the Committee previously expressed its intent that NOAA coordinate closely with the Domestic Policy Council in implementing section 310(a)(1). The Committee does not intend these rulemaking and coordination requirements to preclude or impede administration of the program under this section. The wetlands definition is obviously crucial to implementation of state management program improvements, but the Committee believes that assessment of priorities and negotiation of state improvement programs shall begin immediately.

B. Natural hazards management: Development and redevelopment in hazardous areas is a chronic problem in coastal areas. These threats are compounded by the potential for sea level rise in response to global warming and land subsidence. The Great Lakes also experience unpredictable fluctuating water levels which exacerbate shoreline erosion and flooding. The coastal states are encouraged to improve their programs to manage development more effectively in such areas.

C. Public Access: Development of a program to meet the public needs for access to coastal areas.

D. Cumulative and Secondary Impacts: Development and adoption of procedures to assess, consider and control the cumulative and secondary impacts of coastal growth and development. The cumulative effects of development in the coastal zone is one of the most intractable management issues faced by states and local governments. Coastal wetlands are altered or destroyed by piecemeal development, and this provision requires special attention to this situation. In addition, coastal water quality is slowly eroded as land uses spread to the water's edge with the twofold effect of contributing to pollutants and eliminating the filtering effect of natural vegetation and wetlands.

Cumulative effects are the impacts on the coastal zone which result from the incremental effects of an activity when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Secondary effects are impacts that are associated with, but do not result directly from, an activity. Secondary effects can include growth inducing effects and other effects related to induced changes in the pattern of land use.

E. Coastal Energy Development: The coastal zone is a crucial component in our nation's energy policy. Imported oil and refined products are transshipped through the coastal zone. Domestic offshore production of oil and gas is brought to shore by pipeline and tanker. Substantial proportions of imported and domestic hydrocarbons are refined by facilities within the coastal zone. Section 310(a)(5) acknowledges the pivotal role that coastal zone management programs play in the siting of coastal energy facilities.

State programs are encouraged to develop improved procedures and policies to help facilitate energy-related activities which may be of greater than local significance. The Committee does not intend that this provision be construed to force coastal states to accommodate any specific project or facility. Neither is this provision to be construed as a directive to the coastal states to be less rigorous in protecting the coastal environment with regard to development of coastal energy facilities. The Committee intends that the Under Secretary encourage states, where appropriate, to develop procedures that will result in improved consideration of national interests, clarification of environmental standards and guidelines, better coordination with federal energy policies, and streamlined regulatory procedures.

Subsection (b) outlines generally the manner in which the Under Secretary is to implement the National Interest Improvements Program. First, the Under Secretary is required, for each coastal state, to assess the priority needs for improvement in each of the special national interest areas. Second, based on the identified priorities, the Under Secretary must seek to negotiate with each state a National Interest Improvements Program covering no less than a three year period. The program is to include specific, measurable goals and milestones for improving the management program.

The Committee intends that state participation in the program established under this section be voluntary. No state is required to participate or to make improvements in any of the special national interest areas. However, if a state does not participate, it is ineligible for grant assistance under this section and under section 306A. The Committee anticipates that some states will chose not to participate.

If a state chooses to participate, then it must negotiate an improvements program based on the priority needs assessment performed by the Under Secretary. The Committee intends that both parties negotiate in good faith to design an aggressive but realistic schedule for improvement of the management program which takes into account the expected level of financial assistance that will be available under this section. However, because this is a program of national interest improvements, the Committee has authorized a lead role for the Under Secretary in establishing priorities.

Subsection (c) mandates consultation with interested private and public parties in developing a program under subsection (b).

Subsection (d) authorizes the Under Secretary to stagger the implementation of the program so that no less than one-third of the participating states are negotiating an improvements program in any single year.

Subsection (e) requires yearly evaluation of each state program negotiated under this section. The Under Secretary must find that the state is making continual and satisfactory progress in implementing each component of the negotiated improvements program. If the Under Secretary cannot make this finding, then the Under Secretary must notify the state and the public and identify steps which are required to ensure satisfactory progress. If the state does not take the actions required by the Under Secretary, further eligibility for funding under this section must be suspended for at least one year. The requirements of this section may be waived in certain circumstances, with prior notification to the Congress and the public.

Subsection (f) requires the Under Secretary to set aside at least 10 percent, but no more than 20 percent of funds appropriated under sections 306 and 306A, to be used to implement this section. The Committee intends that the Under Secretary set aside the full 20 percent, unless because of lower than anticipated federal appropriations, such a withholding would significantly impair administration of the state management programs as a whole. Funds to administer this section are to be set aside en bloc, prior to allocation of state awards pursuant to section 306(c).

Subsection (g) specifies that no state matching funds are required for national interest improvements.

Subsection (h) requires that 50 percent of funds under this section be distributed among states that have negotiated National Interest Improvements Programs, based on the formula allotment process established pursuant to subsection 306(c). The remaining 50 percent is to be awarded at the discretion of the Under Secretary based on individual state needs and taking into consideration the likelihood that the funding will result in substantial improvements.

Subsection (i) requires the Under Secretary to issue regulations governing the negotiation of National Interest Improvements Programs.

Section 311. Public Hearings and Meetings: Notice of at least 45 days is required for all public hearings and meetings under this title.

Section 312. Review of Performance: Subsection (a) requires "periodic" review of state CZM programs as required under current law.

Subsection (b) mandates public participation in the evaluation of state programs and requires written response to all written comments received. The Committee is aware that requiring written responses is a substantial new requirement, but considers it appropriate and necessary to build public involvement and confidence in the evaluations process. Moreover, the requirement is not unlike the existing requirement imposed on a federal agency in an administrative rulemaking to respond to all comments on a proposal.

Subsection (c) provides new authority for the Under Secretary to place a state program on "probation" for not more than two years and to withdraw up to 25 percent of the CZM funds available to that state. The Committee understands that disapproval of a management program under section 312(d) is an extraordinary step and has not been a useful tool for NOAA in correcting mild or moderate problems in state program administration.

If a coastal state is placed on probation under this subsection, the Under Secretary is required to withdraw a portion of that state's federal funding under the CZMA, but not more than 25 percent in any year. If the coastal state agrees to take the corrective actions specified by the Under Secretary, then the amounts withdrawn must be made available to the state for that purpose. If the coastal state does not agree to take the corrective actions, then the amounts withdrawn shall be added to amounts appropriated for sections 306 and 306A for other states.

Subsection (d) requires that the Under Secretary withdraw federal approval of a state program if the state is failing to appropriately implement its federally-approved program or a grant made under the CZMA, and refuses to rectify the deviation.

Subsection (e) require that notice be provided to a coastal state prior to taking any action under subsection (c) or (d).

Section 313. Records and Audit: This Section requires each recipient of financial assistance under this title to keep records and provide access to the Under Secretary and the Comptroller General.

Section 314. Walter B. Jones Excellence in Coastal Management Awards: This section requires the Under Secretary to use amounts in the CZMA Fund (section 309) to identify and appropriately acknowledge accomplishment in the field of coastal zone management by individuals (other than Federal employees), local governments, and graduate students. The Committee to provide leadership in coastal zone management. Individual and local efforts are the backbone of effective coastal zone management. Recognition of a job well done, including financial reward wherever appropriate, can be an effective way of recognizing and encouraging leadership and innovation. Through H.R. 4450, the Committee is attempting to reverse a nearly 10-year hiatus in federal leadership and expects the Under Secretary to take full advantage of this new authority.

Section 315. National Estuarine Research Reserve System: This section repeats existing law with only minor amendments. Greater authority is provided for monitoring, technical transfer and education activities. Authority is added for the Under Secretary to establish cooperative agreements with nonprofit organizations and to accept private donations to enhance management of estuarine reserves. In addition, private universities and institutions have been made eligible to receive research funding under this section.

Section 316. Coastal Zone Managment Report: The existing biennial reporting requirement is maintained. Requirements for the Under Secretary to include "a coordinated national strategy," "recommendations for additional legislation," and "a systematic review of Federal programs" are deleted. The Committee deleted these sections because they have apparently been the principal cause of delay in submitting past biennial reports. The Committee expects that these changes will promote prompt reporting. The Under Secretary is strongly encouraged to take every opportunity to make recommendations to the Congress regarding a national strategy for coast zone management, including necessary legislative changes. A new requirement is added that the report include summary views and recommendations from each state. This latter requirement will provide the coastal states an opportunity to critique the federal program and recommend necessary changes. State comments submitted pursuant to this section should be specifically identified in the report and shall not be subject to change by any federal agency or office.

Section 317. Rules and Regulations: The Under Secretary is empowered to issue regulations implementing this title. Existing regulations, except those superseded by this Act, remain valid.

Section 318. Authorization of Appropriations: Appropriations are authorized for fiscal years 1991-1995 for sections 306 and 306A, 306B, and 315.

Section 319. Interstate Agreement and Compacts: This section contains provisions for existing new [section 309(b)] which authorize interstate agreements. The separate authorization for funding of interstate programs has been repealed, but the Committee wants to encourage interstate cooperation and coordination in coastal zone management.

Section 202. Deadlines for Compliance: This section contains deadlines for compliance with several provisions of the CZMA amendments made in section 210 of this title. Each coastal state must demonstrate compliance with sections 306(d)(14) and (15) within 2 years of enactment. Within 180 days of enactment the Under Secretary must issue guidelines for the coastal states to follow in developing a Coastal Waters Protection Program under section 306B, and must promulgate regulations governing the receipt, review, and approval of such programs within 18 months of enactment.

Section 203. Pacific Island State Demonstration Project: This section authorizes not more than $100,000 for each of fiscal years 1991 through 1995 for a joint federal-state project to plan for ocean resource management outside the coastal zone, except fishery resources. Only one Pacific island coastal State, to be selected by the Under Secretary, is eligible to receive this grant. This provision recognizes that while the coastal zone is generally limited to three miles seaward of a state's coast, the Pacific Islands, given their long-standing and encompassing relationship with the ocean, may have a stronger interest in ocean resources beyond their coastal zone. This provision is intended to recognize this special relationship.

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

Mr. Chairman, Chairman JONES and Chairman HERTEL should be commended for the excellent bill before us. I also thank the chairmen of the other committees involved in our bringing the bill to the floor for their consideration of our interests and their cooperation during these last few weeks.

Although most agree that the CZMA has been a success, even good laws can stand some improvement. Problems have arisen in the 18 years that the act has been administered, and the amendment that will be offered by Chairman JONES to H.R. 4450 accomplishes much to resolve them. I also welcome the bill's fresh focus on protecting our coastal areas and concentrating on other issues of national importance, such as coastal erosion, a

severe problem in the Great Lakes. This new emphasis will require some effort on the part of States, and I hope that we can balance this responsibility with adequate levels of funding.

Finally, I note that the administration has supported coastal zone management through its own reauthorization proposal and in its budget request to Congress this year. Given the President's support for the environment, I know that he will carefully consider the entire effect of this bill and its benefits to coastal States before signing it into law.

I urge support for the bill and careful consideration of the amendments that will be offered today.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Ms. SCHNEIDER] for the purpose of a colloquy.

Ms. SCHNEIDER. Mr. Chairman, I had planned to offer an amendment today to this bill, which would have promoted technical assistance and training by the United States to developing nations specifically for coastal zone planning and management. This assistance would concentrate on problems related to global climate change, such as sea level rise, as well as more traditional coastal management problems, such as coastal development.

My amendment, however, would have been subject to a point of order, and involves issues that are within the jurisdiction of the Committee on Foreign Affairs. Because of that I will not be offering this amendment today, but I do want to thank Chairman FASCELL and Mr. OWENS for agreeing to consider the substance of my amendment in the Committee on Foreign Affairs.

□ 1330

Mr. OWENS of Utah. Mr. Chairman, will the gentlewoman yield?

Ms. SCHNEIDER. I yield to the gentleman from Utah.

Mr. OWENS of Utah. Mr. Chairman, I appreciate the fact that the gentlewoman from the State of Rhode Island has agreed not to offer her amendment which would be subject to a point of order. The provisions of the Schneider amendment would not be germane to H.R. 4450, as amended, pursuant to the requirement of clause 7, section 794 of House rule XVI.

The text of H.R. 4450, as amended, deals solely with domestic coastal zone management issues.

The Schneider amendment, however, addresses foreign assistance activities, and international environmental policy. Specifically, it promotes technical assistance and training for developing nations, and also includes statements of policy involving the Secretary of State and/or AID regarding international negotiations or consultations on coastal zone management. These issues are clearly within the jurisdiction of the Committee on Foreign Affairs.

I appreciate the gentlewoman's interest in this issue. The Committee on Foreign Affairs will try to address the substantive concerns of her amendment, whether within existing law or programs, or in legislation working its way through Congress, whichever is appropriate.

Ms. SCHNEIDER. Mr. Chairman, I thank my colleague for his generous consideration.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to engage the gentleman from North Carolina in a colloquy to clarify the intent of the committee on Merchant Marine and Fisheries amendments to section 307(c)(1), known as the Federal consistency requirement of the CZMA.

Let me ask the gentleman from North Carolina [Mr. JONES], am I correct in stating that it is the committee's intent that the amendments to section 307(c)(1) are meant to overturn the 1984 Supreme Court decision in the case Secretary of Interior versus California, and to make clear that Outer Continental Shelf oil and gas lease sales are subject to the requirements of section 307(c)(1)?

Mr. JONES of North Carolina. Mr. Chairman, If the gentleman will yield, yes, the gentleman is correct.

Mr. PANETTA. Mr. Chairman, I ask the gentleman from North Carolina if I am further correct in stating that in making these changes to section 307(c)(1), the committee intends to make clear that it is not the location of the Federal agency activity, but the effect of the activity on the coastal zone that is relevant when determining if a Federal agency is subject to the requirements of section 307(c)(1)?

Mr. JONES of North Carolina. Yes, the gentleman is correct.

Mr. PANETTA. Is it the committee's intention that the indirect effects of an activity which are reasonably foreseeable should be considered by a Federal agency in deciding if the activity will affect the coastal zone? For instance, should the effects of potential exploration, development, and shoreside facilities be considered in deciding whether an OCS lease sale will affect the coastal zone?

Mr. JONES of North Carolina. The committee intends that the effects test is to be construed broadly to include the direct and indirect effects of a Federal activity. For an OCS lease sale, this would certainly include the indirect effects mentioned by the gentleman from California.

Mr. PANETTA. Mr. Chairman, I want the committee chairman to know that I greatly appreciate his clarification of this important provision, and I commend the chairman for his hard work on the very important legislation.

Mr. Chairman, I rise in strong support of H.R. 4450, the reauthorization of the Coastal Zone Management Act [CZMA]. The CZMA is arguably our Nation's most successful coastal program and I commend Chairman JONES and the members of the committee for their hard work on the reauthorization of this important program.

Mr. Chairman, I believe the success of this program lies largely in the strong Federal-State partnership the act created to ensure the orderly and balanced development of our coastal resources. The Federal consistency provision—section 307 (c)(1)—of the CZMA has been the cornerstone of that partnership and as such, I am extremely pleased that the committee has included language in H.R. 4450 to restore the States' rights under the consistency provision. This provision permits States with federally approved and federally funded coastal management plans to review Federal agency activities that will impact a State's coastal zone for consistency with the State's coastal plan.

This right was significantly weakened by the narrowly decided Supreme Court case, Secretary of Interior versus California, which ruled that Outer Continental Shelf [OCS] oil and gas lease sales were exempt from the consistency requirements because they occur outside of a State's coastal zone and do not directly impact the coastal zone.

I maintain that in making this ruling, the Supreme Court misinterpreted the clear intent of the drafters of the CZMA that it is not the location of the Federal agency activity, but the effect of the activity that is relevant when determining if a Federal agency activity is subject to the requirements of the CZMA.

In response to the court's action, I, along with Representative ANDY IRELAND, have authored legislation in both the 100th and 101st Congresses to restore to States the right to review all Federal agency activities that affect the coastal zone, including OCS oil and gas lease sales, under the consistency provision. With 68 cosponsors, this legislation has strong bipartisan support and I am pleased that the committee has chosen to inlcude similar language in H.R. 4450 to effectively overturn the court's decision and subject all activities affecting the coastal zone to the consistency provision.

I think everyone in this Chamber would agree that we have a responsibility to practice good stewardship by seeking the balance between our need to develop resources and our responsibility to preserve our unique and sensitive coastal areas. Armed with a strong Federal-State partnership, the consistency provision provides us with a process by which we can obtain this long sought after balance.

As noted earlier, the consistency provision in this bill permits States with federally approved and federally funded coastal management plans to review Federal agency activities that will impact a State's coastal zone for con-

sistency with the State's coastal zone. That is all. It does not give the State a veto power; it does not permit a lock up of energy resources. It allows States to review Federal agency activities that affect the coastal zone. Period.

Let me again emphasize that these are federally approved and federally funded coastal management plans. Restriction of the consistency provision is sending the States a mixed and contrary message. On the one hand, the Federal Government gives States funds to develop and implement coastal management plans, but then does not pay the plans any heed. If the Federal Government is going to encourage States to develop coastal management plans, then the States should have the right to express whether or not Federal agency activities will negatively impact on a States coastal zone. The issue is that simple.

I would like to dispel some of the arguments I have heard in opposition to the consistency provisions contained in H.R. 4450.

First, this bill will not give States a veto power over Federal agency activities. Even if a State disagreed with a Federal agency activity, the activity would go forward unless the parties agreed to submit to mediation by the Secretary of Commerce or unless the State succeeded in persuading a court to overturn the Federal agency's action.

Furthermore, the bill contains a new national security exemption which allows the President to override a State's objection to a Federal agency activity if the President determines that the activity is in the paramount interest of the United States. There simply is no veto power for States.

Second, opponents argue that allowing States to review OCS lease sales will result in a lockup of our offshore energy resources. Again, this is simply not true. When the State of California had the right to review OCS oil and gas lease sales, prior to the 1984 Supreme Court ruling, the State of California concurred with nearly 90 percent—88 percent—of the tracts offered for leasing by the Department of the Interior.

Third, there has been some argument that OCS oil and gas lease sales, because they are merely paper transactions, do not affect a State's coastal zone. I have two points to make in response to that argument. First, critical decisions which can affect a State's coastal zone, such as whether oil will be transported by pipeline or tanker, the flow of vessel traffic, and the siting of onshore construction are decided at the lease sale stage. Clearly these are activities which affect a State's coastal zone.

Second, I believe that subjecting OCS lease sales to the consistency provision is a prudent step as it will help put an end to the confrontation that has plagued the OCS issue for the past 10 years. Quite frankly, subjecting oil and gas lease sales to the consistency provision makes sense for all parties involved as both the industry and the State will discover if there are any consistency problems with the lease sale at the beginning of the process rather than the end.

This legislation will provide a process that allows communities to express their concerns about an activity when it is still in the planning stages. It is important for the industry and the State to know what these concerns are prior to an industry investment of literally hundreds of millions of dollars in a lease sale. If there is going to be a problem with the exploration and development of a lease sale, then why not find out about it before the area is leased?

To his credit, President Bush has recognized the need to better involve coastal communities into the OCS decisionmaking process. In his OCS policy statement of June 26, the President noted the need for legislation to provide coastal communities directly affected by OCS development with a larger voice in decisionmaking.

I think that Justice Stevens, in his dissenting opinion for the case Secretary of the Interior versus California, best summarized the benefits of State consistency review of lease sales by explaining that

> If exploration and development cannot be squared with the requirements of the CZMA, it would be in everyone's interest to determine that as soon as possible . . . Advance planning can only minimize the risk of either loss or inconsistency that may ultimately confront all interested parties.

In the final analysis, Mr. Chairman, I would like to point out to my colleagues that as a body which claims to give a lot of deference to States' rights, we simply must allow the States a voice in making decisions on activities that can have a grave and serious impact on the State's coastal zone and the livelihood of coastal communities. That is all this legislation is asking: That the States be consulted; that their concerns be heard; and that their concerns be taken into consideration. It is responsible, good government and will work in the best interests of all involved. I urge my colleagues to offer their strong support to H.R. 4450 and oppose any weakening amendments to the consistency provision of this very important legislation.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I want to thank the gentleman from North Carolina for yielding time to me.

No one has done more to protect our California coastline than the gentleman from California [Mr. PANETTA]. And no one has been more accommodating to those of us who are concerned about oil and gas leases in environmentally sensitive areas than the esteemed chairman of the Merchant Marine and Fisheries Committee, the gentleman from North Carolina.

On behalf of my constituents who live along California's north coast, I want to thank Mr. PANETTA and Chairman JONES for making it clear that Congress intends States to have some oversight responsibility when the Federal Government considers oil and gas leases on the Outer Continental Shelf whether the activity is inside or outside of a State's coastal zone. This is a vital tool for States committed to protecting their coastal resources, and I thank Mr. PANETTA and Chairman JONES for putting this issue to rest.

Mr. JONES of North Carolina. Mr. Chairman, I yield 4 munutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I rise today in strong support of H.R. 4450, the Coastal Zone Act Reauthorization Amendments of 1990. The bill which we are considering today is the result of several months of hearings by the Subcommittee on Oceanography and Great Lakes and has the strong support of the members of the Merchant Marine and Fisheries Committee. I would like to take this opportunity to commend my colleagues of the Merchant Marine and Fisheries Committee on their efforts to strengthen and improve this Coastal Management Act.

Originally passed in 1972, the CZMA marked the first serious and comprehensive effort by the States and the Federal Government to protect this Nation's coastal zone. Congress envisioned a voluntary and cooperative program to protect coastal resources from the pressures of development and population and to manage nearly 95,000 miles of U.S. coastline.

During the course of these reauthorization proceedings, it became exceedingly apparent to me and other members of the committee that the intent of Congress regarding OCS lease sales and other Federal activities subject to consistency review required clarification. I wish to emphasize that the bill before us today does just this—H.R. 4450 clarifies, as a general rule of law, that any Federal agency activity in the coastal zone is subject to consistency review, as long as that activity can conceivably have an affect on the coastal zone. This includes OCS lease sales and any other Federal activity that may have an affect on the coastal zone. Attempts to change or further clarify the consistency provisions contained in H.R. 4450 are therefore unnecessary and are contained in the committee amendment we are considering today.

In the last 25 years of implementation of the Coastal Zone Management Act, both the Federal Government and the States have forged a joint partnership designed to improve the management of our Nation's coastlines. The bill before us today improves upon these concepts in several ways by clarifying congressional intent regarding State review of Federal actions in coastal waters and by improving the linkages between coastal zone management and water quality. Favorable consideration of this act can only serve to strengthen and improve this Nation's longstanding commitment to the wise and proper use of our natural resources.

Mr. Chairman, let me talk just about a very few specifics that are in the bill regarding NOAA.

The bill authorizes NOAA, in the course of periodically reviewing State CZM programs, to place a State program on probation for up to 2 years if it finds substantial evidence that the State is failing to adequately implement or enforce important components of its approved programs. Under such probation, NOAA could withhold up to 25 percent of Federal CZMA funding until the State agrees to take corrective actions. Under current law, the only sanction available to NOAA is to totally withdraw Federal approval and support from a State program.

The bill specifies that the Under Secretary of Commerce for Oceans and Atmosphere, who is also the Administrator of NOAA, is directly responsible for administering the Coastal Zone Management Act; and it also authorizes NOAA to make annual "Walter B. Jones" achievement awards to recognize individuals, local governments, and graduate students for outstanding accomplishments in the field of coastal zone management because our chairman has done so much in this area.

Mr. Chairman, I want to congratulate the chairman of the full committee for his leadership and continuing work over the many years in this area, and also my good friend, the gentleman from Michigan [Mr. DAVIS], the ranking member.

□ 1340

They have been working very hard to work out the jurisdictional problems which have prevented earlier consideration of this bill, and I congratulate them for their ability to accomplish those agreements.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], a member of the committee.

Mr. GOSS. Mr. Chairman, I thank my distinguished colleague for yielding me this time.

Mr. Chairman, few pieces of legislation are as little known as the Coastal Zone Management Act that have so positively affected our Nation's environment and quality of life. As someone who has worked on the frontlines of coastal zone management in local government, I do firmly attest to the important role CZMA plays in efforts to wisely manage resources along our Nation's beaches and shores and coastlines.

It is important during today's debate that we not lose sight of the working partnership that has made this program so successful. For the Coastal Zone Management Act to remain an effective tool of local and State government planning, a proper balance must be maintained between the program's carrots and sticks.

I am particularly concerned about amendments and provisions that would impose costly, unfunded, mandates on participating States or that would reduce States' abilities to prevent Federal activities inconsistent with their own State plans.

Not everybody realizes that 50 percent of our Nation's people already live within 50 miles of our coasts. By the year 2010 it is estimated that figure will jump to 75 percent of the population, putting even more pressure on our Nation's coastal environs.

The Coastal Zone Management Act remains the best tool we have to deal with these pressures responsibly and with foresight. CZMA is a model of cooperative governance, but it should not be forgotten that States face no obligation to remain in the program. As we debate today's amendments, we must remember that if CZMA's requirements become too onerous, or its benefits too small, the program and our Nation's coasts could be put in jeopardy.

The legislation the Merchant Marine Committee has reported promises to take coastal zone management down new paths to meet new needs and challenges. I am confident the committee's bill accomplishes the goal of encouraging wise use of our natural resources without disrupting the program's successful Federal/State balance. It is legislation I can support, and I urge my colleagues' support as well.

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the very able chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in support of the bill. Improving the Coastal Zone Management Act to encourage State and local governments to better manage and protect coastal resources, and increasing Federal leadership and assistance in that regard, are important objectives.

The Coastal Zone Management Act of 1972 authorizes Federal grants to encourage States to develop and implement comprehensive plans to manage and protect coastal areas. The act also requires that Federal agencies, applicants for Federal permits, and State and local government applicants for Federal financial assistance conduct their projects and activities in a manner that is consistent with a State's federally approved Coastal Zone Management Program.

H.R. 4450 reauthorizes the Coastal Zone Management Program and makes several substantial improvements to it. It emphasizes the need to incorporate coastal water quality into comprehensive coastal zone management plans. This is especially important in protecting our critical coastal areas. It also establishes the development of a national interests improvements program for coastal States to address priority needs for coastal wetlands, coastal hazards management, public access to coastal waters, cumulative and secondary impacts of coastal development, and coastal energy development. Each of these is a critical issue affecting California's coast.

The bill also makes needed legislative clarifications regarding key statutory provisions, especially those related to the requirement for consistency with a State management plan. California's ability to ensure Federal compliance with its coastal program policies would be clarified and strengthened.

Mr. Chairman, I would like to comment briefly on one aspect of the bill which causes our Committee on Public Works and Transportation some concern. Under the rules of the House, the Committee on Public Works and Transportation has sole jurisdiction over water pollution. The Federal Water Pollution Control Program is carried out under the Clean Water Act, which was developed in the House by our committee, and is administered by the Environmental Protection Agency, which is the Federal agency charged with responsibility for the Federal Water Pollution Control Program. The Clean Water Act contains a provision which requires States to develop nonpoint source control programs, which must be approved by EPA, sets forth requirements which those programs must meet, and makes financial assistance available.

The legislation now being considered by the House, in new section 306(B), sets up another program for the control of nonpoint source pollution under another agency—the Department of Commerce. Language has been included, at our request, which makes it clear that the coastal water protection programs are to serve as an update and expansion of the nonpoint programs developed under the Clean Water Act. But this does not go far enough. What is needed is a clear statutory statement of EPA's authority to review and approve those parts of the programs dealing with water pollution. I appreciate very much the cooperation of the gentleman from North Carolina [Mr. JONES] in working with us on these matters, but I regret that we were not able to reach an agreement with regard to a statutory role for EPA. We wish to ensure that the clean water and coastal zone programs work in close harmony and in an effective manner. We are requesting that we be equal conferees on these issues when the legislation goes to conference, and will continue our efforts to see that the role of the Environmental Protection Agency is properly provided for in this legislation. I would also note that this issue will be before us in our consideration of H.R. 2647, the coastal defense initiative of 1990.

Mr. Chairman, H.R. 4450 makes needed and important changes in the Coastal Zone Management Program, and I am pleased to support its passage.

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I thank the gentleman very much for yielding to me.

Mr. Chairman, I just want to say to my former chairman, and I very much enjoyed my work on that committee, how important this is to the people of all of the coastal States from North Carolina to Massachusetts, California, New York. It is also important because it shows that the Federal Government respects the States and understands we have to work together to protect this crucial natural resource, the coast, and all of the very important things that go on on the coastlines such as the fisheries business, the tourism, and preserving our environment.

I just want to thank the chairman very much. I want to thank the gentleman from Massachusetts [Mr. STUDDS] for his great leadership over the years on this issue.

Mr. STUDDS. Mr. Chairman, I thank the gentlewoman.

Mr. Chairman, I rise in strong support of H.R. 4450 and urge its prompt passage.

We have before us today a bill that proposes major changes to the Coastal Zone Management Act. These are changes that coastal America has struggled for for years. Our Governors, our mayors, our environmentalists, and our fishermen support this bill, want this bill and deserve this bill. It is good policy, and it is popular policy. I urge its support.

Why?

First, it sweeps aside a misguided attempt by this administration and the last to shackle the ability of States to protect their coastlines from Federal agencies that may—or may not—care about how their activities affect State coastal zones. Known within coastal zone management circles under the arcane label of "consistency," the issue boils down to a very simple proposition: That Federal agencies should be required to tailor their activities to mesh as much as possible with State efforts to protect the coast. No more, no less.

Second, this bill will help State coastal programs respond to the population boom that is rapidly bulldozing our habitat and suffocating our fish and shellfish. The bill requires State officials to include a new focus—a water quality focus—in their coastal programs. It requires them to do the technical work and make the decisions at a State and local level that must be made to protect the vitality of our coastal areas over the long term. And it links State water pollution control programs and State coastal programs in a common effort to restore and protect coastal water quality.

Finally, the bill authorizes a new, flexible, national improvements program within the CZMA that provide NOAA and the States with additional tools and dollars to address emerging national coastal problems, such as the continued loss of coastal wetlands, public access, and shoreline erosion.

This bill is the product of more than 3 years of effort by our committees. The entire bill, and especially the coastal water quality provisions, have garnered the strong support of State coastal programs, Governors, and environmentalists. If OMB would remove their muzzles, I'd expect that we might even hear whispers of support from EPA and the National Oceanic and Atmospheric Administration.

Mr. Chairman, I want to thank Chairman WALTER JONES of our full committee, and DENNIS HERTEL, chairman of the Subcommittee on Oceanography and Great Lakes, for their hard work on this bill. The water quality provisions included in this measure are a significant part of the legislative package, known collectively as the coastal defense initiative, which our committee—in cooperation with the Committee on Public Works and Transportation—hopes to enact this year.

This bill is, in short, a good bill, and I hope it will be approved.

□ 1350

Mr. DAVIS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. SHUMWAY], who has shown a great deal of interest in this legislation.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman from Michigan for yielding time to me. I would like to raise my voice to join those who have expressed a great deal of satisfaction for the Coastal Zone Program. It has been a very successful program. It has brought about some very significant reforms, particularly environmental reforms in our coastal States.

I would just remind Members that this program was one that was originally proposed by a Republican administration in the early 1970's, and it has worked well. While I support this program generally, I have some very great concerns about this bill, and the concerns I will voice are the same concerns which are felt by the Bush administration and which have prompted that administration to even threaten a veto of this bill if it passes both bodies and is submitted to the President in its current form.

The Bush administration supports reauthorization of the Coastal Zone Program and, in fact, they have submitted legislation to the Congress to do just that. I have introduced that bill. It provides some modest reforms. It recognizes the need to attract national interest to what we are doing on our coasts, but basically it is a reauthorization that would be in keeping with the priorities of the Bush administration.

This bill, however, goes considerably beyond the Bush administration's request. First this bill increases the funding authorization by more than $20 million over current the appropriations level, and in the outyears even more than that. With all of the talk we have had here in the last couple of days and the budget summit going on, the concern we all feel about deficits and spending, I think that Members of Congress ought to look very, very carefully at a bill like this that purports to increase spending beyond current appropriation levels.

Second, the bill expands the so-called consistency provision so that a whole host of Federal activities will now be covered. That is true whether those activities are inside or outside the coastal zone.

I would suggest to Members that that goes considerably beyond the original intent of the coastal zone plan and skews, I think, the Federal-State balance that is so essential to the administration of the CZMS. In fact, that balance has been one of the reasons for the success that we have had to the present time. It does seem to me, however, that if the Federal Government should determine, even under these consistency provisions, that a lease sale has no effect, then consistency does not apply.

Third, the bill seeks to allow coastal States new authority to control OCS oil and gas leasing, although it does not do so explicitly. The result of this new authority, I believe, will be to spawn a great deal of costly, lengthy, and no doubt very bitter litigation. If States control OCS leasing, we will be subjecting our national energy priorities, our national energy policies, to the wishes and perhaps the whims of coastal States, and at a time when we are concerned about the availability of oil with what is happening in the Persian Gulf, I think that would be a bad mistake for this Congress to make. So I would hope that we would look very critically at this bill for those reasons, and realize even though the bill does a very needed thing, and that is it reauthorizes CZMS, at the same time it does much that we do not want, and would be, I think, in conflict with Federal-State relationships, and allow States to have a major voice in determining Federal policy. With good things there are bad things as well,

and I just ask Members to be very cautious and very wary of these things when we vote upon this bill.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I concur in the view expressed by my colleague, the gentleman from California [Mr. SHUMWAY].

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I yield to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I want to pay my compliments to the gentleman from California [Mr. SHUMWAY], and thank him for his service to the committee through the years, and the spirit of cooperation that has existed. Godspeed in your next career.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman for those words.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Chairman, I, too, at the outset would like to thank the chairman of our full committee, the gentleman from North Carolina [Mr. JONES], and the chairman of the Subcommittee on Oceanography and Great Lakes, the gentleman from Michigan [Mr. HERTEL] for their work in bringing this to the House, and obviously the gentleman from Michigan [Mr. DAVIS] and the gentleman from California [Mr. SHUMWAY] for their efforts in bringing this to the floor.

This legislation is noteworthy because it addresses the need to balance economic development with the preservation of coastal resources.

This is especially important to Maryland, which has more than 4,600 miles of shoreline. That is why I am a strong supporter of the Coastal Zone Management Act and why I urge my colleagues to vote for this legislation.

Population growth in coastal areas has been increasing in a dramatic and haphazard manner. This has caused the environmental degradation of thousands of miles of our Nation's coastline that may never be rehabilitated.

Because of the Coastal Zone Management Act passed in 1972, a program is in place so that we can counteract the effects of past and future population growth and development. Since 1972, 29 States and territories have developed and implemented coastal zone management plans.

Mr. Chairman, the 101st Congress now has the opportunity to reaffirm the Nation's commitment to this important program. And the proposed amendment in the nature of a substitute would make some significant improvements.

I am particularly pleased with the amendment's emphasis on nonpoint pollution, the major source of pollution in the Chesapeake Bay.

I also support the amendment's requirement that Federal activities taking place inside or outside the coastal zone be consistent with State management plans. This provision is necessary to protect sensitive coastal areas from the potentially harmful effects of oil and gas exploration and drilling on the Outer Continental Shelf.

In sum, Mr. Chairman, the bill before us today continues an excellent program and expands it to meet the needs of the nineties.

Mr. Chairman, once again I would like to thank the gentleman from Michigan [Mr. HERTEL] and the gentleman from North Carolina [Mr. JONES] for their work in bringing the coastal zone management reauthorization before Members today.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON], a distinguished member of our committee.

Mr. SAXTON. Mr. Chairman, I rise in strong support of H.R. 4450, and I want to commend the chairman of the full committee, the gentleman from North Carolina [Mr. JONES] and the two subcommittee chairmen, the gentleman from Michigan [Mr. HERTEL] and the gentleman from Massachusetts [Mr. STUDDS] for the fine work and cooperative spirit in which this bill has reached the floor. I say to the gentleman from Michigan that for the partnership he has played in this bill, that it has been a very valuable experience as well.

I would like to bring a slightly different perspective to this bill, and say that this bill is about protecting the coastal areas, to be sure, but also a bill about population growth. When one considers the way population has grown during the last years and the population trends that are involved in that growth, one begins to realize the import with which we address this subject today.

Today in the United States, about 65 percent of the people who live in our country live within 50 miles of the coast, and to look at the growth of the population, which will double, are projected to double by the year 2020, one begins to understand that since that growth will take place in those areas, that this bill becomes even more important. It is projected by the year 2000, for example, that the population growth in coastal areas will mean that 75 percent of the population of our country will be within 50 miles of the coastline. It is also projected that on a worldwide basis, 85 percent of the world's population will live within 50 miles of a coastline. So it is with these factors in mind that the Committee on Merchant Marine and Fisheries, and the two subcommittees have addressed the problems that are involved, and the issues that are involved, not just with population growth, but with the various resources that we are committed to protect.

For example, the amount of time that we have spent protecting the habitat for various fisheries has been a very important part of this process. The estuarian areas and the nurseries and the spawning areas in which our fish stock propagate have been a great deal of concern and have taken a great deal of our time. Water quality and sewage systems, and the way they relate to water quality has also been quite important, and an integral part of the bill in this planning process.

I think something else that is good to understand here is that we have not just made this a Federal program, but we have written this language that is intended to promote the activities involved in the various States in encouraging the States to protect their coastlines. So with those points in mind, Mr. Chairman, I urge all Members to support this bill today.

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Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise today to express my strong support for H.R. 4450. As one who has worked closely with the Coastal Zone Management Act at the State level, I can testify firsthand to the extraordinary contribution that this program has made in promoting better management of our Nation's coastal resources. CZMA has encouraged a balance between the preservation of our natural resources and appropriate development that will help revitalize our coastal areas and waterfronts.

More than half of the U.S. population lives within 50 miles of one of our coasts. Since the initial passage of the Coastal Zone Management Act, dramatic population growth and significant increases in development have made managing coastal resources more challenging than ever. In my own congressional district, coastal protection has become increasingly important, as the Long Island Sound and the Hudson River continue to be threatened by serious pollution problems. These coastal resources are essential to the very future of our region: from an economic standpoint, from a recreational standpoint, and from the standpoint of the quality of life.

Failure to ensure that our coastal resources are sensibly managed puts public health at risk and threatens the economic survival of our coastal areas. Nonpoint source pollution floods coastal waters with bacteria and nutrients that make coastal waters unsafe for swimming and fishing. Nonpoint

source pollution can have a devastating impact on the economies of coastal communities.

It is clear that we must strengthen the Coastal Zone Management Act in order to fully address the new challenges we face. The legislation under consideration today will significantly enhance the act, and I would like to commend the chairman of the full committee, Mr. JONES, and the chairman of the subcommittee, Mr. HERTEL, for their fine work in developing this legislation. I would also like to extend my personal thanks to Congressman STUDDS, with whom I worked closely on a number of critical aspects of this bill.

I am particularly pleased that the bill creates a new coastal waters protection program to address the problem of nonpoint source pollution, which is one of the most serious threats to Long Island Sound, and I am sure many other coastal waters. This is literally a life or death issue for Long Island Sound. Nearly half of the pollutants which are choking off the Sound's oxygen supply come from nonpoint sources, according to the Long Island Sound study. To resolve this problem, it is essential that a coordinated program be developed that fully takes into account the interrelationships between coastal waters and adjacent watersheds.

In addition, I am enthusiastic about the national interest improvements program, which will encourage improvements in the protection of wetlands, public access, and management of natural hazards, among other issues. This is a significant contribution to the act.

I also want to praise the work of the New York State Department of Environmental Conservation and the New York Department of State for their valuable contributions to the formulation of this legislation. In particular, their work on provisions in section 306B, which seek to increase cooperation between land management and water quality programs, stands as an excellent example of the kind of cooperation we seek to encourage in this bill, and which will be essential if we truly intend to ensure the long-term protection of coastal waters.

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

Mr. Chairman, I want to take this time to say to my colleague, the gentleman from California [Mr. SHUMWAY] who is leaving the Congress this year, we came to Congress together 12 years ago. We have both been members of the Merchant Marine and Fisheries Committee all during that time. He has been a distinguished member of our committee, an extremely thoughtful member, always keeping us on line if he thinks we go too far on some issues. We are going to sorely miss him in the committee. Actually, he would have been next in line after myself to become the ranking member.

As the chairman, the gentleman from North Carolina [Mr. JONES], said earlier, we wish him well in the future and he will be missed because he was a very valuable member of our committee.

The CHAIRMAN. I know the gentleman expresses the sentiments of the entire House in those words also.

Mr. DAVIS. I thank the Chair.

Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, it has been a very exciting experience to me to have my very first subcommittee chair on the Subcommittee on Oceanography and Great Lakes of the Committee on Merchant Marine and Fisheries. With all the challenges that we faced and all the new ground that we broke, like having the first NOAA authorization in the history of the Congress, my ranking member, the gentleman from California [Mr. SHUMWAY] was great to work with. We had many differences on policy issues, and yet we were able to proceed smoothly and inform all the members of the schedule and hear all sides of the issues, because the gentleman from California [Mr. SHUMWAY] was so well respected by the entire committee.

The people of northern California have been very fortunate these past 12 years in having him represent them here in Congress, and it is our loss and the committee's loss that he is now retiring.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Chairman, H.R. 4450, the Coastal Zone Management Act Amendments of 1990, is designed to improve the protection of our coastal resources, encourage State and local action to achieve better coastal resource protection, and establish a mandate for Federal leadership and technical and financial assistance in support of improved coastal zone management at the State and local levels. I support these goals. The protection of our coastal resources, both land and water, is a matter of high priority.

I am concerned, however, about those aspects of the legislation which relate to water pollution—specifically the establishment of a program of control of nonpoint sources of pollution of coastal waters. My concern is not based on any disagreement with the goals of the legislation—I support those goals. Rather, it is based on the manner in which the legislation addresses the issue of control of nonpoint sources of pollution, setting up a program under NOAA and the Coastal Zone Management Act which is parallel to and duplicative of the nonpoint source program in section 319 of the Federal Water Pollution Control Act.

Our Committee on Public Works and Transportation has jurisdiction over water pollution, and has been responsible in the House for the development and oversight of the Federal Water Pollution Control Act and the program it establishes for the preservation and enhancement of the quality of all waters of the United States, including coastal waters. In the 1987 amendments to that act we added a program for the control of nonpoint sources of pollution, providing for the development of programs by States with the approval and assistance of the Environmental Protection Agency, and financial assistance through a grant program. Nonpoint source pollution is pollution which emanates from diffuse sources such as runoff from agricultural or urban lands. Probably half of the pollution now entering our waters comes from nonpoint sources.

The amendment in the nature of a substitute, which under the rule is being considered as the original bill, is based on the text of H.R. 4030, which was ordered reported by the Committee on Merchant Marine and Fisheries but on which the report was not filed. If the report had been filed, the reported bill would have been sequentially referred to the Committee on Public Works and Transportation because of its provisions relating to coastal water quality. Instead, it is being offered on the floor as an amendment. These provisions are primarily contained in new section 306(B) of the Coastal Zone Management Act added by the bill. Under this section, coastal States are required to prepare and submit to the Under Secretary of Commerce for Oceans and Atmosphere for approval a Coastal Water Quality Protection Program. The purpose of this program is to develop and implement coastal land use management measures for nonpoint sources of pollution.

Because of our concerns relating to setting up a new, separate nonpoint source pollution control program under another Federal agency, which would exist side by side with that already in existence under the Water Pollution Control Act, we sought to work out language with the Merchant Marine Committee which would give EPA a statutory role in this program, to ensure uniformity, and lessen the adverse effects associated with different programs under different agencies aimed at doing the same thing.

I regret that we were only partially successful. Language has been included in new section 306(b)(a)(2)(B) making it clear that the coastal water program of a State is to serve as an update and expansion of the State nonpoint source management program

developed under section 319, as that program relates to land and water uses affecting the coastal zone. This has the effect of making the nonpoint source control provisions of the coastal water quality programs an integral part of a State's section 319 program and making them subject to the requirements of section 319, after they have been approved by the Under Secretary of Commerce pursuant to new section 306(B).

However, a substantive statutory role for EPA with regard to the approval of the nonpoint source control portions of the coastal programs has not been included. It is our strong view that EPA should have the primary, if not the sole, role in approving these portions of the programs, as EPA is the Federal agency with responsibility for administering the Federal water pollution control program.

Mr. Chairman, I am not going to attempt to resolve this matter today on the floor of the House. I do wish, however, to inform my colleagues that our Committee on Public Works and Transportation will continue to work toward achieving a proper role for EPA in this new program, both in the conference on H.R. 4450, for which we will request an equal number of conferees, and in the development of and conference on H.R. 2647, the coastal defense initiative of 1990.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I rise in support of H.R. 4450 and commend Chairman JONES, the subcommittee chairman, the gentleman from Michigan [Mr. HERTEL], as well as the gentleman from California [Mr. SHUMWAY] for the fine work they have done on this measure.

In the State of Florida, as you know, we have many hundreds of miles of coastline. It is a peninsular State. We have millions and millions of people coming to our State to live, nearly a thousand a day, so one can imagine the extreme pressures that are put on our coastal areas, wetlands, beaches, water quality, and all these things, so we have to deal with it. I think this is a step forward to establish the protection as a priority national goal, not only for my State, but for all the coastal States. It also would provide some incentives for the States and local governments to become involved in a joint venture.

It is very, very important that we protect these fragile coastal areas of our Nation, and I am pleased to support H.R. 4450.

Mr. DAVIS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Chairman, I rise to address H.R. 4450, the Coastal Zone Act Reauthorization Amendments of 1990. I support its basic goals and purposes and believe, in most respects, it takes a positive step forward in protecting our precious coastal resources. However, I continue to have concerns about the bill's relation to other laws and programs, particularly those relating to nonpoint source pollution, water quality, and wetlands.

First, let me acknowledge the efforts of those who have worked on this vital legislation. Certainly this includes the leadership of the Merchant Marine and Fisheries, Public Works and Transportation, Interior and Insular Affairs, and Science, Space, and Technology Committees. The Water Resources Subcommittee of the Public Works and Transportation Committee has focused on the bill's provisions impacting wetlands and water quality. Given the importance of H.R. 4450 and the time constraints at the end of the session, we are not going to continue to insist on a joint referral of the legislation, even though it clearly impacts our committee's jurisdiction.

Having said that, let me address some of the important principles and components in H.R. 4450. The bill attempts to strengthen coastal water quality and resource protection by improving the link between coastal land use and nonpoint source management, on the one hand, and coastal water quality on the other. Activities under the Coastal Zone Management Act and the Clean Water Act should be coordinated; together they can offer a strong combination to thwart coastal degradation.

The Public Works and Transportation Committee, with its broad jurisdiction over water pollution and wetlands protection, recognizes the need to do just that and commends the bill's sponsors for taking some specific measures along those lines. Our committee took similar, related steps to manage nonpoint source pollution and protect estuaries and other coastal waters when we wrote and passed sections 319 and 320 of the Clean Water Act back in 1987.

Today's legislation makes a good-faith effort to implement some of the goals and objectives of the Clean Water Act but may fall short in providing mechanisms to avoid agency duplication and inconsistency. EPA and State water quality agency officials share my concern about potential problems—such as confusion and lack of coordination—between existing Section 319 of the Clean Water Act and proposed 306b of the Coastal Zone Management Act. If this is not addressed on the floor today, then I would strongly urge that we make necessary revisions further on in the legislative process. Before we enact a whole new program with new mandates and bureaucracies, we need to take full advantage of existing authorities and resources under EPA's and the States' water quality programs.

A related concern, Mr. Chairman, involves H.R. 4450's definitions of "Coastal Zone" and "Coastal Waters." If, under the guise of coastal protection, the bill unreasonably expands NOAA's jurisdiction and the act's application to upland activities and inland waters, then we may be hurting rather than helping coastal protection efforts in the long run. To work, the coastal zone management act and its new 306b program must be realistic, reasonable, and based upon voluntary efforts by State and local agencies. In partial response to that concern, the merchant marine and fisheries committee included, at the request of the public works and transportation committee, a requirement that NOAA consult with EPA when reviewing inland boundaries. Only after appropriate consultation with EPA and State water quality agencies, should NOAA recommend modifications to the coastal zone's inland boundaries.

The bill also defines "coastal wetlands" and establishes within NOAA a goal of "no overall net loss" of coastal wetlands. The Public Works and Transportation Committee, which is currently considering comprehensive legislation on both coastal and inland wetlands, worked with the Merchant Marine and Fisheries Committee on this particular provision. This effort included making revisions to committee-passed language to ensure NOAA would consult with other Federal agencies and strive for consistency among Federal agency definitions.

Another area of the bill addresses a different type of consistency—specifically the consistency requirements of 307(c) of the Coastal Zone Management Act. I am a strong supporter of States' rights and believe States are generally the appropriate level of government to make decisions about environmental protection and natural resources management within their jurisdictions. In particular situations, however, overriding Federal interests, such as those involving national security and interstate commerce, argue for a balanced sharing of authority among jurisdictions. For example, if we give broad deference to State coastal agencies, we must be sure not to unduly restrict the Federal Government's dredging and dredged material disposal programs. Therefore, like the administration, I am very concerned about H.R. 4450's potentially far-reaching changes to existing law.

Mr. Chairman, some of H.R. 4450's provisions have serious problems, and we need to modify them at some point in the process. For now, though, the bill symbolizes an important step forward in reauthorizing and strengthening the Coastal Zone Management Act. For example, it recognizes the need to integrate land use and coastal water quality. Therefore, I urge my

colleagues to support the overall bill but to work improvements in the days ahead.

The CHAIRMAN. The gentleman from North Carolina [Mr. JONES] has 1½ minutes remaining.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes of my time to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, since I have acquired some more time, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

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

Mr. Chairman, I rise in strong support of the Coastal Zone Act reauthorization bill before us today. This bill reaffirms our commitment to coastal protection and beneficial cooperation with the States.

Eighteen years ago the Federal Government made a deal with coastal States. We said that if States came up with federally approved coastal management plans, Congress would provide funds to help them carry out those plans. More importantly, Congress and the President agreed not to allow Federal activities to interfere with the coastal management policies of States. This requirement for consistency between Federal activities and State plans to manage their coastal areas is fundamental to the Coastal Zone Management Act and has been relied on—in good faith—by States who believed that Congress meant what it said in 1972.

The States—including Delaware—have kept their end of the bargain. Unfortunately, recent administrations have moved away from the original agreement. In 1984, the Supreme Court held that Interior Department lease sales for oil and gas activities did not have to meet the consistency requirement. In 1985—with the strong urging of the U.S. Justice and Commerce Departments—the Norfolk Southern Corp. brought suit in U.S. district court in Delaware challenging the constitutionality of the consistency provision. That provision had been used by the State of Delaware to block potentially damaging coal transfer operations in the Delaware Bay. The U.S. district court upheld Delaware's right—promised under the Coastal Zone Management Act—to protect its environmental destiny.

This legislation before us today would simply restate what many of us thought was adequately stated the first time around: That States have the right to protect their shores from Federal activities which are inconsistent with the States' federally approved coastal zone management plans. The bill is a good one, it deserves our support, and it should be passed with its consistency provisions intact.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in strong support of a reauthorization of the Coastal Zone Management Act.

At a time when we predict that our coastal areas will experience tremendous growth in the years ahead and in fact in the year 2000 and beyond, some 40 percent of Americans will live within 40 miles of the coastal areas, it is important for us to do the kind of planning that we do in this initiative.

This bill, this reauthorization, strengthens the Coastal Zone Management Act. It develops new initiatives, it is directed at nonpoint sources of pollution that we experience up and down our coasts.

Mr. Chairman, it is a good bill. I urge my colleagues to support it.

Ms. PELOSI. Mr. Chairman, I rise in support of the committee substitute to H.R. 4450 to strengthen the prerogative and authority of States to control Federal offshore activities that might affect their shorelines.

The common term used to bring these activities into compliance with State laws is consistency. The term itself has a very positive connotation—to make Federal and State laws consistent, to bring them into harmony. This provision was included by Congress in its original authorization of the Coastal Zone Management Act in 1972 because, as a Federal body, it believed that there was a strong need for compatibility and coordination between Federal and States entities.

Because of Congress' actions in 1972, 94 percent of the Nation's coastal zones now have management plans. As coastal population density and shoreline development increase, it is incumbent upon Congress to stand behind its laws to protect our coasts and to strengthen them when necessary. Pressures on our Nation's coastal resources are certainly greater than they were in 1972. Congress must now respond accordingly and clarify its intent on consistency requirements.

Offshore activities cannot be considered in isolation of the total environment where they exist, whether or not they directly affect the coastal zone. Offshore ocean dumping not only affects the target area, but the surrounding areas as well. An issue of great importance to my district is the disposal of dredged material from San Francisco Bay. Because of wave action and dispersement of sediment, the disposal material can never be completely restricted to a specific target area, thereby affecting water quality, fisheries, and the marine environment in general.

Offshore energy exploration poses the same generalized threat to coastal resources from air emissions, increased tanker traffic, oil leakage and spills, and the increased probability of severe environmental degradation.

The committee substitute strengthens the original law by stating clearly that Federal activities inside or outside the coastal zone must be consistent with State coastal management plans.

We must reaffirm our 1972 commitment by clarifying "consistency" and by developing the strongest laws to protect the environment. Over 50 percent of the U.S. population, many major cities, and most heavy industry, including oil refineries and electric generating plants, are located in coastal areas. The Coastal Zone Management Act of 1972 was necessary because our coastal resources were under attack by competing uses and required better management.

This act is a crucial mechanism for protecting coastal resources and water quality. It is no less important today than it was almost 20 years ago. And, if you take a close look at the condition of some of the Nation's contaminated beaches and polluted oceans, you will agree that this legislation is more important than ever.

I urge my colleagues to support the committee substitute to H.R. 4450.

Mr. YOUNG of Alaska. Mr. Chairman, I want to comment briefly on those sections of the bill before us today that deal with wetlands.

We all agree that conservation of wetlands is important to protect fish and wildlife. As a result, section 310 of the Coastal Zone Management Act, as amended by this bill, encourages a policy of achieving no overall net loss of remaining wetlands. Unfortunately, that goal will not be easy to reach.

In Alaska, nearly 65 percent of our State can be classified as wetlands. This includes a great deal of the area where people live. If existing wetlands definitions are used, and if a no net loss policy were established, then the poorest resident of rural Alaska could not build a home for his family without violating the law.

Mr. Chairman, we need to protect wetlands, but we need to do it rationally. The President has assembled a task force to determine how best to identify and protect wetlands. The results of their work need to be reviewed before we take action that has the unintended result of harming our poorest citizens. Further, I want to remind you that my State of Alaska has protected its wetlands and should not be punished by adoption of an arbitrary goal of no net loss that may make sense in other States but cannot be logically applied to the last frontier.

Mr. DAVIS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 5665 is considered as an original bill for the purpose of amendment, and each title is considered as having been read.

The Clerk will designate title I.

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute made in order as an original text by the rule be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5665

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

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Coastal Zone Act Reauthorization Amendments of 1990".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Coastal Zone Management Act of 1972 has not been subject to comprehensive review and amendment since 1980.

(2) The pressures of population growth are steadily increasing in the coastal zone, as illustrated by the fact that—

(A) over one-half of the people of the United States live and work within coastal counties which encompass less than 10 percent of the United States land mass;

(B) the population density of coastal counties is 5 times greater than noncoastal counties nationwide; and

(C) growth around sensitive coastal ecosystems will continue;

(3) population growth in the coastal zone manifests itself in various ways, including—

(A) increased pollution of coastal waters, particularly from nonpoint sources such as parking lots, roads, and farms;

(B) loss of wetlands and other vital habitat;

(C) diminishing opportunities for public access to shorelines; and

(D) heightened vulnerability of coastal communities to natural hazards and sea level rise; and

(4) because global warming may cause a substantial rise in sea level with serious adverse affects on the coastal zone, coastal States should be encouraged and assisted in planning for such occurrences.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the improvement of coastal resource protection as a priority national goal under the Coastal Zone Management Act of 1972;

(2) establish improved incentives for State and local action to achieve better coastal resource protection;

(3) revitalize the Federal coastal management program by establishing a mandate for Federal leadership and technical and financial assistance in support of improved coastal zone management at the regional, State, and local levels; and

(4) encourage voluntary participation by all eligible coastal States in programs established under title II of this Act, by setting a goal of 100 percent State participation by the end of fiscal year 1995.

TITLE II—COASTAL ZONE MANAGEMENT ACT

SEC. 201. REAUTHORIZATION OF COASTAL ZONE MANAGEMENT ACT OF 1972.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) is amended to read as follows:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Coastal Zone Management Act'.

"SEC. 302. FINDINGS.

"The Congress finds the following:

"(1) It is in the national interest of the United States to manage, protect, and develop with proper environmental safeguards, the coastal zone.

"(2) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, historical, cultural, industrial, and esthetic resources of importance to the United States.

"(3) The increasing and competing demands upon the lands and waters of the coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living coastal resources, have resulted in severe degradation of coastal water quality, the decline of living coastal resources and wildlife, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

"(4) The coastal zone, and the fish, shellfish, other living coastal resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by human alteration.

"(5) Important ecological, cultural, historic, and esthetic values of the coastal zone which are essential to the well-being of all citizens of the United States must be protected.

"(6) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, Exclusive Economic Zone, and Outer Continental Shelf are damaging these areas and create the need for resolution of conflicts among competing uses and values in coastal and ocean waters.

"(7) Special natural and scenic characteristics of the coastal zone are being damaged by ill-planned development that threatens these values.

"(8) In view of competing demands and the urgent need to protect and give priority to maintaining natural systems in the coastal zone, present State and local capabilities to plan for and regulate land and water uses in these areas are inadequate.

"(9) The key to more effective protection of the land and water resources of the coastal zone is to encourage coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting coastal States, in cooperation with the Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for managing land and water uses in the coastal zone, as well as uses which, although outside of the coastal zone, will affect natural resources, land uses, or water uses in the coastal zone.

"(10) Beneficial use of the land and water resources of the coastal zone requires consideration of activities which are of more than local significance.

"(11) Land use in the coastal zone, and the use of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitat, and efforts to control coastal water pollution from land use activities must be improved.

"(12) Expeditious and environmentally sound development of offshore energy resources is best achieved through coordination of that development with State coastal zone management programs.

"(13) The attainment by the United States of a greater degree of energy self-sufficiency will be advanced by providing Federal financial assistance to meet State and local needs resulting from energy activity in or affecting the coastal zone.

"(14) Implementation of the public trust doctrine through federally-approved State coastal zone management plans will ensure that coastal States exercise their full authority over the lands, waters, and resources within their coastal zones fully and in accordance with that doctrine.

"SEC. 303. DECLARATION OF POLICY.

"The Congress declares that it is the policy of the United States—

"(1) to preserve, protect, develop with proper environmental safeguards, and where possible restore or enhance, the resources of the coastal zone for this and succeeding generations;

"(2) to encourage and assist coastal States to exercise effectively their responsibilities in the coastal zone through the development, implementation and continual improvement of management programs to achieve wise use of the air, land, water, mineral, and living resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values and to needs for economic development;

"(3) that the management programs approved under section 306 shall include provisions for—

"(A) protecting natural resources, including wetlands, floodplains, estuaries, beaches, dunes, maritime forests, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone;

"(B) managing coastal development to minimize—

"(i) the loss of life and property caused by improper development in flood-prone, storm surge, geologically hazardous, and erosion-prone areas; and in areas likely to be affected by sea level rise, land subsidence, and saltwater intrusion; and

"(ii) the destruction of natural protective features, such as beaches, dunes, wetlands, maritime forests, and barrier islands;

"(C) managing coastal development to protect and restore the quality of coastal waters and to prevent the impairment of existing uses of those waters;

"(D) giving priority to water-dependent uses adjacent to coastal waters over other uses;

"(E) orderly processes for—

"(i) siting major facilities related to national defense, energy, fisheries development, recreation, ports, and transportation; and

"(ii) locating new commercial and industrial development, to the maximum extent practicable, in or adjacent to areas where such development already exists;

"(F) public access to the coasts for recreation purposes;

"(G) assisting in the redevelopment of deteriorating urban waterfronts and ports, and preservation and restoration of historic, cultural, and esthetic coastal features;

"(H) coordinating and simplifying of procedures to ensure expedited governmental decisionmaking for the management of coastal resources;

"(I) continued consultation and coordination with, and the giving of adequate consideration to, the views of affected Federal agencies;

"(J) timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

"(K) assistance to support comprehensive planning, conservation, and management for living coastal resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies, and State water quality and fish and wildlife agencies;

"(L) where the Under Secretary considers appropriate, the study, development and implementation of management plans to address the adverse impacts of sea level rise and Great Lakes level rise on the coastal zone, including coastal drinking water supplies, coastal infrastructure, ports and harbors, energy facilities, coastal wetlands and other critical coastal habitat, housing, and storm surge protection; and

"(M) an inventory and designation of areas that contain one or more coastal resources of national significance, including criteria and procedures for public nomination of such areas;

"(4) to encourage the preparation of special area management plans which provide for increased specificity in protecting—

"(A) significant natural resources;

"(B) reasonable water-dependent economic growth;

"(C) improved protection of life and property in hazardous areas, including specifically those areas likely to be affected by sea level rise; and

"(D) improved predictability in governmental decisionmaking; and

"(5) to encourage the participation and cooperation of the public, State and local governments, interstate and other regional agencies, and Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.

"SEC. 304. DEFINITIONS.

"For the purposes of this title—

"(1) COASTAL RESOURCE OF NATIONAL SIGNIFICANCE.—The term 'coastal resource of national significance' means any area in the coastal zone which is determined by a coastal State to provide ecological, esthetic, recreational, historical, or natural storm protective values which are of greater than local significance.

"(2) COASTAL STATE.—The term 'coastal State' means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or any of the Great Lakes, and includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Trust Territory of the Pacific Islands.

"(3) COASTAL WATERS.—The term 'coastal waters' means—

"(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

"(B) in other areas, those waters adjacent to the shoreline of any coastal State, which contain a measurable quantity or percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

The term includes wetlands adjacent to coastal waters.

"(4) COASTAL WETLANDS.—The term 'coastal wetlands' means wetlands within the coastal zone of any coastal State. The Under Secretary shall, not later than June 1, 1991, promulgate a rule in accordance with the procedures in section 553 of title 5, United States Code, defining the term 'wetlands'. In connection with the rulemaking required by this paragraph, the Under Secretary shall—

"(A) hold not less than 4 public hearings, including one in each of the Gulf of Mexico, Atlantic, Pacific, and Great Lakes coastal areas; and

"(B) consult with the heads of other Federal agencies to ensure that the definition of the term 'wetlands' established by the rule is, to the maximum extent possible, consistent with definitions of that term applied by other Federal agencies.

"(5) COASTAL ZONE.—The term 'coastal zone' means coastal waters (including lands therein and thereunder) and adjacent lands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends, in Great Lakes waters, to the international boundary between the United States and Canada, and in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The coastal zone extends inland from the shoreline to the extent necessary to control lands, the uses of which have a direct and significant impact on coastal waters. The coastal zone does not include lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the Federal Government or its officers or agents.

"(6) CRITICAL COASTAL AREA.—The term 'critical coastal area' means an area identified on the basis of geological, hydrological, and ecological factors and proximity to sensitive coastal waters, wetlands and habitats, to be an area for which there is a significant likelihood that any new or expanded land use will have an adverse effect on coastal waters, either directly or through cumulative or secondary effects, unless appropriate land use management measures are employed.

"(7) ENFORCEABLE POLICY.—The term 'enforceable policy' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

"(8) ESTUARINE AREA.—The term 'estuarine area' includes any part or all of an estuary, and any island, transitional area, or upland in, adjoining, or adjacent to that estuary.

"(9) ESTUARY.—The term 'estuary' means a semienclosed body of coastal water, connected to the ocean, where sea water is mixed with and measurably diluted by fresh water. The term includes estuary-type areas of the Great Lakes.

"(10) LAND USE.—The term 'land use' means a use, activity, or project conducted on lands within the coastal zone.

"(11) LOCAL GOVERNMENT.—The term 'local government' means any political subdivision of, or any special entity created by, any coastal State, which (in whole or part) is located in, or has authority over, such State's coastal zone and which—

"(A) has authority to levy taxes, or to establish and collect user fees; or

"(B) provides any public facility or public service which is financed in whole or part by taxes or user fees.

The term includes any school district, fire district, transportation authority, and any other special purpose district or authority.

"(12) MANAGEMENT PROGRAM.—The term 'management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by a coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of natural resources, lands, and waters in the coastal zone.

"(13) PERSON.—The term 'person' means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the Federal Government; any State, regional, or local government; and any entity of any Federal, State, regional, or local government.

"(14) SEA LEVEL RISE.—The term 'sea level rise' means an increase in the level of the sea relative to the level of adjacent land.

"(15) SPECIAL AREA MANAGEMENT PLAN.—The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable water-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of natural resources, lands, and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

"(16) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.

"(17) WATER-DEPENDENT USE.—The term 'water-dependent use' means a use, activity, or project that requires direct physical siting on or proximity or access to, an adjacent body of coastal water. The term includes industrial or commercial activities related to port and harbor operation and commercial fishing, and activities related to water recreation. A use, activity, or project shall not be considered to be a water-dependent use solely because of economic advantages that may be gained from a coastal waterfront location.

"(18) WATER USE.—The term 'water use' means a use, activity, or project conducted in or on waters within the coastal zone.

"SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

"(a) DEVELOPMENT GRANTS.—In fiscal years 1991, 1992, and 1993, the Under Secretary may make a grant annually to any coastal State without an approved program from sums available to the Under Secretary under section 309, if the coastal State demonstrates to the satisfaction of the Under Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-one ratio of Federal-to-State contributions. After an initial grant is made to a coastal State pursuant to this subsection, no subsequent grant shall be made to that coastal State pursuant to this subsection unless the Under Secretary finds that the coastal State is satisfactorily developing its

management program. No coastal State is eligible to receive more than 2 grants pursuant to this subsection.

"(b) SUBMITTAL OF PROGRAM.—Any coastal State which has completed the development of its management program shall submit such program to the Under Secretary for review and approval pursuant to section 306.

"SEC. 306. ADMINISTRATIVE GRANTS.

"(a) GENERAL.—The Under Secretary may make grants to any coastal State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

"(1) EXISTING PROGRAMS.—For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, one to one for any fiscal year.

"(2) DEVELOPING PROGRAMS.—For States for which programs are approved after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to one for the first fiscal year, 2.3 to one for the second fiscal year, 1.5 to one for the third fiscal year, and one to one for each fiscal year thereafter.

"(b) GRANT CONDITIONS.—The Under Secretary may make a grant to a coastal State under subsection (a) only if the Under Secretary finds that the management program of the coastal State meets all applicable requirements of this title and has been approved in accordance with subsection (d).

"(c) GRANT ALLOCATION.—Grants under this section shall be allocated to coastal States with approved programs based on rules and regulations promulgated by the Under Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Under Secretary shall establish, after consulting with the coastal States, maximum and minimum grants for any fiscal year to promote equity between coastal States and effective coastal management.

"(d) PROGRAM APPROVAL REQUIREMENTS.—Before approving a management program submitted by a coastal State, the Under Secretary shall find the following:

"(1) IN GENERAL.—The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Under Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303.

"(2) REQUIRED PROGRAM ELEMENTS.—The management program includes each of the following:

"(A) An identification of the boundaries of the coastal zone subject to the management program.

"(B) A definition of permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

"(C) An inventory and designation of areas of particular concern within the coastal zone.

"(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

"(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

"(F) A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

"(G) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

"(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating and managing the impacts from such facilities.

"(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

"(3) REQUIRED PROCEDURES.—The State has—

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

"(i) existing on January 1 of the year in which the State's management program is submitted to the Under Secretary; and

"(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination among the management agency designated pursuant to paragraph (6), local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Under Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

"(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

"(ii) within the 30-day period commencing on the date of receipt of the notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

"(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

"(I) shall consider the comments;

"(II) may, in its discretion, hold a public hearing on the comments; and

"(III) may not take any action within the 30-day period to implement the management program decision.

"(4) PUBLIC HEARINGS.—The State has held public hearings in the development of the management program.

"(5) GUBERNATORIAL APPROVAL.—The management program and any amendment, modification, or other change thereto have been reviewed and approved by the Governor of the State.

"(6) DESIGNATION OF LEAD AGENCY.—The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

"(7) ORGANIZATION.—The State is organized to implement the management program.

"(8) NATIONAL INTEREST.—The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Under Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

"(9) AREA DESIGNATIONS.—The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

"(10) AUTHORITY TO IMPLEMENT PROGRAM.—The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(11) CONTROL OF USES.—The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

"(B) Direct State land and water use planning and regulation.

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(12) USES OF REGIONAL BENEFIT.—The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

"(13) PROTECTION OF NATIONALLY SIGNIFICANT RESOURCES.—The management program provides for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

"(14) PUBLIC PARTICIPATION.—The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

"(15) INTRASTATE COMPLIANCE.—The management program provides a mechanism to ensure that all State agencies will adhere to the program.

"(e) PROGRAM AMENDMENTS AND MODIFICATIONS.—

"(1) IN GENERAL.—A coastal State may amend, modify, or otherwise change its ap-

proved management program as provided in this subsection.

"(2) NOTIFICATION REQUIRED.—A coastal State shall promptly notify the Under Secretary of any proposed amendment, modification, or change in its management program and submit it to the Under Secretary for his or her approval. The Under Secretary may suspend all or part of any grant made to the State under this section pending submission of the proposed amendment, modification, or change by the State.

"(3) REVIEW AND APPROVAL BY UNDER SECRETARY.—(A) Within 30 days after the date the Under Secretary receives any amendment, modification, or other change proposed by a coastal State to its management program, the Under Secretary shall approve or disapprove the proposal, unless the Under Secretary finds it is necessary to extend the period for reviewing the proposal. Upon such a finding, the Under Secretary may extend the period for review to not later than 120 days after the date the Under Secretary received the proposal. The Under Secretary may further extend the period for review only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) If the Under Secretary does not approve or disapprove an amendment, modification, or other change proposed by a coastal State to its management program within 120 days after the date the proposal is received by the Under Secretary, the proposal is deemed to be approved by the Under Secretary unless the Under Secretary has extended the period for review for purposes of meeting the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) APPROVAL REQUIRED FOR IMPLEMENTATION.—(A) Except as provided in subparagraph (B), a coastal State may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Under Secretary under this subsection.

"(B) The Under Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which is subject to preliminary approval under this paragraph shall not be considered an enforceable policy for purposes of section 307(m).

"SEC. 306A. RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible coastal State' means a coastal State that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Under Secretary, is making continual and satisfactory progress in improving its approved coastal zone management program in compliance with section 310; and

"(2) the term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential, recreational, commercial, shipping, or industrial purpose.

"(b) GRANTS AND RESOURCE IMPROVEMENTS.—The Under Secretary may make grants to any eligible coastal State to assist that State in meeting one or more of the following objectives:

"(1) PRESERVATION OR RESTORATION.—Preserving or restoring specific areas of the coastal zone—

"(A) that are designated under the management program procedures required by section 306(d)(9) because of their conservation, recreational, ecological, historic, or esthetic value;

"(B) under a comprehensive restoration program adopted under section 310(a)(1);

"(C) that contain one or more coastal resources of national significance; or

"(D) for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reefs and bottom lands.

"(2) REDEVELOPMENT.—Redeveloping deteriorating and underutilized urban waterfronts and ports that are designated under section 306(d)(2)(C) in the State's management program as areas of particular concern.

"(3) PUBLIC ACCESS.—Providing access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 306(d)(2)(G).

"(c) GRANT RESTRICTIONS.—

"(1) TERMS AND CONDITIONS.—Each grant under this section shall be subject to any terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) ELIGIBLE USES.—Grants under this section may be used for—

"(A) acquiring fee simple and other interests in land;

"(B) low-cost construction projects determined by the Under Secretary to be consistent with the purposes of this section, including construction of paths, walkways, fences, parks, and oyster beds and the rehabilitation of historic buildings and structures, except that not more than 50 percent of any grant under this section may be used for such construction projects;

"(C) in the case of grants for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity;

"(ii) the establishment of shoreline stabilization measures, including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use;

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, except that activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in subparagraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Under Secretary determines to be consistent with the purposes of this section.

"(d) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The Under Secretary shall require a coastal State to match a grant under this section in a ratio of at least one to one of Federal to State contribution.

"(2) USE FOR OTHER MATCHING REQUIREMENTS.—A coastal State may use a grant under this section to pay the State's share of costs required under any other Federal program that is consistent with the purposes of this section.

"SEC. 306B. MANAGING LAND USES THAT AFFECT COASTAL WATERS.

"(a) IN GENERAL.—

"(1) PROGRAM DEVELOPMENT.—Not later than 3 years after the effective date of this section, the management agency designated pursuant to section 306(d)(6) by each coastal State for which a management program has been approved pursuant to section 306 (hereinafter in this section referred to as the 'coastal management agency'), shall prepare and submit to the Under Secretary a Coastal Water Quality Protection Program (hereinafter in this section referred to as the 'program') for approval pursuant to this section. The purpose of the program shall be to develop and implement coastal land use management measures for land-based sources of nonpoint source pollution, working in close conjunction with other State and local authorities.

"(2) PROGRAM COORDINATION.—(A) In developing and carrying out the program, the coastal management agency shall coordinate closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330).

"(B) The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting the coastal zone. The program shall be prepared in close consultation with the State authority responsible for implementation of the program prepared under section 319 of that Act, in order to assure full coordination in each participating State.

"(b) PROGRAM CONTENTS.—The Under Secretary in consultation with the Administrator of the Environmental Protection Agency, shall approve a program under this section if it provides for the following:

"(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

"(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes;

"(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources; or

"(C) outstanding resource waters designated pursuant to paragraph (4).

"(2) IDENTIFYING CRITICAL COASTAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas within which any new land uses or substantial expansion of existing land uses will be subject to land use management measures that are determined necessary by the coastal management agency, in cooperation with the State water quality authorities and other State or local authorities, as appropriate, to protect and restore coastal water quality and designated uses.

"(3) COASTAL LAND USE MANAGEMENT MEASURES.—(A) The implementation and continuing revision from time to time of land use management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that the coastal man-

agement authority, working in conjunction with the State water pollution control agency and other State and local authorities, determines are necessary to achieve applicable water quality standards and protect designated uses.

"(B) Coastal land use management measures under this paragraph may include, among other measures, the use of—

"(i) buffer strips;

"(ii) setbacks;

"(iii) density restrictions;

"(iv) techniques for identifying and protecting critical coastal areas and habitats;

"(v) soil erosion and sedimentation control; and

"(vi) siting and design criteria for water uses, including marinas.

"(4) OUTSTANDING RESOURCE WATERS.—The continuing identification and designation (after periodic nominations, notice, and public comments) of coastal waters which, because of their special ecological, recreational, or esthetic characteristics, are determined by the State to constitute outstanding resource waters. Outstanding resource waters may include—

"(A) areas adjacent to national or State parks or wildlife refuges;

"(B) national estuarine research reserves and national marine sanctuaries;

"(C) waters adjacent to units of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.); or

"(D) shellfish harvesting areas or fish spawning areas of particular State or local importance.

"(5) TECHNICAL ASSISTANCE.—The provision of technical and financial assistance to local governments and the public for implementing the measures referred to in paragraph (3), including assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

"(6) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

"(7) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, interagency certifications, memoranda of agreement, and other mechanisms.

"(8) STATE COASTAL ZONE BOUNDARY MODIFICATION.—Modification of the boundaries of the State coastal zone as the coastal management agency determines is necessary to manage the land uses identified pursuant to paragraph (1) and to implement, as may be required, the recommendations made pursuant to subsection (e).

"(c) PROGRAM SUBMISSION AND APPROVAL.—

"(1) PROCEDURES.—The submission and approval of a proposed program shall be governed by the procedures established by section 306(e).

"(2) ELIGIBILITY FOR AND WITHDRAWING ASSISTANCE.—If the Under Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the State shall not be eligible for any funds under this section or section 603 of the Coastal Defense Initiative of 1990, and the Under Secretary shall withdraw a portion of grants otherwise available to the State under section 306 of this Act as follows:

"(A) 10 percent after 3 years after the date of the enactment of this section.

"(B) 15 percent after 4 years after the date of the enactment of this section.

"(C) 20 percent after 5 years after the date of the enactment of this section.

"(D) 30 percent after 6 years after the date of the enactment of this section and thereafter.

The Under Secretary shall make amounts withdrawn under this paragraph available to coastal States having programs approved under this section.

"(d) TECHNICAL ASSISTANCE.—The Under Secretary and the Administrator of the Environmental Protection Agency shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

"(1) methods for assessing water quality impacts associated with coastal land uses;

"(2) methods for assessing the cumulative water quality effects of coastal development;

"(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

"(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

"(e) INLAND BOUNDARIES.—

"(1) REVIEW.—The Under Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the date of enactment of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

"(2) RECOMMENDATION.—If the Under Secretary finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Under Secretary shall recommend appropriate modifications in writing to the affected State.

"(f) FINANCIAL ASSISTANCE.—With sums appropriated pursuant to section 318(a)(2), the Under Secretary shall provide grants to each coastal State to assist in fulfilling the requirements of this section if the coastal State matches any such grant according to a 4 to 1 ratio of Federal to State contribution. Funds available for implementing this section shall be allocated according to the regulations issued under section 306(c), except that the Under Secretary may use not more than 30 percent of any such funds to provide grants to assist those States which the Under Secretary finds are making exemplary progress in complying with the requirements of this section.

"SEC. 307. COORDINATION AND COOPERATION.

"(a) IN GENERAL.—In carrying out the functions and responsibilities of this title, the Under Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate these activities with other interested Federal agencies.

"(b) FEDERAL AGENCY CONSULTATION.—The Under Secretary shall not approve the management program submitted by a State pursuant to section 306, or any amendment, modification, or other change to the management program, unless the views of Federal agencies principally affected by such program or amendments have been adequately considered.

"(c) FEDERAL AGENCY ACTIVITIES.—

"(1) IN GENERAL.—Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

"(2) PRESIDENTIAL EXEMPTION.—After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, United States Code, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subsection (c)(1), and certification by the Under Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Under Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted due to a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

"(3) CONSISTENCY DETERMINATION REQUIRED.—Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

"(d) FEDERALLY LICENSED OR PERMITTED ACTIVITIES.—

"(1) IN GENERAL.—Any applicant for a required Federal license or permit to conduct an activity in or outside the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone of a State, shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the State's approved program and that the activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the State or its designated agency a copy of the certification, with all necessary information and data, and with any fee which may be required pursuant to subsection (i). Each coastal State shall establish procedures for public notice in the case of all certifications and, to the extent it deems appropriate, procedures for public hearings. At the earliest practicable time, the State or its designated agency shall notify the Federal agency concerned that the State concurs with or objects to the applicant's certification. If the State or its designated agency fails to furnish the required notification within 6 months after receipt of its copy of the applicant's certification, the State's concurrence with the certification shall be conclusively

presumed. No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the State's failure to act, the concurrence is conclusively presumed, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the findings and policies of this title or is otherwise necessary in the interest of national security.

"(2) OUTER CONTINENTAL SHELF EXPLORATION, DEVELOPMENT, OR PRODUCTION.—Any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any natural resources, land uses, or water uses in the coastal zone of a State, attach to such plan a certification that each activity which is described in detail in such plan complies with such State's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such State or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and with any fee which may be required pursuant to subsection (i), and until—

"(A) the State or its designated agency, in accordance with the procedures required to be established by the State pursuant to paragraph (1), concurs with the certification and notifies the Under Secretary and the Secretary of the Interior of the concurrence;

"(B) concurrence by the State with such certification is conclusively presumed as provided for in paragraph (1). If the State fails to concur with or object to the certification within 3 months after receipt of its copy of the certification and supporting information, the State shall provide the Under Secretary, the appropriate Federal agency, and the person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if the statement is not so provided, concurrence by such State with the certification shall be conclusively presumed; or

"(C) the Under Secretary finds, pursuant to paragraph (1), that each activity which is described in detail in such plan is consistent with the findings and policies of this title or is otherwise necessary in the interest of national security.

If a State concurs or is conclusively presumed to concur, or if the Under Secretary makes such a finding, the provisions of paragraph (1) do not apply to the person, the State, and any Federal license or permit which is required to conduct any activity affecting natural resources, land uses, or water uses in the coastal zone of the State which is described in detail in the plan to which the concurrence or finding applies. If the State objects to the certification and if the Under Secretary fails to make a finding under subparagraph (C) or if the person fails substantially to comply with the plan as submitted, the person shall submit an amendment to the plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under paragraph (1) is 3 months.

"(e) FEDERAL ASSISTANCE PROGRAMS.—State and local governments submitting applications for Federal assistance under other Federal programs, for activities in or outside the coastal zone affecting any natural resources, land uses, or water uses in the coastal zone, shall include the views of the agency designated pursuant to section 306(d)(6) as to the relationship of the activities to the approved management program. The applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not provide assistance for any activity that is inconsistent with a coastal State's management program, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the findings and policies of this title or is otherwise necessary in the interest of national security.

"(f) RELATIONSHIP TO OTHER FEDERAL LAWS.—Nothing in this title shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of 2 or more States or of 2 or more States and the Federal Government; nor to limit the authority of the Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing any laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada; the Permanent Engineering Board; the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961; or the International Boundary and Water Commission, United States and Mexico.

"(g) INCORPORATION OF AIR AND WATER STANDARDS.—Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.), or (2) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

"(h) MEDIATION.—In case of serious disagreement between any Federal agency and a coastal State or between 2 or more States—

"(1) in the development or the initial implementation of a management program under section 305; or

"(2) in the administration of a management program approved under section 306;

the Under Secretary shall seek to mediate the disagreement.

"(i) STATE FEE.—Each coastal State may establish, collect, and expend, without regard to any other requirement of this title, a fee to recover the reasonable costs of administering subsection (d). Such fee may recover the full costs of administration, including the reasonable costs of required research, monitoring, and enforcement.

"(j) FEDERAL FEE.—The Under Secretary may establish, collect and expend, without regard to any other requirement of this title, a fee to recover the full costs of administering and processing appeals under subsection (d).

"(k) WAIVING RIGHT TO APPEAL.—An applicant may waive the right to an appeal pursuant to subsection (d) or (e) if written notification of the waiver is received by the coastal State and the Under Secretary within 60 days after the date on which the coastal State objected to the applicant's certification under that subsection.

"(l) RESTRICTION OF STATE AUTHORITY.—A coastal State may not exercise the requirements of subsection (c), (d), or (e)—

"(1) unless the coastal State's management program has been approved pursuant to section 306; or

"(2) if approval of the coastal State's management program has been withdrawn pursuant to section 312(d).

"(m) CONSISTENCY WITH ENFORCEABLE POLICIES REQUIRED.—In complying with the provisions of subsections (c), (d), and (e), activities of Federal agencies and applicants shall be carried out consistent with the enforceable policies of the State management program. Federal agencies shall give adequate consideration to program provisions which are in the nature of recommendations.

"SEC. 308. COASTAL ENERGY IMPACT PROGRAM.

"(a) IN GENERAL.—Not later than January 1, 1993, the Under Secretary shall recommend to the Congress a coastal energy impact program. These recommendations shall include provision of financial and technical assistance to meet the needs of coastal States and local governments resulting from energy facilities and related activities affecting natural resources, land uses, or water uses in the coastal zone. The program shall identify the major energy activities which are affecting natural resources, land uses, or water uses in the coastal zone and the major obstacles, if any, to effective management of such activities under this title.

"(b) OUTER CONTINENTAL SHELF STATE PARTICIPATION.—

"(1) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement a program to assist coastal States in fulfilling their responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

"(2) PARTICIPATION GRANTS.—The Under Secretary shall make grants under this paragraph to any coastal State which the Under Secretary finds is likely to be affected by Outer Continental Shelf energy activities, if the State matches the grant according to a 4 to 1 ratio of Federal to State contribution. The grants shall be used to assist the State in carrying out its responsibilities under the Outer Continental Shelf Lands Act.

"(c) LOAN REPAYMENT OBLIGATIONS UNAFFECTED.—The obligations of any coastal State or unit of general purpose local government to repay loans made pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(d)(1)), as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repay-

ment schedule established pursuant to that Act, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Under Secretary may issue regulations governing such repayment. If the Under Secretary finds that any coastal State or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Under Secretary shall, after review of the information submitted by such State or unit take any of the following actions:

"(1) Modify the terms and conditions of such loan.

"(2) Refinance the loan.

"(3) Recommend to the Congress that legislation be enacted to forgive the loan.

"(d) OFFSETTING COLLECTIONS.—Loan repayments made pursuant to subsection (c) shall be retained by the Under Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under section 309.

"SEC. 309. COASTAL ZONE MANAGEMENT FUND.

"(a) ESTABLISHMENT.—The Under Secretary shall establish and maintain a fund, to be known as the 'Coastal Zone Management Fund' (hereinafter in this section referred to as the 'Fund'), which shall consist of amounts retained and deposited into the Fund under section 308(d).

"(b) USE.—Subject to amounts provided in Appropriation Acts, amounts in the Fund shall be available to the Under Secretary for use for the following:

"(1) ADMINISTRATION.—Expenses incident to the administration of this title, in an amount not to exceed—

"(A) $5,000,000 for fiscal year 1991;

"(B) $5,225,000 for fiscal year 1992;

"(C) $5,460,125 for fiscal year 1993;

"(D) $5,705,830 for fiscal year 1994; and

"(E) $5,962,593 for fiscal year 1995.

"(2) OTHER USES.—After use under paragraph (1)—

"(A) projects to address management issues which are regional in scope, including interstate projects;

"(B) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

"(C) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

"(D) appropriate awards recognizing excellence in coastal zone management as provided in section 314;

"(E) program development grants as authorized by section 305;

"(F) State participation grants under section 308(b); and

"(G) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

"(c) REPORT.—On December 1 of each year, the Under Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

"SEC. 310. NATIONAL INTEREST IMPROVEMENTS.

"(a) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement an ongoing program to encourage each coastal State to make continual improvements in its management program in specified national interest areas. This program shall encourage and monitor improvements in one or more of the following special national interest areas:

"(1) COASTAL WETLANDS MANAGEMENT AND PROTECTION.—Coastal wetlands management and protection, consistent with the interim goal to achieve no overall net loss of the Nation's remaining wetlands base, including adoption of—

"(A) enforceable policies to manage and protect coastal wetlands; and

"(B) a comprehensive restoration program for coastal wetlands for the purpose of attaining increases in functioning wetlands communities.

"(2) NATURAL HAZARDS MANAGEMENT.—Management of development and redevelopment in hazardous areas, including enforceable policies and management strategies to—

"(A) reduce the threat to life and the destruction of property by discouraging development and redevelopment in high hazard areas;

"(B) properly manage development and redevelopment in other hazard areas including such mechanisms as setbacks, requirements that buildings be suitable for relocation and other special building code standards, and acquisition and relocation programs; and

"(C) anticipate and manage the effects of potential sea level or Great Lakes level rise and land subsidence by—

"(i) requiring consideration of sea level or Great Lakes level rise and land subsidence in the siting of new public infrastructure investments and new large-scale developments with long life expectancies, such as sewage treatment plants, industrial plants, and hazardous waste facilities;

"(ii) establishing and protecting buffer zones for wetlands which are likely to migrate landward in response to sea level or Great Lakes level rise;

"(iii) ensuring that protection of natural resources is a feature of both structural and nonstructural responses to sea level or Great Lakes level rise or land subsidence; and

"(iv) requiring building setbacks and standards that minimize the adverse effects of sea level or Great Lakes level rise or land subsidence.

"(3) PUBLIC ACCESS.—Providing public access to coastal areas, including development of a program to increase public access to coastal areas of recreational, historical, esthetic, ecological, or cultural value, based on assessments of long-term public access needs. This program shall include enforceable policies necessary to meet public needs for access, including appropriate regulatory means and programs to obtain access sites through donation, dedication, and acquisition, and shall include a process for public nomination of areas to be acquired for public access purposes.

"(4) CUMULATIVE AND SECONDARY IMPACTS.—Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect of various individual uses or activities on coastal resources, such as coastal wetlands, and the cumulative effect of nonpoint pollution from individual land uses or water uses.

"(5) COASTAL ENERGY DEVELOPMENT.—Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and accommodate energy-related activities which may be of greater than local significance, including—

"(A) mitigation policies and guidelines which will be applicable to energy development activities;

"(B) procedures to coordinate Federal energy policies and programs with State coastal zone management programs; and

"(C) consolidation of permitting and regulatory reviews.

"(b) NATIONAL INTEREST IMPROVEMENTS PROGRAMS.—To implement the program required under subsection (a), the Under Secretary shall assess, for each coastal State, the priority needs for improvement in each of the special national interest areas, and based on that assessment, shall seek to negotiate a National Interest Improvements Program (hereinafter in this section referred to as a 'program') for each coastal State with an approved management program. Each program shall cover a period of at least 3 years and shall include specific, measurable goals and milestones to facilitate effective oversight by the Under Secretary pursuant to subsection (e).

"(c) NOTIFICATION.—In negotiating each program, the coastal State shall notify and consult with appropriate Federal agencies, State agencies, local governments, regional organizations, port authorities, and the public, and where appropriate shall establish a citizens advisory group to assist in development and implementation of the program.

"(d) PHASED IMPLEMENTATION.—If necessary for effective administration, the Under Secretary may stagger implementation of programs required under subsection (a) such that no less than one-third of the participating coastal States are negotiating a program in any single year.

"(e) EVALUATION.—

"(1) ANNUAL REVIEW.—The Under Secretary shall continually monitor progress in implementing each program negotiated under this section and shall provide each State with an annual evaluation of progress. Unless the Under Secretary finds, for each one-year period, that the coastal State is making continual and satisfactory progress in implementing each component of the program, the Under Secretary shall notify the coastal State and the public and shall specify additional actions required to ensure satisfactory implementation.

"(2) REASSESSMENT AND SUSPENSION.—Six months after notifying a State under paragraph (1), the Under Secretary shall reassess the State's progress. Unless the Under Secretary finds that the State is making satisfactory progress in undertaking the actions required under paragraph (1), the Under Secretary shall suspend that State's eligibility for further funding under this section for at least one year.

"(3) WAIVER.—The Under Secretary may waive the requirements of this section only by finding that a lack of satisfactory progress by a State is due to factors which are beyond the control of the State and which were unforeseen at the time the plan was negotiated. The Under Secretary shall notify the Congress and the public before granting any waiver under this subsection.

"(f) FUNDING.—Beginning in fiscal year 1991, at least 10 percent, but not more than 20 percent, of the amounts appropriated under section 318(a)(1) to implement sections 306 and 306A shall be used by the Under Secretary to implement this section.

"(g) NO STATE MATCH REQUIRED.—No State match is required for activities funded under this section.

"(h) GRANT ALLOCATION.—Funds available to implement this section shall be distributed among eligible States as follows:

"(1) FORMULA GRANTS.—Fifty percent according to regulations promulgated pursuant to section 306(c).

"(2) DISCRETIONARY GRANTS.—Fifty percent for discretionary awards according to guidelines or regulations issued by the Under Secretary pursuant to section 317.

"(i) REGULATIONS.—The Under Secretary shall issue regulations under section 317 providing guidance for any program negotiated under this section.

"SEC. 311. PUBLIC HEARINGS AND MEETINGS.

"All public hearings and meetings required under this title shall be announced at least 45 days prior to the hearing or meeting date. At the time of the announcement, all materials of the agency conducting a hearing or meeting and pertinent to the hearing or meeting, including documents, studies, and other data, shall be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

"SEC. 312. REVIEW OF PERFORMANCE.

"(a) PERIODIC REVIEW OF STATE PROGRAMS.—The Under Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which each coastal State has implemented and enforced a program of the State approved by the Under Secretary under this Act (including regarding adherence by State agencies and units of local government to the program), furthered the coastal management program requirements identified in section 303(3), satisfactorily complied with any national interest improvement program under section 310, and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) PUBLIC PARTICIPATION.—For the purpose of evaluating pursuant to subsection (a) a coastal State's performance, the Under Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form, shall contain written response to all written comments received, and shall be available to the public.

"(c) PROBATIONARY PERIOD.—The Under Secretary may place a coastal State on probation for not more than 2 years if the Under Secretary, on the basis of an evaluation which has been completed pursuant to subsection (b), finds substantial evidence that the State is failing to adequately implement or enforce important components of its approved program but that such evidence or failure constitutes insufficient grounds for action pursuant to subsection (d). If the Under Secretary makes the finding authorized in this subsection—

"(1) the Under Secretary shall notify the coastal State of—

"(A) the effective date of the probation;

"(B) the portion or portions of the program to which the probation is effective; and

"(C) written recommendations for corrective actions; and

"(2) the Under Secretary shall withdraw up to 25 percent of the funds available to the State pursuant to this title for use in assisting the State in implementing the recommendations under paragraph (1)(C), and any funds withdrawn but not used to implement recommendations under paragraph (1)(C) shall be added to amounts appropriated under section 318(a)(1).

"(d) PROGRAM DISAPPROVAL.—The Under Secretary shall withdraw approval of the management program of any coastal State, and shall withdraw any financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Under Secretary determines that the State is failing to adhere to, and is not justified in deviating from—

"(1) the management program approved by the Under Secretary, or

"(2) the terms of any grant or cooperative agreement funded under this title, and refuses to remedy the deviation.

Upon the withdrawal of management program approval under this subsection, the Under Secretary shall provide the coastal State with written specifications of the actions that should be taken, or not engaged in, by the State in order that such withdrawal may be canceled by the Under Secretary.

"(e) ADVANCE NOTIFICATION REQUIRED.—Prior to taking any action required under subsection (c) or (d), the Under Secretary shall notify the coastal State and provide an opportunity for a public hearing on the proposed action.

"SEC. 313. RECORDS AND AUDIT.

"(a) RECORDS.—Each recipient of financial assistance under this title shall keep any records as the Under Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received and of the proceeds of the assistance, the portion of the total cost of any project or undertaking supplied by other sources, and other records as will facilitate an effective audit.

"(b) ACCESS TO RECORDS.—The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

"(1) after any financial assistance is provided under this title; and

"(2) until the expiration of 3 years after—

"(A) completion of the project, program, or other undertaking for which financial assistance was made or used, or

"(B) repayment of the loan or guaranteed indebtedness for which financial assistance was provided;

have access to audit and examine any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the financial assistance and which is pertinent for purposes of determining if the financial assistance is being, or was, used in accordance with this title.

"SEC. 314. WALTER B. JONES EXCELLENCE IN COASTAL MANAGEMENT AWARDS.

"(a) IN GENERAL.—The Under Secretary shall, using sums in the Coastal Zone Management Fund established under section 309, implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

"(b) AWARD CATEGORIES AND SELECTION.—The Under Secretary shall select annually—

"(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

"(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this title; and

"(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

"(c) LOCAL GOVERNMENT NOMINATIONS.—In making selections under subsection (b)(2) the Under Secretary shall solicit nominations from the coastal States, and shall consult with experts in local government planning and land use.

"(d) GRADUATE STUDENT NOMINATIONS.—In making selections under subsection (b)(3) the Under Secretary shall solicit nominations from coastal States and the National Sea Grant College Program.

"(e) WALTER B. JONES AWARDS.—Using sums in the Coastal Zone Management Fund established under section 309, the Under Secretary shall establish and execute appropriate awards, to be known as the 'Walter B. Jones Awards', including—

"(1) cash awards in an amount not to exceed $5,000 each;

"(2) research grants; and

"(3) public ceremonies to acknowledge such awards.

"SEC. 315. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

"(a) ESTABLISHMENT OF SYSTEM.—There is established the National Estuarine Research Reserve System (hereinafter in this section referred to as the 'System'), consisting of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

"(2) each estuarine area designated as a national estuarine research reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine research reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESEARCH RESERVES.—The Under Secretary may designate an estuarine area as a national estuarine research reserve if—

"(1) the area constitutes, to the extent feasible, a natural unit which can be set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationship within the area;

"(2) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(3) the Under Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term monitoring and research and contributes to the biogeographical and typological balance of the System;

"(B) the laws of the coastal State provide long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Under Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Under Secretary shall develop guidelines for the conduct of research within the System that shall include the following:

"(1) IDENTIFYING PRIORITIES.—A mechanism for identifying and establishing priorities among the coastal management issues

that should be addressed through coordinated research within the System.

"(2) RESEARCH OBJECTIVES.—The establishment of common research principles and objectives to guide the development of research programs within the System.

"(3) COMMON METHODS.—The identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes.

"(4) MONITORING.—The conduct of monitoring activities within the System, including the monitoring of physical, chemical, and biological parameters and criteria associated with the estuarine ecosystem.

"(5) STANDARDS.—The establishment of performance standards by which the effectiveness of the research efforts and the value of reserves within the System may be measured in addressing and coastal management issues identified in paragraph (1).

"(6) OUTSIDE FUNDING SOURCES.—The consideration of sources of funds for estuarine research in addition to amounts authorized under this title, and strategies for encouraging the use of these funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this subsection, the Under Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Under Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes, including the following:

"(1) DATA MANAGEMENT.—Developing a data base accessible to the public for information derived from monitoring and research activities within the System.

"(2) TECHNICAL TRANSFER.—Providing for the exchange of information and data among national estuarine research reserves and between the reserves and estuarine and coastal resource managers.

"(3) PRIORITY CONSIDERATION.—Requiring the Department of Commerce, in conducting or supporting estuarine research, to give priority consideration to research that uses the System.

"(4) PROMOTING RESEARCH.—Consulting with other Federal and State agencies to promote use by such agencies of one or more national estuarine research reserves within the System when conducting estuarine research.

"(e) EDUCATION.—The Under Secretary shall—

"(1) develop guidelines providing for education activities in national estuarine research reserves;

"(2) promote the use of national estuarine research reserves by educational institutions and by programs of the United States Department of Education; and

"(3) establish and implement a program to exchange educational information throughout the System.

"(f) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Under Secretary may, in accordance with such rules and regulations as the Under Secretary shall promulgate, make grants—

"(A) to a coastal State entity—

"(i) to acquire lands and waters, and any property interests therein, necessary to ensure the appropriate long-term management of an area as a national estuarine research reserve,

"(ii) to operate or manage a national estuarine research reserve and to construct appropriate reserve facilities, or

"(iii) for educational or interpretive activities; and

"(B) to any coastal State entity or public or private institution or person to support research and monitoring within a national estuarine research reserve that are consistent with the research guidelines developed under subsection (c).

"(2) TERMS AND CONDITIONS.—Financial assistance provided under paragraph (1) shall be subject to any terms and conditions the Under Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interests of the United States in any lands and waters acquired in whole or in part with financial assistance under this section.

"(3) MATCHING FUNDS.—(A) The amount of financial assistance provided under paragraph (1)(A)(i) for any one national estuarine research reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein, or $6,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraphs (1)(A) (ii) and (iii) and paragraph (1)(B) may not exceed 50 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a national estuarine research reserve.

"(C) For purposes of this section, the term 'coastal State entity' means any legal entity established by legislative or executive act or order of a coastal State's government, including State universities, colleges, commissions, consortia, boards, or other institutions established for purposes, including research, education, or resource management.

"(g) EVALUATION OF SYSTEM PERFORMANCE.—

"(1) IN GENERAL.—The Under Secretary shall periodically evaluate the operation and management of each national estuarine research reserve, including educational and interpretive activities, and the research being conducted within the reserve.

"(2) SUSPENSION OF FUNDING.—If evaluation under paragraph (1) reveals that the operations and management of national estuarine research reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Under Secretary may suspend the eligibility of that reserve for financial assistance under subsection (f) until the deficiency or inconsistency is remedied.

"(3) WITHDRAWAL OF DESIGNATION.—The Under Secretary may withdraw the designation of an estuarine area as a national estuarine research reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any of the findings made under subsection (b)(3) no longer exists; or

"(B) a substantial portion of the research conducted within the reserve, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(h) REPORT.—The Under Secretary shall include in the report required under section 316 information regarding—

"(1) new designations of national estuarine research reserves;

"(2) any expansion of existing national estuarine research reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (g).

"(i) COOPERATIVE AGREEMENTS AND DONATIONS.—

"(1) COOPERATIVE AGREEMENTS.—The Under Secretary may enter into cooperative agreements with any nonprofit organization or institution of higher learning—

"(A) to aid and promote interpretive, historical, scientific, and educational activities within any national estuarine research reserve; and

"(B) for the solicitation of private donations for the support of such activities.

"(2) DONATIONS.—The Under Secretary may accept donations of funds, property, and services for use in designating and administering national estuarine research reserves under this section. Such donations shall be considered to be a gift or bequest to, or for the use of, the United States.

"SEC. 316. COASTAL ZONE MANAGEMENT REPORT.

"(a) IN GENERAL.—The Under Secretary shall transmit to the Congress reports summarizing the administration of this title during each period of 2 consecutive fiscal years. Each report shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, and shall include the following:

"(1) RECENTLY APPROVED PROGRAMS.—An identification of the State programs approved pursuant to this title during the preceding fiscal year and a description of those programs.

"(2) PARTICIPATING STATES.—A list of the coastal States participating under this title and a description of the status of each State's program and its accomplishments during the preceding fiscal year.

"(3) NONPARTICIPATING STATES.—A list of the coastal States not participating under this title, a description of efforts by the Under Secretary to encourage their participation, and additional action or incentives needed to secure participation.

"(4) FUNDING SUMMARY.—An itemization of the allocation of funds to the various coastal States and a breakdown of the major projects and areas in which these funds were expended.

"(5) PROGRAM PROBATIONS AND DISAPPROVALS.—An identification of any coastal State program which has been reviewed and placed on probation or disapproved, and a statement of the reasons for that action.

"(6) EVALUATION SUMMARY.—A summary of evaluation findings prepared in accordance with 312(a).

"(7) INCONSISTENT ACTIVITIES AND PROJECTS.—A list of all activities and projects which are not consistent with an applicable approved State management program.

"(8) REVISED REGULATIONS.—A summary of the regulations issued by the Under Secretary during the biennial period covered by the report.

"(9) PRIORITY PROBLEMS.—A summary of outstanding problems arising in the administration of this title, in order of priority.

"(10) MISCELLANEOUS.—Any other information as may foster effective oversight by the Congress.

"(11) STATE VIEWS.—Summary views and recommendations from each coastal State, including recommendations for additional legislation, necessary to achieve the objectives of this title and enhance its effective operation.

"(b) GUIDELINES.—For the purposes of paragraph (11), the Under Secretary shall

issue guidelines to the coastal States which outline the format for submitting summary views and recommendations.

"SEC. 317. RULES AND REGULATIONS.

"The Under Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after issuance of notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, any rules and regulations as may be necessary to carry out the provisions of this title.

"SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Under Secretary—

"(1) for grants under sections 306 and 306A, not to exceed $46,670,000 for fiscal year 1991, $48,770,000 for fiscal year 1992, $50,965,000 for fiscal year 1993, $53,258,000 for fiscal year 1994, and $55,655,000 for fiscal year 1995, to remain available until expended;

"(2) for grants under section 306B, not to exceed $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995, to remain available until expended; and

"(3) for grants under section 315, not to exceed $7,000,000 for fiscal year 1991, $7,355,000 for fiscal year 1992, $7,710,000 for fiscal year 1993, $8,065,000 for fiscal year 1994, and $8,420,000 for fiscal year 1995, to remain available until expended.

"(b) LIMITATION ON MATCHING FUNDS.—Federal funds received from other sources shall not be used to pay a coastal State's share of costs under section 306.

"(c) UNOBLIGATED GRANTS.—The amount of any grant, or portion of a grant, made to a coastal State under any section of this Act which is not obligated by the State during the fiscal year, for which it was first authorized to be obligated by the State, or during the next fiscal year, shall revert to the Under Secretary. The Under Secretary shall add the reverted amount to those funds available for grants under the section for which the reverted amount was originally made available.

"(d) PASSTHROUGH OF GRANT FUNDS.—With the approval of the Under Secretary, a coastal State may allocate to a local government, an area-wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this title. An allocation of grant funds shall not relieve a State of the responsibility for ensuring that any funds so allocated are used in conformance with applicable grant terms and conditions and to further the State's approved management program.

"SEC. 319. INTERSTATE AGREEMENTS AND COMPACTS.

"The consent of the Congress is hereby given to 2 or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts. Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.".

SEC. 202. DEADLINES FOR COMPLIANCE.

(a) NEW REQUIREMENTS.—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act (including a State which submitted such a program before the date of the enactment of this Act), shall demonstrate to the Under Secretary of Commerce for Oceans and Atmosphere compliance with the requirements of section 306(d)(14) and (15) of that Act by not later than 2 years after the date of the enactment of this Act.

(b) LAND USE MANAGEMENT PROGRAM GUIDELINES AND REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall issue guidelines for coastal States to follow in developing a program under section 306B of the Coastal Zone Management Act of 1972, as amended by this Act. Within 18 months after that date of enactment, the Under Secretary shall promulgate regulations governing the receipt, review, and approval of programs under that section.

SEC. 203. PACIFIC ISLAND STATE DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—There is authorized to be appropriated not more than $100,000 for each of fiscal years 1991 through 1995 for use by one Pacific island coastal State to develop a draft joint Federal-State resource management plan for ocean resources lying 3 to 12 miles from the baseline from which its territorial sea is measured. Amounts appropriated under this section may not be used to develop a plan affecting fishery resources subject to management under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) REPORT.—At the end of fiscal year 1995, the Pacific island coastal State which develops a management plan pursuant to subsection (a) shall transmit the plan to the Congress.

SEC. 204. REFERENCE.

A reference in any law, regulation, record, map, or paper or other document to the Coastal Zone Management Act of 1972 may be construed to be a reference to such Act, as amended by this Act.

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: (a) On page 37, line 3, insert the following after the term "outstanding resource waters.": "Such designations may include, but not be limited to, waters identified by the state water pollution control agency as being of special biological significance pursuant to its water quality planning processes."

(b) a. Page 34, line 1, strike "land based sources of".

b. Page 34, line 3, add the following after the period: "For purposes of this section, the term "land use" shall include uses of adjacent water areas as well."

(c) On Page 38, line 19, add the following after the period: "If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate state authority."

Mr. STUDDS (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 Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this is a three-part amendment that contains what are largely minor changes to section 306B of the bill—the new CZM Water Quality Program.

Subsection (a) of the amendment requires State coastal zone officials to take into account designations of high quality waters by State water pollution control officials when designating "outstanding resource waters" in coastal areas. This is designed to encourage cooperation between the relevant State agencies.

Subsection (b) clarifies that water uses, as well as land uses, that affect coastal water quality are to be covered by the new Coastal Water Quality Program.

Subsection (c) recognizes that several State CZM programs do not themselves have the statutory power to change the inland boundaries of their coastal zone. The bill as currently drafted suggests that those programs might not have their water quality initiatives approved unless they make the necessary changes—even though they lack the power to do so. My amendment recognizes this and requires State programs to recommend necessary changes in State authorities to facilitate the process of modifying CZM boundaries.

Mr. Chairman, I believe this is a noncontroversial amendment, it has bipartisan support, and I urge its adoption.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS:

(a) On page 44, line 22, insert after "consistent with" the following:

"(A) the requirements of this title, and (B)".

(b) On page 46, line 18, insert at the beginning thereof the following:

"(i) the requirements of this title, and (ii)".

(c) On page 48, line 4, insert after "consistent with" the following:

"(1) the requirements of this title, and (2)".

(d) On page 50, line 8, strike "pursuant to subsection (d) or (e)" and insert in lieu thereof the following: "pursuant to subsection (d)(1)(B), (d)(2)(C)(i) or (e)(2)".

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be consid-

ered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this amendment is designed to make more efficient the process of settling disputes under section 307 of the Coastal Zone Management Act. That section authorizes State governments to determine whether a proposed activity is compatible with the State's CZM plan, and allows proponents of the activity to appeal negative determinations to the Secretary of Commerce and ultimately the courts.

My amendment would permit persons who wish to appeal a State decision to waive consideration of national interest arguments if they wish to do so in order to speed up the appeals process. The amendment does not take any authority away from the Secretary of Commerce, however, and I believe it is acceptable to the minority and utterly without controversy.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, I do so only to clarify that we are in fact speaking in this amendment of a case where the State decision is that the activity is inconsistent with its own State coastal zone management plan and that an appeal is flowing from that decision rather than the converse where the national security grounds in fact are the paramount reasons for granting the decision.

Mr. STUDDS. The gentleman is correct.

Mr. TAUZIN. I thank the gentleman.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. LOWEY OF NEW YORK

Mrs. LOWEY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. LOWEY of New York: Page 41, after line 15, at the end of the matter proposed to be amended to be section 306B of the Coastal Zone Management Act, add the following:

"(g) LONG ISLAND SOUND CONSERVANCY DEMONSTRATION.—Notwithstanding any other provision of law and within one year after the effective date of this subsection, the Under Secretary shall establish an office, to be known as the Long Island Sound Conservancy, in the immediate vicinity of Long Island Sound. The office shall provide assistance to the States of Connecticut and New York in developing and implementing the plan described in subsection (a) and in demonstrating the most effective means of coordinating the implementation of coastal zone management and water quality programs. The Conservancy shall be eligible for grants under subsection (f) without regard to the matching requirement of that subsection.

Mrs. LOWEY of New York (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 gentlewoman from New York?

There was no objection.

Mrs. LOWEY of New York. Mr. Chairman, the purpose of this amendment is simple and straightforward. It will establish a Long Island Sound program office within the National Oceanic and Atmospheric Administration [NOAA] to demonstrate the most effective ways of coordinating the implementation of coastal zone management and water quality programs, both on an inter- and intra-state basis.

The committee amendment contains provisions, which Mr. STUDDS and I introduced at the subcommittee level, to require State coastal zone management agencies and water quality agencies to work together to develop and implement a unified water quality plan. Those provisions—in section 306B—seek to overcome the bureaucratic barriers that have separated coastal land management and water quality programs and inhibited their ability to attack the problem of nonpoint source pollution.

This amendment sets up a Long Island Sound demonstration office designed to assist New York and Connecticut in developing and implementing coastal land use management measures that will restore and revitalize the sound. The office will provide technical assistance to help these states identify: Land uses that contribute to the degradation of coastal waters, critical coastal areas, and appropriate land use management measures to control nonpoint source pollution.

The office will provide assistance to local governments, facilitate public participation, administrative coordination among State agencies and between States, and, if necessary, assistance in modifying coastal zone boundaries.

Why do we need a special office for Long Island Sound? Because one of this country's great natural resources is dying before our very eyes. Large areas of the western sound have so little dissolved oxygen that fish can't survive in those waters. The fish that have survived there often suffer from deformities and contamination. Once productive fishing areas are now dead due to the enormous quantities of nutrient pollution inundating the sound. Recent articles in the New York Times and other local papers detail the tragedy that is unfolding in Long Island Sound.

Mr. Chairman, for millions of people Long Island Sound is a wellspring of commercial and recreational opportunity. But its enormous resources are the seeds of its destruction. We need an office working full time to save Long Island Sound. With over 150 municipalities and two States bordering this vital estuary, the sound urgently needs a single entity to coordinate efforts to protect it.

Much of the pollution that is destroying the sound comes from nonpoint sources. According to the Long Island Sound study, nearly half of all the nutrient pollution of the sound occurs as a result of nonpoint source pollution. Prudent land management is essential to any effective effort to protect essential waterways like Long Island Sound.

The Long Island Sound office will provide a valuable—and essential—demonstration of how States can improve coordination between land management and water quality agencies and strengthen cooperation between themselves where vital waterways have watersheds in more than one State.

A number of America's most precious estuaries, including Long Island Sound, the Chesapeake Bay, and the Great Lakes, border several States, each of which contributes to the nonpoint source and other pollution affecting those bodies. In Long Island Sound, agricultural runoff from Connecticut and nonpoint source pollution from densely populated areas in New York combine to account for almost one-half of the sound's nutrient loading problem.

It is essential, in addition to coordinating their own efforts to protect water quality, that these two States work closely together to implement programs that will complement each others' efforts. The Long Island Sound office will serve as a point of communication between the two States and a clearinghouse for information concerning coastal protection.

This demonstration office will provide other States valuable information on how best to coordinate efforts to combat nonpoint source pollution without abandoning their own authorities. If we are really going to restore and protect our precious waterways, land management decisions and water quality standards must be coordinated, the same is true of the activities of various States. A Long Island Sound office administered by NOAA would help ensure those necessarily close relationships. It will build on the provisions of the bill before us to ensure cooperation among State agencies by enhancing cooperation between States as well.

Mr. Chairman, I urge the adoption of the amendment.

Mr. SHUMWAY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, what concerns me is not so much that the amendment requires that the under secretary shall establish an office to be known as the Long Island Sound Conservancy, but the amendment purports to be an end run around provisions of the bill that require, when there is an effort made on the part of the Federal Government to help States in implementing the provisions of this new bill, that the cost of it will be shared on a 4-to-1 ratio of Federal to State dollars.

The bottom line in the gentlewoman's amendment says that the conservancy shall be eligible for grants without regard to the matching requirement of that subsection.

I do not see why we should make an exception for Long Island when all other States, to gain the benefit of some Federal assistance in the implementation, shall be strapped with setting up their own offices and meeting the funding requirement that the bill requires. There is no justification in the amendment, and the gentlewoman has not suggested any.

For that reason I think it should be defeated.

Mrs. LOWEY of New York. Mr. Chairman, will the gentleman from California yield?

Mr. SHUMWAY. I yield to the gentlewoman from New York.

Mrs. LOWEY of New York. I thank the gentleman for yielding.

Mr. Chairman, the reason this office is so important is that it is a very unique situation. You have two States with over 150 municipalities trying to have an impact on a body of water, the Long Island Sound, that is really on the verge of dying. We are looking at this office as a demonstration program to see what we can do to create cooperation between the Department of State, the Department of Environmental Conservation, all the municipalities that are bordering on the Long Island Sound to really make a dent in this very serious problem.

□ 1420

Mr. SHUMWAY. Mr. Chairman, reclaiming my time, I do not doubt that fact that this is a very important center, and there is good reason for the amendment of the gentlewoman from New York [Mrs. LOWEY] to establish it. But if there are two States involved and over 150 municipalities, as the gentlewoman says, surely within that kind of public body there would be the willingness and the ability to provide the matching funds that the law requires.

I ask the gentlewoman from New York [Mrs. LOWEY]: "Why should you get a free ride when all the other States, to implement this act, are going to have to pay?"

Mrs. LOWEY of New York. Mr. Chairman, the reason we did not provide for matching funds is that within this office, which is really a very small office, there is no revenue, and the reason this was established and drafted in that way is to have this office that would create a focal point that would wake up in the morning and focus on Long Island Sound, and yet there is no source of revenue within this small office to create that match.

Mr. SHUMWAY. Mr. Chairman, I would just suggest to the gentlewoman from New York [Mrs. LOWEY], that in that regard this office is not different from every other office that is going to be established in California, Louisiana, Texas, and other States. We are faced with the same situation. The gentlewoman from New York [Mrs. LOWEY] is asking for a free ride. We are going to have to pay for it.

Mrs. LOWEY of New York. Mr. Chairman, let me also mention to the gentleman from California [Mr. SHUMWAY] that this has NOAA's backing. We discussed it with many of the people who have been involved in this issue, and there seems to be consensus that this is a unique situation. There are offices that have been established to deal with Chesapeake Bay, to deal with the Great Lakes. This is a unique situation where we have two States bordering an estuary, and that is the reason for putting this office in place.

Mr. SHUMWAY. Reclaiming my time, I just suggest, Mr. Chairman, that there are unique situations all around the country. There are many States. In fact, other States are going to have to pay their way. I see no reason why we should give New York and Connecticut a free ride in this case.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAXTON: At the end of title II, add the following—

"SEC. . FEDERAL AGENCY CONSISTENCY.

"The consistency requirements of section 307 of the Coastal Zone Management Act (16 U.S.C. 1456) shall apply to Federal agency activities or Federally permitted activities under title I of the Marine, Protection, Research, and Sanctuaries Act of 1972, if the Federal activity or permitted activity affects land uses, water uses, or natural resources of the coastal zone.".

Mr. SAXTON (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 Jersey?

There was no objection.

Mr. SAXTON. Mr. Chairman, I have an amendment which is simple in content, but one which is vital to the future of our coastlines. Briefly, this amendment will clarify the application of current law:

That all Federal agency activities under the "Ocean Dumping Act," including designation of an ocean dump site and maintenance dredging, are reviewable by States for consistency with their coastal management programs.

In 1972, Congress acknowledged the need to protect the Nation's coastal environment by passing the Coastal Zone Management Act [CZMA].

To encourage States to take an active role in the stewardship and long-term health of their coastal environment, the CZMA allows a State to review Federal activities which affect the land uses, water uses, or natural resources of a State's coastal zone.

Since that time, States have increasingly invested their human and economic resources toward proactive conservation of their coastal habitat. Much of their success is dependent on a cooperative relationship with Federal agencies.

Unfortunately, as was indicated in recent policy statements made by the Army Corps of Engineers and the Environmental Protection Agency, the right of a State to review ocean dumping activities may be threatened.

The Army Corps, in proposing amendments to regulations governing its operation and maintenance dredging activities, recently announced that it recognizes a State's consistency requirements only "as a matter of comity" and that it will "voluntarily apply" the Federal consistency provision.

In addition, the EPA, in designating ocean dump sites, has suggested that the legal requirements of the Ocean Dumping Act and the CZMA are still "subject to debate."

Such statements have been refuted by the National Oceanic and Atmospheric Administration, the Agency charged with overseeing implementation of the Coastal Zone Management Act.

More importantly, these statements by the corps and EPA attempt to undermine the original intent of Congress—which was to encourage stewardship of coastal resources by granting coastal and Great Lakes States the authority to review Federal activities affecting them.

I urge my colleagues to join me in supporting this amendment to require that States be directly involved in reviewing Federal activities that can impact their coastal economy as well as their coastal resources.

Mr. Chairman, at this time I would like to ask the gentleman from North Carolina [Mr. JONES] to join me in a colloquy.

Mr. Chairman, I would like to clarify a point about this amendment with you. First, does inclusion of the language I have proposed exclude other types of Federal agency activities not specified in H.R. 4450 from the Federal consistency requirement of section 307 of the Coastal Zone Management Act?

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, the answer is no.

Mr. SAXTON. Chairman JONES, does this amendment reflect your original intent as the principal author of the Coastal Zone Management Act reauthorization amendments of 1990?

Mr. JONES of North Carolina. Mr. Chairman, I say to the gentleman from New Jersey [Mr. SAXTON] yes.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, basically what the amendment of the gentleman from New Jersey [Mr. SAXTON] would do, as I understand it, is just to insure that any major Federal activities are consistent with a coastal zone management plan adopted by a particular State.

Mr. SAXTON. Mr. Chairman, that is exactly the intent of this amendment.

Mr. HUGHES. If in fact that were not carried out, it would seem to me it would be at cross purposes with the whole purpose of legislation which is, in fact, to work with States and get States to develop comprehensive management plans to manage our coastal resources properly.

Mr. SAXTON. Mr. Chairman, the gentleman from New Jersey [Mr. HUGHES] is correct. One of the things that makes this act unique, one of the things that makes this act successful, one of the things that makes this act work is that we carry out these programs in cooperation with the States, and this amendment insures that in the areas designated this act continues to work in accordance with the original intent of the authors.

Mr. HUGHES. Mr. Chairman, if the gentleman from New Jersey [Mr. SAXTON] would yield further, I want to congratulate the gentleman. I am very happy to be a cosponsor of this particular amendment. Our State feels very strongly that this is needed to codify what I think is the intent of the bill, and I thank the gentleman for offering the amendment.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to add my voice to that of my colleagues in support of this amendment, which clarifies something that seems self-evident: That the Ocean Dumping Act should not preempt the Coastal Zone Management Act.

In recent years, Federal agencies have exhibited confusion over Congress' intent when it drafted the consistency language. As the events from the summer of 1988 graphically exhibited, few Federal activities so directly affect a State's coastal zone as ocean dumping.

While the mid-Atlantic States have received the most attention on this issue, the problem is not confined to that region. Rather, federally sponsored ocean dumping has adversely affected almost every coastal State in the Nation including my own State of Florida.

Almost everyone who lives near or has visited a beach or coastal national wildlife refuge can imaging the threat oceanborne contaminants represent to tourist economies and estuarine ecosystems.

The consistency provision should protect States who seek to protect themselves from the effects of federally sponsored ocean dumping. If there are Federal agencies which harbor doubts on this issue, we should help them out by clearing the air, and the water.

Support States rights and protection of coastal resources. I urge my colleagues to vote aye on the amendment.

Mr. PALLONE. Mr. Chairman, I also rise in support of the amendment, and I am a cosponsor as well.

Mr. Chairman, this amendment is offered to spell out what is already implicit in Federal law: That States have the authority—indeed the obligation—under the Coastal Zone Management Act to review federally sanctioned ocean dumping activities to make sure they are consistent with their federally approved coastal management plans.

The amendment simply clarifies and reinforces the intent of Congress when it passed CZMA and the Ocean Dumping Act.

CZMA obligates the coastal States to carefully review Federal activities and federally permitted activities that directly affect their coastal resources to make sure that they comply with a federally approved coastal protection program.

Dredging, dredge spoil disposal and the designation of ocean dump sites—activities regulated under the Ocean Dumping Act—have a clear and profound impact on the coastal resources CZMA is designed to protect. However, the Environmental Protection Agency and the Army Corps of Engineers have maintained that the law, on the other hand, is not so clear. Because it is not spelled out in black and white, EPA and the corps have questioned whether Ocean Dumping Act activities are subject to CZMA consistency provisions.

The amendment simply makes the intent of the law as clear as the effects of the activities it regulates. It clearifies that the CZMA and the Ocean Dumping Act compliment, rather than eclipse, each other.

This amendment, which is supported by environmental organizations and coastal States from every region of the country, allows the States to carry out their responsibilities under CZMA, and it eliminates the ambiguity that EPA and the corps claim now exists.

□ 1430

Mr. Chairman, I also want to compliment my colleague, the gentleman from New Jersey [Mr. SAXTON] for introducing the amendment, and I urge its adoption.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a cosponsor of this amendment, I also rise in strong support of the amendment.

Those Members who know anything about coastal Lousiana know that we are indeed suffering a unique loss of coastal marshlands and coastal barrier islands. In fact, Louisiana has a loss that is measured at about 40 to 60 square miles per year of coastal wetlands. It is an incredible loss. In fact, as I testified to one of the subcommittees of the Committee on Merchant Marine and Fisheries just last week, unless we get some help rather soon, I will be representing fish and exposed pipelines very soon. My district is fast washing away.

A part of the reason it is washing away is the fact that we in Louisiana and throughout the Mississippi River delta have leveed off that great river system for purposes of drainage. That river system now drains some 38 States. The silts that have come down the Mississippi River all through geologic times were the building block material that built up the delta that is Louisiana's coastal marshes, the Third District of Louisiana that I represent.

As we have that loss occurring, we suddently realize that the material that is dredged from this river and is now being deposited offshore in deeper gulf waters is not only a valuable asset to us but an incalculably valuable asset for the restoration and protection of our coastal marshes.

Currently each year the Corps of Engineers dredges some 60 million cubic yards of silt and sand that have been dumped offshore in deeper portions of the gulf. Some years ago that might have been the right thing to do. Today we realize how incredibly important it would be to keep that material as a building block for the coastal

marshes we are losing. In fact, it has been determined by State officials that if we use this material in our threatened coastal marshes, we could save or create some 6,000 acres of vegetated marshlands each year. At a time when we are losing, as I pointed out, nearly 50 square miles of coastal marshland each year, we cannot afford to allow the waste of such a valuable resource any longer.

Mr. Chairman, our State will be spending $26 million in marsh protection and restoration projects in coastal Louisiana. If we truly believe in protecting our wetlands for generations to come, we must begin now, and I urge all the Members to join me in the fight to save this precious national treasure by joining me in support of this amendment, giving the corps this obligation to follow our coastal zone management program, to use this material wisely in rebuilding the Louisiana marshes.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, as one who has long been concerned about the disappearance of the gentleman's district, I want to commend him and also the author of the amendment, the gentleman from New Jersey [Mr. SAXTON]. They seek to make clear something that seems to be clear to virtually everyone on the face of the Earth but the Corps of Engineers. I trust that perhaps this amendment is written in sufficiently explicit language that even they will now understand what was clearly intended by this Congress to be the law of the land.

I say to the gentleman that by current geologic estimates, Cape Cod is estimated to disappear from erosion in 20,000 years. We have called this to the attention of our legislature for redistricting, and I assume the gentleman has done the same.

Mr. TAUZIN. Of course, Mr. Chairman, the gentleman knows that the Cajuns that I represent were kicked out of Nova Scotia and were turned down by many of the east coast States. Eventually they settled in Louisiana. If we continue to lose our lands, we may just be asking for safe haven one day, perhaps even on Cape Cod.

Mr. Chairman, I thank the gentleman for his support.

Mr. LOWERY of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the coastal zones of the United States account for over 32 percent of our gross national product [GNP], or nearly $1.3 trillion. This translates into 28 million jobs and a one-half trillion dollars in payroll. Clearly, Congress' decision to encourage the development of coastal management programs, a decision finalized in 1972, was nothing short of visionary.

And for the most part, the CZMA has served this country well. But for one short-sighted decision in 1984, we would not be debating today.

Yet, we are here because the 1984 Supreme Court opinion in Watt versus California said that an OCS lease sale, in and of itself, is essentially a paper transaction, does not have a direct effect on the State's coastal zone, and therefore is not subject to a consistency review. Once again, we are faced with having to square courtroom logic with real world activity.

What is the sense in closing our eyes at the lease sale stage, thereby causing an oil company to expend millions of dollars in exploration costs, only to then, at the 11th hour, conduct a consistency review. Justice Stevens, in his eloquent dissent, said it best:

> The sale of OCS leases involves the expenditure of millions of dollars. If exploration and development cannot be squared with the requirements of the CZMA, it would be in everyone's interest to determine that as early as possible. On the other hand, if exploration and development of the tracts would be consistent with the State management plan, a pre-leasing consistency determination would provide assurance to prospective purchasers and hence enhance the value of tracts to the Federal government and, (simultaneously), the public. Advance planning can only minimize the risk, of either loss or inconsistency that may ultimately confront all interested parties.

Justice Stevens is describing the state of affairs that existed prior to the Watt decision. This bill would merely restore his logic and the original intent of the CZMA.

CZMA was not set up as some obstacle course for States to endure. As the report accompanying this bill says:

> Congress envisioned a voluntary and cooperative federal-state program to protect coastal resources, uses and values from (population and development) pressures.

The bill is in keeping with this spirit. I strongly urge my colleagues to support the CZMA as reported by the Merchant Marine Committee.

AMENDMENT OFFERED BY MR. STANGELAND TO THE AMENDMENT OFFERED BY MR. SAXTON

Mr. STANGELAND. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. STANGELAND to the amendment offered by Mr. SAXTON:
>
> Strike the period at the end of the amendment and insert the following: "; except that a State may not find the issuance of a permit for any activity under title I of such Act of 1972 to be inconsistent with the laws of that State, unless that State first agrees to pay 100 percent of any increased costs of such activity that would result from the finding of inconsistency.".

Mr. STANGELAND. Mr. Chairman, it is obvious that there is a tremendous amount of support for the Saxton amendment, and far be it from me to turn the railroad around. But this amendment, I think, has some equity.

If in the case of the Corps of Engineers they are doing dumping under the coastal zone law, a State—and let us just take, for example, dredging in New York Harbor—that State, the State of New Jersey, having laws more stringent and saying that that dumping is not consistent with the State laws, would have virtual veto power over the corps' action in New York Harbor, and if they do veto it, there is a good chance that the cost of that dredging is going to be increased substantially, and that increased cost would have to be borne by the sponsor of the dredging project.

This amendment only says that if there is that increased cost, the State that files the veto and requires the dumping at some further point or in some more expensive way would bear the burden of that increased cost.

Mr. Chairman, I urge my colleagues in equity and justice to accept the amendment.

Mr. SAXTON. Mr. Chairman, I rise in opposition to the amendment to my amendment.

Mr. Chairman, I would just say in a friendly way that this is an amendment which I believe does damage to the entire Coastal Zone Management Program. It is a mischievous amendment which I believe is intended, perhaps not intended by which has the effect of discouraging the very process that the Coastal Zone Management Act is set up to encourage. In so doing, it would discourage States from taking a part in the process.

Obviously the Federal act, as it is written, is written to encourage planning to take place on the State level. It is written to encourage States to develop coastal zone management plans and to keep the Federal activities that are associated with the State plans consistent with those plans. The gentleman's amendment would require States to pay some undetermined amount of money to someone for objecting or for showing that the intended Federal activity or the permitted Federal activity would not be consistent with the State plan and, therefore, the States would be discouraged from taking part as full partners in the process.

So, Mr. Chairman, for those reasons I oppose the gentleman's amendment.

□ 1440

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

I, too, rise in opposition to the amendment. The gentleman from Minnesota [Mr. STANGELAND] has asserted that the original amendment creates a veto authority. It does not. The current bill gives the President of the United States the authority to over-

ride any plan on the State level where that plan is inconsistent with the United State's paramount interest. It is found on page 41 of the bill. So in fact the President can override a State program where, indeed, the interests of the United States are paramount.

More importantly, this Congress and the President control the budget of this country. Hopefully they have more control than shown in the last several weeks. But we control the spending, and we control whether or not the Corps of Engineers will or will not spend money on dredging projects.

This amendment, however, gives to the dredger the right to impose whatever conditions he wants to the point the State cannot afford it, and therefore puts the State in an unconscionable position of not being able to enforce its own coastal zone management provisions that would in fact be consistent with the corps activities in that area.

Mr. Chairman, I urge Members to consider what the gentleman from New Jersey [Mr. SAXTON] pointed out. This is a mischievous amendment. I am sure that is not the intent of the author. It does great damage to the intent of keeping the Corps of Engineers consistent with the programs that are important in the State, and making sure in fact that no dredging occurs that is not consistent with those State programs.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Louisiana [Mr. TAUZIN] as well as those of the gentleman from New Jersey [Mr. SAXTON]. We had not seen this amendment before. As I read it, it would undermine not only the pending amendment, to which it is appended, but the entire consistency provision of the act. It would put States in an absolutely impossible position.

For example, if a company wanting to dispose of dredge spoils comes forth with an absolutely absurd proposal on the face of it, which everyone knows is inconsistent with any semblance of common sense in the State's plan, knowing full well that is the case, under this amendment, if it were the law, the State would have no choice but to either approve that plan or pay for what they wanted it to do in the first place.

It guts the entire thrust of this section, which in turn has been at the core of this act for almost two decades. I urge its defeat.

Mr. TAUZIN. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments. I again urge that the author of the amendment consider the fact that Congress controls the purse strings here, and the States are not going to write the budget of this Federal Government. We are going to control that. But we ought not at the same time hold hostage a State's plans to a dredger who might want to insist upon conditions which are not consistent with the State's plans.

Mr. Chairman, I urge defeat of this amendment.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment of the gentleman from Minnesota [Mr. STANGELAND] in the strongest terms. It breaks faith with the coastal States and weakens the Federal consensus requirement. Having said that, I urge opposition to the amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also urge defeat of the amendment to the amendment of the gentleman from New Jersey [Mr. SAXTON]. It is clear that under the CZMA, the whole idea is to have cooperation between the States and the Federal Government. The only way the program will work is if that cooperation continues, which is why we want to make clear the consistency provision of what rights that gives to the coastal States.

Mr. Chairman, I have never heard any mention of the fact that that consistency determination should be exercised by reference to what the cost is going to be for the State or Federal Government. It is supposed to be linked to what the environmental implications are and what the effects are on the coastal zone area. So to suggest it should be linked and that the States should have to pay an increased cost, or 100 percent of the cost because they find that there is an environmental problem and a negative impact on the coastal environment, really goes against the very nature of the act and the whole purpose of the act.

Mr. Chairman, I urge the amendment be defeated.

Mr. HERTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me commend the gentleman from New Jersey [Mr. SAXTON] for his amendment, because it goes toward flexibility and the kind of assistance we need. But I oppose the Stangeland amendment. Very simply, it weakens the 1972 act we are revising and improving in such broad ways.

Mr. Chairman, we have a letter from the League of Conservation Voters where they point out that consistency is so important in this that any attempt to weaken it would seriously harm the environment.

This does weaken it very greatly. If one is concerned about the ocean coast, if one is concerned about marshland, if one is concerned about our wetlands, if one is concerned about the Great Lakes coastline, if one is concerned about overdevelopment, if one is concerned about our fishery industry, and all of the other things we have talked about trying to protect through this bill, then one will vote against the Stangeland amendment and for the Saxton amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STANGELAND] to the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STANGELAND

Mr. STANGELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STANGELAND: On page 34, delete lines 11 through 24, and insert the following:

"(B) The program shall be developed and implemented under Section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting the coastal zone.

"(b) PROGRAM CONTENTS.—The Under Secretary and the Administrator of the Environmental Protection Agency, shall approve a program under this section if it provides for the following:".

Mr. STANGELAND (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 Minnesota?

There was no objection.

Mr. STANGELAND. Mr. Chairman, my amendment is a simple one. It requires that the new nonpoint source management plans which would be required pursuant to the Coastal Zone Management Act would be prepared as a component of the section 319 program of the Clean Water Act. As currently written, the bill puts all the authority relating to 306b water quality plans under NOAA's jurisdiction. I would like EPA and the Clean Water Act to play a greater role.

This amendment would avoid duplication and would ensure that the Federal agency with expertise on nonpoint source pollution, the EPA, would be required to approve the new nonpoint source pollution plans. It does not make any sense, in these times of budget problems at the Federal and State level, to be reinventing the wheel, to be setting up new overlapping requirements to address the same problem.

Section 319 of the Clean Water Act set up a requirement for States to de-

velop nonpoint source pollution plans. This requirement is just now beginning to be implemented. Why do we want to disregard what has been done under that program to set up another program in a different Federal agency to do the exact same thing. We will wind up with conflicting Federal requirements, squabbles between Federal and State regulators, and very little progress in addressing the problem.

My amendment corrects this situation by ensuring that the new plans are based on the section 319 program and that they are subject to review and approval by EPA. It does not weaken the substantive requirements one iota. I urge my colleagues to support the amendment.

Mr. HERTEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding. I rise in opposition to the amendment. I have been hearing about this amendment for quite some time. It was my impression that the subject matter had been resolved and that the language that was written in the chairman's bill was the language that we had all agreed on.

In any event, this is an amendment which provides language which in my view very seriously weakens and changes the process that is intended by the act. By adding the provision that the EPA have additional powers, it means inherently that the States have less power. We have, I believe, been very, very careful to craft a bill, to craft a law, to carry out the intent of Congress which provides for a process through which the Federal Government and the State governments act in cooperation together. That balance, in my view, is very seriously affected by this amendment.

Mr. HERTEL. Mr. Chairman, reclaiming my time, we are trying to streamline government here. We are trying to give responsibility to one agency so we know where the blame and responsibility lies. The bill already requires that the EPA will be consulted. So any objections they want to raise, any problems they want to raise, they will automatically be in the process.

But to say that the EPA is going to have to have approval, using taxpayer money, to go through another hurdle to try to get these programs implemented quickly, is just going to cost more money and cause more problems.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, would one not have to admit, however, the agency with expertise is EPA on nonpoint source pollution and that NOAA does not have that expertise? So you are going to require development of expertise on nonpoint source pollution in NOAA, and EPA will only consult.

□ 1450

Mr. HERTEL. I will take back my time. The fact is that there are so many problems with toxic waste and pollution that the EPA has its hands full. That is why we give this authority to NOAA. The EPA has enough to do without having to approve every one of these programs. We have 29 States involved with these plans, and they oppose this amendment because they do not want to face more government redtape.

The EPA has enough to do. They will be consulted, and they can naturally bring any objections or problems in the process to NOAA, and that is already in the bill.

Mr. STANGELAND. Let me say that the nonpoint source pollution problem has normally been under the jurisdiction of Public Works and the Clean Water Act.

Mr. HERTEL. I will take back my time. Is that what we are talking about, a jurisdictional question here, I ask the gentleman?

Mr. STANGELAND. Not only jurisdictional, but I think instead of streamlining what you are doing is complicating the process, with all due respect, by having NOAA be the lead agency in a matter in which they do not have expertise. I just believe we ought to leave this with the agency that has the expertise here, and I certainly hope that the committee will consider this amendment more favorably.

Mr. HERTEL. The EPA testified at the hearings that they agree with NOAA having the power and the authority and the responsibility in this area.

To say that NOAA is not capable of making the decision in this area goes against all past experiences that we have had. We heard at our hearings that the fact is that the administration has agreed that NOAA should have this responsibility, and more and more I think we should streamline government and give it to one agency. As I say, EPA has plenty to do. They can be involved in the process directly.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would like to respond to the argument of the gentleman from Minnesota by saying that if one were to accept the argument that NOAA is not the proper agency to handle or be involved in this program and that the EPA is, which I do not accept, but if one were to accept that position, then one might want to argue that NOAA ought not to be the agency in charge and that EPA should be in charge, the gentleman's amendment does not do that either. The gentleman's amendment just adds another layer of bureaucracy and complicates the balance of power in a process that has been carefully set up through the legislation.

Therefore, I believe the argument is without merit.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I would only join the gentleman in his objection to this amendment. NOAA in fact does have great competence and expertise in land use management measures and in fact they so testified. The administration is not opposed to NOAA managing this program. To put EPA in charge of it would contradict some of the consistency provisions we have already worked out, that are working well between the State plans and the State agencies and NOAA, and I think it would be a very bad mistake to adopt this amendment and I urge its rejection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STANGELAND].

The amendment was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. JENKINS) having assumed the chair, Mr. KILDEE, 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. 4450) to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes, pursuant to House Resolution 468, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 32, not voting 9, as follows:

[Roll No. 386]

YEAS—391

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—32

Archer
Armey
Bartlett
Barton
Burton
Craig
Crane
DeLay
Duncan
Fields
Frenzel
Gekas
Grandy
Hancock
Hansen
Herger
Kolbe
Kyl
Lightfoot
Marlenee
Nielson
Pickett
Rhodes
Roberts
Shumway
Smith (NE)
Solomon
Stump
Sundquist
Thomas (WY)
Vucanovich
Walker

NOT VOTING—9

Crockett
Dannemeyer
DeWine
Ford (TN)
Hawkins
Martin (IL)
Ray
Rowland (CT)
Swift

□ 1515

Messrs. KYL, ROBERTS, and RHODES changed their vote from "yea" to "nay."

Mrs. JOHNSON of Connecticut and Mr. SMITH of Florida changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4450, the bill just passed.

The SPEAKER pro tempore (Mr. JENKINS). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WATER RESOURCES DEVELOPMENT ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 469 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5314.

The Chair designates the gentlewoman from Colorado [Mrs. SCHROEDER] as Chairman of the Committee of the Whole, and requests the gentlewoman from South Carolina [Mrs. PATTERSON] to assume the chair temporarily.

□ 1516

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 consideration of the bill (H.R. 5314) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, with Mrs. PATTERSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

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

Madam Chairman, I am pleased to bring to the floor H.R. 5314, the Water Resources Development Act of 1990. The bill is the biennial authorization of the Water Resources Development Program of the Department of the Army. It continues the commitment of the Committee on Public

Works and Transportation to a regular authorization scheduled for the Corps of Engineers civil works programs.

Much effort and many long hours have gone into the development of this legislation. I wish to thank the efforts of my committee colleagues and many other Members of the House who have assisted the committee in the development of this bill. In particular, I thank the efforts of the chairman of the Subcommittee on Water Resources, HENRY NOWAK, the ranking Republican member of the committee, JOHN PAUL HAMMERSCHMIDT, and the ranking Republican member of the Subcommittee on Water Resources, ARLAN STANGELAND. Without the efforts of these leaders and other Members, a vital, healthy water resources development program for this country would not be possible.

This bill would authorize the construction of water resources development projects by the U.S. Army Corps of Engineers for flood control, navigation, beach erosion control, and related purposes. The bill also contains deauthorizations of previously authorized projects, authorizations for studies for water resources problems, modifications to previously authorized projects, and provisions related generally to the Water Resources Development Program of the Corps of Engineers. The project authorizations adhere to the cost sharing reforms contained in the Water Resources Development Act of 1986.

H.R. 5314 is more than just a water projects bill. It is a commitment to improving the quality of life for present and future generations. The Committee on Public Works and Transportation is deeply concerned both about the deteriorating state of our Nation's infrastructure and about the need to preserve and enhance our environmental resources.

The value of our water-based infrastructure is tremendous. The U.S. Army Corps of Engineers maintains 25,000 miles of navigable waterway, provides hydropower generating capacity of 20,464 megawatts, and prevents $12 billion in flood damages per year. Yet in many areas of the country the water resources infrastructure is inadequate. For example, the authorization in the bill to replace the existing McAlpine locks and dam on the Ohio River is to replace an existing structure well over 50 years old.

In addition to other lock and dam replacements, the bill authorizes three harbor deepening projects for improvements to navigation. The value of these types of improvements to our economy is tremendous. For example, in 1986, over 300 billion dollars' worth of goods destined for export or import traveled by vessel.

H.R. 5314 does not stop at merely advancing our water resources infrastructure. It also includes several provisions to improve the quality of our environment.

For example, the bill provides that the Secretary is to include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects. The Secretary must make a biennial report on specific measures taken to carry out this new responsibility, obstacles encountered or anticipated in carrying out this responsibility, and recommendations for administrative and legislative measures to further this environmental mission.

The bill also authorizes the Secretary of the Army to perform dredging both inside and outside of navigation channels when necessary for environmental compliance, and requires the Secretary of the Army to identify specific opportunities for enhancing wetlands in connection with the construction and operation of water resources projects along with the President's budget submission for fiscal year 1992.

Madam Chairman, H.R. 5314 is an ambitious bill both in authorizing traditional water resources projects to be carried out by the Army Corps of Engineers, and in continuing the expansion of the role of the Army Corps of Engineers into the protection, preservation, and enhancement of our Nation's environmental resources.

I urge my colleagues to join me in supporting this legislation and ask for their strong support.

Madam Chairman, I reserve the balance of my time.

□ 1520

Mr. HAMMERSCHMIDT. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act of 1990, although I do so with considerable reservation. I support the bill because I am committed to a 2-year reauthorization of the corps program. I have reservations, however, because I am concerned that the bill before us cannot lead to that 2-year reauthorization without substantial modification.

Then, from 1976 to 1986 no corps authorization bills were enacted into law. This deadlock on project authorizations resulted from disputes between the Congress and the executive branch over the appropriate sharing of costs between the Federal Government and project sponsors.

The biennial authorization process for the corps was reestablished with enactment of the 1986 and 1988 water resources development bills. The Water Resources Development Act of 1986—(Public Law 99-662)—was one of the largest and most comprehensive authorization bills in the corps' history.

I believe we were successful last year in enacting authorizing legislation by adhering to a policy of including projects that conform with cost-sharing principles and other policies established in the Water Resources Development Act of 1986.

Madam Chairman, I want to thank all of the Members who helped to develop this bill. In particular, I want to express my appreciation to Chairman ANDERSON, Mr. NOWAK and Mr. STANGELAND of the Committee on Public Works and Transportation for their hard work and dedication to this important piece of legislation.

Madam Chairman, this is far from a perfect bill. In many respects it is worse than the bill we brought to the floor 2 years ago to which the executive branch objected. Major changes and modifications will need to be made if we are going to get a bill that can be signed by the President. Two years ago, we were willing to scale back the scope and size of our bill. If we are going to succeed this time, we will have to do the same thing again.

We can begin today with at least a commitment to keep the overall size of the corps construction program within reasonable limits. Therefore, when the bill is open for amendment, I intend to offer an amendment to extend the existing obligations ceiling for the corps' program for 2 years.

I pledge to work in a cooperative way with the leadership of our committee and with the Senate to develop a conference agreement that reflects the wishes of the House as much as possible while ensuring that we stay on a 2-year authorization cycle. With that understanding, I urge support of the bill.

Mr. ANDERSON. Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK], the chairman of the Subcommittee on Water Resources of the Committee on Public Works and Transportation.

Mr. NOWAK. Madam Chairman, I thank the committee chairman for yielding this time to me.

Madam Chairman, I am pleased to rise in support of H.R. 5314, the Water Resources Development Act of 1990, and urge my colleagues to give their overwhelming support. In addition, I would urge my colleagues to support the en bloc amendment to be offered by the committee chairman.

The Water Resources Development Act of 1990 demonstrates the continuing commitment of the Committee on Public Works and Transportation to a regular biennial authorization schedule for the Water Resources Development Program of the Department of the Army. The bill was drafted after the Subcommittee on Water Resources conducted 4 full days of hearings, receiving testimony from the De-

partment of the Army, numerous Members of Congress, and public witnesses. H.R. 5314 represents a balance between the water resources needs of our Nation and need to make the program of the Corps of Engineers more responsible for and responsible to environmental concerns.

While H.R. 5314 includes many authorizations related to the traditional civil works program of the Corps of Engineers, such as flood control, navigation, shoreline protection, and other related projects, I am particularly proud of the bill's provisions related to environmental enhancement.

For the first time, the bill provides that the Secretary of the Army is to include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects. In addition, preservation and enhancement of the environment are specified as factors to be addressed in planning of water resources projects to assure that the Corps of Engineers program enhances the quality of the total environment.

I am particularly pleased with the authority given to the Secretary in the area of environmental dredging. The bill authorizes the Secretary of the Army, in consultation with the Administrator of the Environmental Protection Agency, to remove as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel whenever necessary to meet the requirements of the Federal Water Pollution Control Act. This sediment removal will be cost shared the same as other maintenance dredging. In other instances, where water is not meeting applicable water quality standards, the Secretary is authorized to remove contaminated sediments outside the boundaries of and adjacent to the navigation channel if the removal is necessary to enable the area to meet such standards or for the purpose of environmental enhancement and water quality improvement. In such instances a non-Federal sponsor must agree to pay 50 percent of the cost of such removal. As in any other dredging, a dredged material disposal site must be furnished by a non-Federal interest.

This environmental dredging authority is necessary to respond to the great need to clean up polluted sediments throughout our rivers, harbors, and bays. This pollution problem is particularly acute in the Great Lakes area where years of industrial and domestic waste discharges have resulted in a buildup of pollution in the sediments. I encourage the Corps of Engineers to use this new authority and to work with State and local governments in developing an effective plan for sediment cleanup. In addition, the Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes which have been identified under the Great Lakes Water Quality Agreement. The Corps of Engineers special expertise in dredging should prove invaluable to these sediment cleanup efforts.

The bill also modifies section 1135 of the Water Resources Development Act of 1986, which authorized project modifications to existing corps projects for improvement of the environment by changing the program from a 5-year demonstration program to a permanent program. Enthusiasm for this program by non-Federal interests is the reason for this change. Often, even minor modifications to the operation of a Corps of Engineers project can have tremendous environmental benefits. Funds expended by the Federal Government to make such modifications are a sound investment and should be encouraged.

Sections 13 and 14 of the bill are designed to improve protection of our fragile flood plains and shorelines. Section 13 prohibits the Secretary from including in the benefit base for justifying a Federal flood damage reduction project any new or substantially reconstructed structure built in the 100-year flood plain after July 1, 1991. Section 14 requires the Secretary to prepare a report on the advisability of not participating in the planning, implementation, or maintenance of beach stabilization or renourishment projects unless the State has established or has committed to establish a beach front management program. The Congress can then determine whether Federal investment into environmentally sensitive areas should be reduced or curtailed.

Finally, I would like to speak about one of the provisions that will be offered in the committee en bloc amendment. That section will establish, as part of the Corps of Engineers Water Resources Development Program, an interim goal of no overall net loss of the Nation's remaining wetlands base, and a long-term goal to increase the quality and quantity of the Nation's wetlands. The Secretary of the Army is required to develop a wetlands action plan to achieve these goals and the plan would be developed in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies. I believe very strongly that the Nation must preserve and enhance its invaluable wetlands resources. The Subcommittee on Water Resources conducted numerous hearings in the 101st Congress concerning wetlands issues, and the committee believes that the Corps of Engineers can play a major role in preserving, protecting, and enhancing our wetlands resources. We must act now if we are to stop the dramatic wetlands losses that our Nation is incurring. In the 1 hour alone which has been allotted to general debate on this bill, our Nation has lost 35 acres of wetlands. This must not be allowed to continue.

Madam Chairman, H.R. 5314 is a sound balance between the traditional water resources needs and the environmental needs of our Nation. I urge my colleagues to give it their overwhelming support so that legislation may be enacted in the 101st Congress.0

Mr. HAMMERSCHMIDT. Madam Chairman, I ask unanimous consent that the gentleman from Minnesota [Mr. STANGELAND], the ranking member of the Subcommittee on Water Resources be allowed to control the balance of the general debate time on our side.

The CHAIRMAN pro tempore (Mrs. PATTERSON). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. STANGELAND. Madam Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act. This piece of legislation is the product of many hours of work by the Public Works and Transportation Committee and I commend the committee and Chairman ANDERSON for their efforts, efforts which have resulted in a fair and valuable bill.

Included in this bill are two essential flood control projects that would protect areas of my district from devastating flood damage.

In Clifton, AZ, recurrent floods from the San Francisco River, the worst of which occurred in 1983, have decimated the town time and again. This project would provide protection to homes and businesses with a levee. It would also provide household evacuation and relocation from floodplain areas not protected by the levee and would floodproof buildings.

In addition, the Clifton flood control project would aid in economic development, development of public infrastructure and recreation opportunities, decrease transportation delays, and increase employment.

The local and State governments are eager to receive this critical assistance and they stand ready to provide all local cooperation requirements.

The second essential water project concerns the Nogales Wash and its tributaries. The recurrent flooding of the Nogales Wash has caused extensive flooding in the city of Nogales, AZ, and the neighboring communities of Santa Cruz County. This area has been included in three Presidential disaster areas due to flooding.

The plan would consist of collector channels that would gather overflow and breakout flood waters. A lateral channel would reduce flooding in Nogales and provide flood protection in the area for 33 years. In addition, a

flood warning system would be established, which would provide 6 hours advance notice of floods and would protect the entire Nogales community.

Some of the benefits are increased water use and control, the development of recreational opportunities, protections for the loss of riparian habitat and long-term positive effects on business and industrial activity.

The State of Arizona is in full support and the local flood control district is ready and able to do their part to cost share for construction.

Again, I want to thank the chairman, and members for their support for these crucial flood control projects in Arizona. Members who have seen first hand the destruction that floods can cause, know how important these projects are. I urge my colleagues to support H.R. 5314.

Mr. STANGELAND. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Madam Chairman, I rise in support of H.R. 5314. I rise today on behalf of small communities all across America. These communities are making good faith efforts to comply with Federal mandates to remove excess levels of radium from their groundwater. Unfortunately, many of these communities lack the ability to pay improvements, improvements that can cost as much as $150,000 to $15 million, but nonetheless, are necessary to provide safe drinking water.

Radium is a naturally occurring carcinogen for which the EPA has determined maximum contamination levels. If it is the obligation of the Federal Government to assure that every American has water to drink—and I believe it is—it must also make sure small communities have the tools necessary to clean up their water.

The bill before us today will assist small communities in radium abatement at very little cost to the Federal Government. The $20 million this bill authorizes over 3 years would not be outright grants. Instead, recipients would be able to use the money to provide insurance and prepay interest for local obligations. By reducing the overall financial burden on communities, each Federal dollar used maximizes what a local government can afford to pay. In a period of scarce budget dollars, this is a judicious allocation of our resources.

It is not often that Federal Government dollars can be stretched to effectively provide for a legitimate public need. I urge my colleagues to support this provision that helps small communities help themselves to obtain safe drinking water.

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

Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act of 1990. This omnibus water resources bill provides needed projects for flood control, navigation, environmental protection, and other purposes. It will also help keep us on track with a regular, 2-year authorization process for the Corps of Engineers Civil Works Program.

The Public Works and Transportation Committee reported H.R. 5314 on September 14, 1990. We could not have done this without the leadership and bipartisan cooperation of Chairman GLENN ANDERSON, ranking minority member JOHN PAUL HAMMERSCHMIDT, and subcommittee chairman HENRY NOWAK. The resulting legislation is very important to the Corps of Engineers' Water Resources Program. Therefore, it is important to get the bill to conference as soon as possible in the remaining days of the 101st Congress.

H.R. 5314 authorizes corps' projects for flood control, navigation, beach erosion, environmental protection, recreation, and related purposes. It also reaffirms reforms enacted in 1986 and 1988 involving cost sharing, price increases, and project study and authorization procedures.

The most important point is that it signals an effort to maintain a 2-year cycle for project authorizations. Up until the last decade or so, Congress enacted corps' bills on a regular cycle. A return to and continuation of this process benefits everyone.

Madam Chairman, allow me to highlight some of the bill's provisions. H.R. 5314 contains important provisions to address commercial, recreational, and environmental concerns in the Great Lakes and Upper Mississippi regions. I am pleased to have supported provisions, now in the bill, authorizing improvements to Great Lakes connecting channels and harbors and ensuring the removal and containment of contaminated material. In addition, it extends the Environmental Management Program for fish and wildlife enhancement in the Upper Mississippi River region. A floor amendment will also authorize a comprehensive water quality study for the Mississippi River. I commend Congressman STEVE GUNDERSON and others for their continued input and support for the Environmental Management Program and for Upper Mississippi River water quality. Our bill should help keep the ball rolling.

Various provisions address specific issues throughout Minnesota and the Red River of the north basin. Section 25 directs the Secretary to complete the Sauk Lake cleanup project authorized by Section 602 of the Water Resources Development Act of 1986. This includes not only acquisition of weed harvesting equipment using previously appropriated funds but also other measures to remove and prevent the accumulation of silt, aquatic growth, and other pollution problems. A provision in the committee en block amendment provides further clarification so that the corps and others continue to proceed with development of a comprehensive approach to pollution prevention throughout the watershed.

Section 48 directs the Secretary to carry out an important navigation dredging project at Warroad Harbor and to repair existing retaining walls in the project's vicinity. The Secretary is also encouraged to give funding priority to the project. A related provision, section 61, addresses concerns about shoreline erosion at Lake of the Woods, MN. Section 60(i) directs the corps to study Minnesota and North Dakota's water supply needs throughout the Red River Basin and to coordinate with the Bureau of Reclamation and its efforts under the Garrison diversion project.

Sections 12, 13, 14 and 15 are all based on provisions in my bill, H.R. 5370, the Corps of Engineers Environmental Protection Act of 1990. The corps has the expertise and opportunity to become the Federal Government's premier environmental engineers. This legislation will help to realize that goal by elevating environmental protection as one of the Agency's missions. Sections 13, 14 and 15 may be further revised to address concerns raised by a few members and committees.

Madam Chairman, I think it's important for every Member to know that the administration has severe, and I think justified, reservations about various aspects of this legislation. Therefore, we will need to make a number of adjustments to the bill in conference. Our goal in these final weeks of the 101st Congress is to produce legislation the President can sign and that keeps Congress and the administration committed to the traditional 2-year authorization process. This can happen only if we make some difficult decisions in conference in order to make H.R. 5314 more modest in its size and scope.

Thus, it bears repeating that the more amendments we adopt, the more difficult it will be to return to the 2-year cycle. Quite frankly, we may lose this bill if it grows larger in size or scope.

Nonetheless, Madam Chairman, in its current form, H.R. 5314 can get us into conference with the other body and back on track with the regular authorization process.

I urge each Member to support the bill. If given the chance, we can work to improve the legislation in conference. And in negotiating with the other body, I will certainly pledge to do my best to produce a bill that Members can be proud of, that the President can sign, and that will ensure the continued success of the Nation's very important water resources program.

Madam Chairman, I reserve the balance of my time.

Mr. ANDERSON. Madam Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Madam Chairman, I rise today in strong support of this very important legislation and I would like to take this opportunity to commend the members of the Public Works and Transportation Committee for their tireless efforts in fashioning this most comprehensive water resources legislation. In particular, I would like to note the strong leadership of our chairman GLENN ANDERSON and the ranking member of the full committee, JOHN PAUL HAMMERSCHMIDT. I would also like to recognize the chairman of the Subcommittee on Water Resources, HENRY NOWAK, and the ranking member of the subcommittee, ARLAN STANGELAND.

We are bringing to the floor today a comprehensive bill, H.R. 5314, which will improve not only our Nation's infrastructure and economic competitiveness, but will also protect thousands of lives from devastating floods, improve the quality of our water, and takes a major step toward directing our efforts to maintain, enhance and reclaim America's wetland habitats.

Great strides have been made during my 21 years here in Congress to balance necessary development and construction with sensitive and vital environmental concerns. Section 12 of the bill adds environmental protection as a primary mission of the Army Corps of Engineers and section 13 establishes as a part of the corps' water resources development program an interim goal of nonoverall net loss of the Nation's remaining wetlands and a long-term goal of increasing their quality and quantity. In addition, the bill makes permanent a demonstration program which will allow the corps to make minor adjustments as well as substantial alterations to existing corps projects for the purpose of environmental enhancement.

Madam Chairman, these advances in the Army Corps' programs and policy will have a profound impact on the future of the natural habitats of our Nation, not only protecting them from damage, but actually revitalizing and expanding them. These sections reflect a real commitment and concern for the environment and will augment our continuing efforts to insure man's work is in concert with rather than contrary to nature's needs.

While offering substantial environmental benefits this bill maintains its traditional mission of improving the Nation's infrastructure and protecting its citizens from disastrous natural occurrences such as flooding. A project in my own district, the Pompton Passaic River flood diversion tunnel, is a clear example of this in that it establishes the first of its kind regional wetlands landbank preserving thousands of acres of wetlands while ending what the Army Corps of Engineers has listed as the worst urban flooding problem in the Nation today.

Madam Chairman, I have lived through the devastation wrought by the untamed flood waters of the Pompton and Passaic Rivers since I was a child. Many have lost their lives and literally billions of dollars of damages to homes, businesses, and infrastructure have been inflicted up and down this heavily populated river valley since it was settled. This bill ends the flooding with an innovative solution which is the fruition of decades of debate and study. A tunnel will redirect the overflow of the river and deposit it miles downstream into Newark Bay thus sparing over $90 million in average annual damages.

Not only does this project address the severe flooding situation, it also provides for the creation of a wetlands landbank which will draw wetlands resources from across the region under a common management and provides incentive to expand and improve their quantity and quality. This is an excellent example of a very necessary project being adapted to provide the maximum benefits not only to the people being continually threatened by murderous floods but preserving and improving the surrounding natural habitats.

The benefits provided by the projects in this legislation also impact directly on a very serious problem now confronting our Nation. As is clearly illustrated by House Concurrent Resolution 362, which will be taken up on the floor of the House in the near future, the Nation is facing a crisis of tremendous proportions. This resolution calls on the President to formulate a national strategy for maintenance and improvement of America's infrastructure. The bill we are considering today, H.R. 5314, directly meets that challenge and is the sort of nuts and bolts legislation that must be passed to address the growing problem of America's lagging commitment to investing in itself rather than exporting its accomplishments abroad.

Capital investment in public works by the United States has been slashed from 2.3 percent of the gross national product in 1960 to less than 1.1 percent in 1985. The competitiveness of the Nation depends on the existence and maintenance of a safe and intricate system of transportation, municipal infrastructures and high quality water resources. H.R. 5314 moves toward reestablishing this as a true priority for the country. It creates new infrastructure where it is needed; it repairs it where necessary and it protects infrastructure from damage in areas where nature would destroy it.

Madam Chairman, this legislation is of vital necessity and I urge my colleagues to support the Public Works Committee in its passage. It is environmentally wise and economically indispensable to the needs of the Nation.

□ 1540

Mr. STANGELAND. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Madam Chairman, as a member of the Committee on Appropriations which funds the Corps of Engineers, I want to thank the authorizing committee for looking at, not only the Great Lakes and improving the quality of our Great Lakes, but also for allowing the Army Corps of Engineers to take some new, advanced and visionary advocacy in helping local communities clean up the rivers and streams. The Corps traditionally has been, quote, concrete, brick and mortar, end quote. I think this bill goes a long way to allowing our Corps of Engineers to assist local community leaders in cleaning up the rivers and streams of this Nation as an active participant with various groups.

Madam Chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from Michigan [Mr. FORD], and I have in our districts, the Rouge River which has been quite dirty for many, many years. We now have the corps participating with many local community leaders working actively, and they need authorization and guidance from our policy committee here. As a member of the Committee on Appropriations, I felt it was my responsibility to come to the committee today and say, "We on the Appropriations Committee will assist in working and cleaning up our Great Lakes in addition to our rivers, streams and harbors."

Madam Chairman, we also have an association of community leaders and one township association who are looking at new development in terms of expansion of our sewer capacity. This committee has been supportive of our language, and I want to congratulate them for outstanding leadership on both sides of the aisle. It is time that the corps and our community leaders work together in a full partnership to help clean up our lakes and streams and make this Nation a great place to live by improving the quality of water and the quality of life.

Madam CHAIRMAN. I rise in support of the Rouge River environmental enhancement streamflow demonstration project. The seriously polluted Rouge River affects 48 communities in the State of Michigan and exposes 1.5 million Michigan residents—or 1 in every 5 residents—to daily doses of unsanitary water conditions. The Rouge River needlessly threatens the health, welfare, and safety of all who live near it, and further threatens the environmental integrity of Lake Erie into which the River ultimately flows.

The International Joint Commission, the major guardian of Great Lakes environmental quality under the Great Lakes Water Quality Agreement, has designated the Rouge River as an "Area of Concern" because of the seriousness of its pollution problems. Further-

more, the U.S. General Accounting Office [GAO] has found that the "current situation at the Rouge River is so severe that the water quality in each of its 11 subbasins does not meet Michigan's standards for water use in at least 3 of the designated use categories.

The Western Townships Utility Authority [WTUA] in southeast Michigan has conceived an innovative and ecologically sound streamflow project to clean and restore the Rouge River and adjacent Belleville Lake. This environmental enhancement streamflow demonstration project has strong support from both local and state government authorities and has been approved by the Michigan State Department of Natural Resources. Although the Army Corps of Engineers has never before undertaken an environmental engineering project of this scale in any U.S. river basin, corps engineers have reviewed the project at the district level, and have found it to be consistent with their own objectives for Rouge River basin water projects. The Water Resources Development Act of 1990 establishes, within the corps, an environmental protection mission which is at the very core of this project. The Rouge River streamflow enhancement project is a perfect model upon which the corps can fulfill its mission of becoming the nation's premier environmental engineers.

Wastewater now flowing into Belleville Lake can be diverted to the slow-flowing, seriously polluted Rouge river—resulting in a dramatic improvement to the environment and ecology of both waterways. Wastewater will be redirected to an underutilized and award-winning treatment plant in nearby Ypsilanti. After treatment, the effluent, or treated water, will be routed to the Rouge River. The introduction of 40 million gallons per day of treated water into the Rouge will leave the river cleansed of pollution, redefine the river's channel—previously lost due to inadequate, continuous flow—and restore the river to its designated uses.

The environmental benefits of this demonstration project include the immediate clean up of one of this country's most polluted rivers and improved natural hydraulics of surrounding river systems. The health and safety of millions of Michigan and surrounding community residents will no longer be at stake. The redirection of effluent into the Rouge will also reduce combined sewer overflow, or CSO's, in the broad geographic area. Improving the water quality and flow conditions of the Rouge will greatly enhance human, wildlife, and plant development in the river basin area. Cleaner rivers and lakes will result in expanded uses of limited freshwater supplies for fisheries, boating, swimming and general recreation use. Moreover, this project will have a positive effect on two major waterways that ultimately flow into the lower Great Lakes, benefiting the Great Lake States of Michigan, Ohio, Pennsylvania, New York, and the Province of Ontario, Canada.

Economically speaking, the increase in tourism and greater overall levels of recreational activity in the area will lead to increased land values, thereby generating additional tax dollars for numerous local communities. This is particularly important for our local communities who rely increasingly upon their tax dollars to fund necessary capital improvements and longer term infrastructure development. Increased usage of an existing high-quality wastewater treatment plant will allow a reduction of the per unit treatment cost for all Ypsilanti Communities Utility Authority customers. Operating and maintenance costs alone will be reduced by 25 to 30 percent. New temporary jobs will be created during the planning, engineering, construction, operation and maintenance phases of the project—with additional permanent jobs to follow as a result of ongoing plant operations. Demonstrable cost reductions will be replicated by other communities that are or will be engaged in similar environmental cleanup activities.

The Federal support for this project represents a small, but significant share of the total costs of this demonstration project. Local Michigan communities are committed to providing 78 percent of the initial study and demonstration project costs. On average, the Federal share for water projects of this nature would be as high as 50 percent of the total project cost.

In conclusion, this demonstration project, and the many that could follow, will represent an important opportunity to address some of the ecological concerns we now face and the concerns that future generations will also share. The Rouge River streamflow study and demonstration project sets forth a cost effective, environmentally enhancing alternative for the use of taxpayers dollars to address national clean water and environmental concerns.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Madam Chairman, I rise in support of this legislation and thank the gentleman from California [Mr. ANDERSON] for yielding.

Madam Chairman, almost 200 years ago a canal was dug through the State of Delaware connecting the Delaware Bay and the Chesapeake Bay, literally cutting my State in half.

That canal was built by a private canal company. Early in this century, in 1919, the U.S. Corps of Engineers took over the ownership and the operation of that canal. Today that same canal provides a shortcut for ships moving from the Delaware Bay to the Chesapeake Bay and on to Baltimore.

This canal provides no economic benefit for the State of Delaware. The canal is an enormous headache, a pain, for the people of the State of Delaware. We have to figure out how to get over the canal, how to move our goods and services over the canal, how to move people, cars, trucks, and vehicles over and across that canal. Not only does it affect us in Delaware, but people in Pennsylvania, New Jersey, Maryland, and Virginia are similarly inconvenienced.

In 1919, when the Corps of Engineers took over the ownership of that canal, a promise was made. Put simply, the promise was that the U.S. Government, through the Corps of Engineers, would continue to meet the obligations entered into almost 200 years ago by that private canal company; namely, that the movement of people, and goods, and vehicles across the canal would be on bridges constructed and maintained by the U.S. Army Corps of Engineers.

Today, U.S. Route 13 is the major north-south highway that goes through our State connecting the Delaware Valley to the Delmarva Peninsula. Today, U.S. Route 13 is becoming a parking lot. The one existing bridge that carries traffic across U.S. Route 13 is obsolete. It cannot be expanded, and, meanwhile, the State of Delaware has begun a $400 million construction project to build a new relief route alongside U.S. Route 13. Our major stumbling block is how to move the cars and trucks across the canal alongside U.S. Route 13.

Madam Chairman, the bill before us today provides the answer to our dilemma, and the answer is that the United States will continue to meet the obligations that it entered into 70 years ago. I thank the gentleman from New York [Mr. NOWAK] in particular, and the members of the subcommittee and committee in general for taking seriously the promise that was made those many years ago.

Mr. STANGELAND. Madam Chairman, I yield 2½ minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Madam Chairman, I would like to take this opportunity to express support for H.R. 5314, the Water Resources Development Act. This bill will lay to rest a project that has long been the subject of dispute and discussion—the Cross-Florida Barge Canal.

The question which has gone unanswered for the last 20 years is how to ensure that the lands once set aside for the Cross-Florida Barge Canal are preserved and protected in an environmental sound manner.

The answer is contained in this legislation today. Senator BOB GRAHAM, Congressman CHARLIE BENNETT, and I have come up with a bipartisan, bicameral solution which gives permanent assurance that 77,000 acres of Florida's untouched beauty are preserved for the benefit and enjoyment of present and future generations.

President Nixon halted construction of the canal almost two decades ago because of the risk it posed to Florida's fragile environment. However, the permanent environmental protection of these beautiful lands has hung in limbo ever since.

Now we have the opportunity to seal the fate of the canal lands—to take them out of limbo and put them on firm, environmentally sound footing.

The entire Florida delegation supports the Cross-Florida Barge Canal language contained in this bill. We all share the unwavering goal of safeguarding Florida's fragile ecology and

preserving the aquifer which provides water for the majority of the State.

This bill will create a combination of State park and conservation or recreation areas from the canal lands. These lands currently are held by the State and the Federal Government. The canal will be deauthorized immediately, and the lands transferred to State control. This land will be preserved and maintained by the State of Florida.

Similar language has already been approved by the Senate and the Florida Legislature has passed a law agreeing to the terms in this bill.

The Cross-Florida Barge Canal language before us today is the result of many different groups coming together with the common goal of protecting Florida's environment. I'm pleased that this bill has received the strong endorsement of Marjorie Carr, of the Florida defenders of the environment, who has spearheaded the effort to deauthorize the canal. Other environmental groups have also indicated their support.

In addition I'm pleased to announce that we have the strong support of Governor Martinez, the cabinet, and State and county legislatures.

The broad coalition of supporters that we have brought together makes me optimistic that we can put this issue to rest once and for all.

I urge my colleagues to support H.R. 5314, the Water Resources Development Act and preserve 77,000 acres of Florida's pristine environment.

Mr. ANDERSON. Madam Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Madam Chairman, I also rise in support of the Water Resource Development Act.

I should mention that the bill, obviously, has a number of needed projects for shore protection as well as flood control, but I would like to zero in on the fact that the bill does a lot to protect the environment. Specifically, there is a provision in the legislation that would expand a floatables removal project in the New York Harbor area. This is a project that has been ongoing for a number of years and has made it possible for us to eliminate a lot of the floatable debris that has washed up on New Jersey's beaches.

□ 1550

The bill provides for the expansion of this project year around, whereas in the past it was previously only in the summer months. There is also a provision for no net loss of wetlands in the wetland restoration part of the bill. So the bill does go far toward enhancing the environment.

I want to mention two other initiatives that were in the bill when it was reported out of committee and that are now separated out, in one case as an en bloc amendment and in another case as an amendment that I will offer.

The one that is in the en bloc amendment deals with the dumping of toxic dredging of materials off the Jersey shore. The second one would impose a deadline for halting offshore wood burning. I will get to the wood burning amendment later, but right now, Madam Chairman, I want to talk about the dredge spoil provision which is intended to phase out the dumping of contaminated dredged spoils at the so-called mud dump site, an area 6 miles off the coast of Sandy Hook in New Jersey, while preventing the opening of additional offshore dumping grounds for toxic dredge materials.

The mud dump site has been designated by the EPA for use by the Corps of Engineers to dispose of contaminated spoils. The 1986 Water Resources Act mandates that the EPA designate an additional ocean dumping site at least 20 miles offshore for this purpose.

The en bloc amendment repeals the section of the 1986 act mandating the additional site. Instead of allowing ocean dumping over an expanded area of the ocean, the amendment seeks to phase out ocean dumping through the development of an alternative management plan for dredge materials in the New York Harbor.

The amendment also contains an important provision that explicitly prohibits the granting of waivers to the port authority from the existing standards for ocean disposal of dredge spoils. The most contaminated dredge spoils are now permitted to be dumped in the ocean pursuant to such waivers. The EPA is in the process of adopting stricter criteria governing toxicity levels for ocean disposal.

The alternative management plan under the amendment includes measures to reduce the amount dumped in the ocean, development of source controls and decontamination technologies to decrease toxicity levels, and a monitoring program on the effects of dumping at the 6-mile site.

The en bloc amendment also directs the corps to implement a demonstration project to dispose on an annual basis of up to 10 percent of the dredged material from the harbor in an environmentally safe manner other than ocean dumping.

Madam Chairman, I believe this Water Resources Development Act does a lot to enhance the environment. I believe the en bloc amendment, as well as the amendment that would impose a deadline to halt offshore wood burning, would even do a lot more to preserve our coastal environment, not only off the coast of New Jersey and New York but around the Nation.

Mr. STANGELAND. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Madam Chairman, I am proud to rise in support of H.R. 5314, the Water Resources Development Act of 1990.

This legislation is a necessary and crucial step in reversing the rapid deterioration of America's water resources infrastructure. One particular provision of this bill of special importance to my State authorizes urgently needed repairs of Kentucky River locks and dams 5 to 14.

This provision will ensure that a 1986 agreement between the Corps of Engineers and the Commonwealth of Kentucky is honored before the State assumes full responsibility for these structures.

It represents the prudent stewardship of a valuable Federal installation. it will also give added credibility and accountability to future agreements in similar circumstances.

I want to thank the distinguished subcommittee chairman, Mr. NOWAK and the ranking minority member, Mr. STANGELAND. I also would like to commend committee Chairman ANDERSON and ranking minority member Mr. HAMMERSCHMIDT for their leadership in bringing this very important measure to the floor today.

Mr. STANGELAND. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, I rise in strong support of the legislation before us, and I want to commend both the chairman of the full committee and the chairman of the subcommittee, as well as the ranking members of the full committee and the subcommittee, for continuing so many of the commitments that are included within this legislation to deal with America's infrastructure.

Particularly, I am excited about this legislation because it continues to maintain the commitment this committee and this Congress made in the Water Resources Act of 1985 when we authorized the most significant comprehensive, balanced program to preserve and use the Mississippi River in the history of this country. This legislation today extends that program, the Environmental Management Program, for 5 years. It is an internationally precedent setting program where the environment and public works can work together.

Frankly, Madam Chairman, we have had people from all over the world come to visit the Environmental Management Program of the Mississippi River, people from places no less than the Soviet Union and China, to recognize and understand what this program means as a precedent setting move in terms of that balanced development for the future.

In addition, the en bloc amendment which will be offered provides for a

water quality study. This also is significant as we continue the next step, which is to determine exactly whether there truly are toxins and other materials in the river that need to be dealt with and begin to determine what their sources are so we can follow that up in the future. This legislation will give that authority to the Army Corps of Engineers, and I think that is correct.

This only addresses the upper Mississippi River, and hopefully in conference with the Senate we might look at the issue of whether or not we can expand that to the entire Mississippi. We have found with the Environmental Management Program and we are now finding with the water quality study a new interest in river preservation and water quality by people from New Orleans, people from Louisiana and Mississippi in the South, and obviously people from Minnesota and Wisconsin in the North.

Madam Chairman, these are important measures. They are environmental as well as public works measures. They continue a good program, and I commend the members of the committee for their support.

Mr. ANDERSON. Madam Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Madam Chairman, I thank the gentleman for yielding this time to me.

Madam Chairman, I rise in strong support of H.R. 5314. I want to commend Chairman ANDERSON and Chairman NOWAK as well as the ranking members, Mr. HAMMERSCHMIDT and Mr. STANGELAND. They have done an excellent job of crafting a comprehensive bill that effectively addresses many complex issues nationwide. Staff members Ken Kopocis and Errol Tyler have done a difficult and often thankless task in putting this bill together, and I believe they deserve credit and appreciation for their efforts.

The committee has continued to work for balanced management of competing uses at corps projects, and the committee has been responsive to my request for language to prevent that Corps of Engineers from unfairly forcing the removal of cabins at lake projects. This bill responds to many challenges confronting our Nation and places environmental protection at the forefront of corps activities. H.R. 5314 deserves the support of the House, and I encourage my colleagues to vote for this measure.

Mr. STANGELAND. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Madam Chairman, I rise in strong support of the water projects authorization bill. The bill as it stands contains a number of important projects that will contribute to the improved quality of our environment as it pertains to water management. New projects will be authorized, and some old ones will be modified. One of those modifications, concerning the Cross Florida Barge Canal, is very important to the people of Florida, and especially to the people in my district.

The Cross Florida Barge Canal was started just after World War II, with the aim of building a navigable canal across the northern peninsula of Florida. Construction was sporadic until 1971, and in that year all work on the canal was stopped. Since that time, many efforts have been made to deauthorize the canal. Now, after much work, we have a workable proposal that is supported by the entire Florida delegation that will create a greenway corridor across the State. The new greenway will provide nature reserves, new recreational opportunities, and a host of other benefits to the residents of the State. In addition, the deauthorization will free up money that was originally invested by counties along the waterway. The money will be returned to those counties, adding much-needed revenues to their operating budgets. In short, everyone benefits from the deauthorization.

Madam Chairman, I urge all of my colleagues to carefully consider this bill, and to vote for its passage. It is a good bill that will help many people.

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

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Mr. JENKINS. Madam Chairman, I want to express my appreciation to the chairman of the full committee and the chairman of the Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK], for the work that they have done on this bill, and in particular the language they have provided in section 16, which is much improved, to say the least, over the language from the other body.

Through the years as changes are made, either by this legislative body or by the demands upon a dam and its accompanying lake, there are always great controversies that develop. But when we have many demands, whether it be for water supply, for power, for recreation, or for all of the other uses, of corps projects, there has to be a mechanism wherein we can take a look at these various purposes and proposed changes that are developed, and reach equitable solutions.

In my own congressional district, I have five corps projects. I have two projects, Lanier and Hartwell, that are two of the most heavily used corps lakes in the United States, with over 18 million people visiting each of those annually. They are great economic factors in my district.

Madam Chairman, I have provided the gentleman from New York [Mr. NOWAK] with a copy of a letter from General Bunker in 1988, together with project purposes and other purposes that have been added, dated May 1, 1968, of the various corps projects in the State of Georgia. It is my understanding that section 16 of this bill will in no way impact adversely upon recreation uses in the projects listed which includes Lakes Lanier, Hartwell, Carters, Allatoona, and Russell in my congressional district.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from New York, the distinguished chairman of the Subcommittee on Water Resources.

Mr. NOWAK. Madam Chairman, if I could respond to the gentleman's comments. Section 16, changes in reservoir operations, is not intended to preclude current authorized operation of reservoirs for recreation. As the gentleman knows, section 4 of the Flood Control Act of 1944 and the Federal Water Project Recreation Act each confer authority upon the Corps of Engineers to operate projects for recreation, even in the absence of specific authorization. Under these authorities, the corps may reallocate storage to provide more stable recreation levels, if it does not have a significant effect on other authorized purposes.

Section 16 requires the corps to review the operation of corps' reservoirs to determine if they are being operated in accordance with their authorized purposes. These authorized purposes could include operations pursuant to general authority as well as specific authority. The central element of the review will be whether the operation is authorized by law.

If a corps' project is currently being operated for recreation, and that operation is consistent with that authorized by law, that operation will be able to continue.

Mr. JENKINS. Madam Chairman, reclaiming my time, I thank the gentleman from New York [Mr. NOWAK], and thank the chairman for yielding me this time.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Madam Chairman, I want to commend the chairman and ranking minority member and the gentleman from New York [Mr. NOWAK] for the fine job they have done on this bill. I do agree with just about everything they have put in it.

However, there is a provision in the bill, section 43, with which I do not agree. At the appropriate time I will be offering an amendment to delete this section from the bill.

The amendment, which I will be offering on behalf of the city of Virginia Beach, would strike a provision of the bill whose sole purpose is to further delay a water project referred to as the Lake Gaston water project that is going to provide water in my district.

This provision of the bill was never debated in the Committee on Public Works. There was never any public hearing on this provision, and it was apparently adopted after the committee had completed its markup of the bill.

The Lake Gaston project has been studied for more than a decade, Madam Chairman. Back in 1984 the Corps of Engineers was commissioned by the Congress to conduct a study to determine the most appropriate source of water for southeastern Virginia. The corps conducted the study, conducted an environmental impact statement, also required as part of that study, and concluded that the most appropriate source was the Lake Gaston project.

The city of Virginia Beach has complied fully with every applicable statute and requirement with respect to this project, and has successfully withstood a court challenge in the Federal District Court for the Eastern District of North Carolina.

The Lake Gaston project is now fully permitted by the Army Corps of Engineers. To delay this project further at this late hour would make a mockery of the permitting process and cause a severe hardship on the people in my district.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE], a most valued member of the Committee on Public Works and Transportation.

Mr. VALENTINE. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I do not rise at this time to make a response to the statements made by the distinguished gentleman from Virginia [Mr. PICKETT]. Suffice it to say we will oppose his efforts relative to this carefully crafted legislation when and if his amendment is offered.

Madam Chairman, I rise in connection with a matter that is both important and controversial—the management of Federal water resources projects by the U.S. Army Corps of Engineers.

During the past several years, the droughts that have afflicted a number of areas of the country have forced the corps to choose among competing users of Federal water projects.

Some of these users, such as hydropower customers and shippers, are groups that Congress specifically considered when authorizing these projects.

Over the years, however, other uses, although not considered by the Congress when authorizing the projects, have become important, and, in some cases, even critical. I would include water supply and recreation in this category.

The practical result of corps management decisions has been to force electric consumers in the Southeast to pay for recreational benefits enjoyed at several Federal projects.

This is occurring in violation of the congressional authorization of these projects and in spite of the corps' own regulations.

Madam Chairman, a number of concerned members, including me, considered offering an amendment to address these inequities. My amendment would have provided a modest, and I believe reasonable, remedy by requiring the corps to follow a public process in reaching management decisions.

Under this proposal, the corps would have to document its authority for making management changes, determine whether a specific proposed change would alter the level of benefits that Congress intended, and seek further congressional authority for such changes.

After consultation with the chairman of the Water Resources Subcommittee the gentleman from New York [Mr. NOWAK], however, we have decided not to offer such an amendment.

Nevertheless, I firmly believe that there is an urgent need to establish equitable regulations and procedures for Federal water resources management.

In my view, the Congress should consider a comprehensive solution to problems related to the management of Federal water projects.

Representative JIM SLATTERY and I met recently with Chairman NOWAK on this subject. In that meeting, Mr. NOWAK agreed that the subcommittee would undertake a serious examination of this question next year. It is essential that all interested parties participate in reaching a fair solution.

I hope that the subcommittee will take a comprehensive look at all the problems associated with water resources management and look forward to Chairman NOWAK's comments on this subject.

Mr. ANDERSON. Madam Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Madam Chairman, I rise to address an issue that has become a major problem that persists in the farm sector. Unfortunately, this bill does not include language that would relieve the problem.

Like most Americans, I am concerned about protecting the environment. However, I believe the necessary protection can be provided without violating the constitutional protection against taking private property for a governmental purpose without properly compensating the owner.

Early this year I introduced H.R. 4133, the Agricultural Wetlands Exemption Act to redress this problem. My bill would exempt the inappropriate application to farmers of provisions of the Federal Water Pollution Control Act on established farm land.

I, and other Members of Congress and representatives from the private sector, testified before the Subcommittee on Water Resources of the Committee on Public Works and Transportation urging necessary modifications of the law. This bill under consideration does not include such provisions.

So, at the proper point during this debate on the bill, with Mr. LAUGHLIN, we intend to offer the language of my bill H.R. 4133, as an amendment to this water resources bill.

The manner in which provisions of the Federal Water Pollution Control Act, as amended, have been implemented in farming communities during the past 2 years has raised serious questions about the intent of the executive branch to implement environmental protection provisions in a fair, equitable and constitutional manner.

In some instances, under threat of fines rising to hundreds of thousands of dollars, farmers have been warned against carrying out normal farming practices on lands which have been used for agricultural purposes for decades.

In other cases, such fines have been imposed when farmers carried out work to protect their families, homes and land against flooding by streams which cut new ditches through their land.

Some farmers have been told they can use land which has been farmed for many years only if they, at their own cost and with no compensation from the Federal Government, set aside other acreage—sometimes in a ratio of more than two to one—to be turned into wetlands.

This appears clearly to violate the United States constitutional protection against taking private property for public purpose without proper compensation.

No net loss of wetlands may well be a national policy. But, implementing such a policy in such a way that forces U.S. farmers to give up traditional uses of their land which is not wetland and has not been a traditional wetland for decades is not the just way to achieve such a goal.

I urge Members of the committee to consider our amendment and to join us in addressing a fair and constitutional treatment of the Nation's farmers.

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Mr. ANDERSON. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise today in strong support of the water resource

development bill and commend the gentleman from California [Mr. ANDERSON], the gentleman from New York [Mr. NOWAK], the gentleman from Minnesota [Mr. STANGELAND], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their help.

The McAlpine Lock and Dam project modernization and extension project—a $219 million project—is in the bill, and it affects my city of Louisville in which the McAlpine complex is located.

Currently there is one 600-foot lock which is generally inoperable and one 1,200-foot lock which from time to time is put out of order in order for maintenance. This program, which is in the bill, and I very strongly support, would extend the third lock, a 600-foot lock, to 1,200 feet and would modernize the entire complex.

Madam Chairman, the McAlpine lock and dam system is a vital component of the Ohio River transportation system. It sits between two major transportation centers—Pittsburgh, PA, upriver, and the mighty Mississippi downriver. A bottleneck at this major—at any of the major points, really—along the river will disrupt barge traffic from the steel mills of Pennsylvania to the coal mines, oilfields, and farms of Kentucky. These industires and more depend on the Ohio River for their commerce, so the importance of the McAlpine Lock System is evident.

Even with one arm tied behind us, McAlpine handles 55 million tons of barge traffic a year. The project in the bill will enable Louisville to become even a greater transportation center and handle more of the tonnage along the Ohio.

So I thank the gentleman from California for responding to my need and the gentleman from New York particularly, for his courtesy at the hearing, and I certainly support the bill and this project.

Mr. STANGELAND. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Madam Chairman, I thank the gentleman very much for yielding time to me. I also thank the gentleman in his capacity as the minority leader, and I thank as well the chairmen of the committee and of the subcommittee and all those who have been so kind as to bring this legislation out.

Madam Chairman, I rise in strong support of the Water Resources Act of 1990 and against weakening amendments. The Committee on Public Works and Transportation, particularly the Subcommittee on Water Resources, is to be commended for bringing this package together and to the floor of the House.

As the sponsor of the only comprehensive wetlands legislation in this Congress, the Wetlands No Net Loss Act of 1990, I am particularly supportive of the committee's effort to clarify the role of the Corps of Engineers in environmental protection. The bill reads:

> The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects. The bill also has a requirement that the Secretary transmit a list to Congress, a list which specifically identifies opportunities for enhancing wetlands in connection with construction and operation of water resource projects.

This bill contains numerous projects of importance throughout the country. As chairman of the Florida congressional delegation, I express my deepest appreciation to the House Committee on Public Works and Transportation for the inclusion of our delegation's consensus language to replace the Cross-Florida Barge Canal.

I spent much of my adult life working to build the canal; but that is simply not going to be; the local support just isn't there anymore. As the last remaining canal supporter in the Florida congressional delegation, I asked myself how we could most appropriately address this issue now. The answer was a national or State park area in the canal route. The State opted for a State park/conservation area; this legisaltion provides for that. Under this legislation, in order to get full project deauthorization, the Governor and Cabinet of Florida must pass a resolution specifically agreeing to maintain at least a 300-yard minimum width State conservation/recreation area in the former canal route. The State must also repay the several Florida counties that put up moneys for the canal project decades ago—some $32 million, rather than the Federal Government paying that, as was required in the 1986 Deauthorization Act, which this new legislation amends. My home county of Duval stands to receive some $20 million in reimbursement moneys.

This bill also contains two other matters important to my district: language to modify the navigation project for Fernandina Harbor, FL, to redesignate the location of the turning basin until the ongoing study of the harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed. At present, ships are not using the existing basin because it is too small; they are turning around in a nondesignated area. That is worrisome to the ship captains because of negative legal ramifications.

Another matter of importance to my district is the modification of the project for beach erosion control, Nassau County, Amelia Island, FL, to direct the Secretary to renourish the southern beaches of Fernandina, South Amelia Island, Florida from Florida Department of Natural Resources Monument No. 62 to monument No. 74. This is an amendment to the 1988 Water Resources Act that authorized the Nassau County project. The northern half of the beaches have been renourished but the southern beaches—the most depleted—have not. Some have suggested that the southern beaches are not public; that's not so. There's widespread access to the beaches there. In fact, the most depleted area of all, the most southern reach of the beach, is a State park area with hundreds of yards of public access.

So, again, Madam Chairman, I express my appreciation to the committee for its work on this bill. It is a good bill; one that should be enacted.

Mr. RAHALL. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act of 1990.

H.R. 5314 authorizes the construction of water resources development projects by the U.S. Army Corps of Engineers for flood control, navigation, port development, and related purposes. It also modifies and deauthorizes certain previously authorized projects, alters certain cost sharing requirements mandated by the 1986 and 1988 water resources development acts, and includes provisions to protect the environment in connection with corps projects.

The bill authorizes the construction of 25 new water resources projects for which the Corps of Engineers has already completed favorable engineering reports. These include 14 projects for flood control, 4 for port development, 4 for storm damage reduction, 2 for inland navigation, and 1 miscellaneous project. The corps estimates the total cost of the 25 projects to be $2.5 billion, with a total Federal share of $1.7 billion.

The measure includes several provisions that modify existing cost-sharing requirements mandated and made permanent by the 1988 act. Under these requirements, non-Federal beneficiaries such as State and local governments must pay for part of the costs of most water projects, with specific cost-sharing percentages dependent upon the particular type of project.

Under existing law, the local share of water resource projects is determined not only by the type of project, but by the ability of the local governments to pay their fair share. Currently the minimum local share is 25 percent, with the local government's ability to pay largely determined by economic conditions statewide. This bill provides that determinations of ability to pay take into account more specific consideration, such as the condition of the local economy, and that there be no minimum local share, which would permit projects in which the local government would not be required to make any cash contributions.

The measure also permits ability to pay procedures to be used for determining the local share of municipal and industrial water supply projects; currently, these procedures are used only for flood control and agricultural water supply projects.

Mr. Chairman, the new flexibility provided under ability to pay is a welcome provision, in that my State's local economic conditions vary from city to town to hamlet, and often desperately needed projects go unfunded because of the inability of local governments to come up with their share when it is based, as it has been in the past, on statewide economic conditions rather than local economic conditions.

I am pleased to note that there are several projects of great benefit to my congressional district included in H.R. 5314. These projects are of extreme importance to the area that I represent, and particularly the flood control project at Matewan, WV.

In testimony early this year before the Public Works and Transportation Committee's Water Resources Subcommittee, I requested language in this bill to clarify that all of Matewan, WV, be floodproofed as originally intended by Congress.

In the past, as the result of a technical distinction, the implementation of cost sharing in accordance with the Water Resources Development Act of 1986, created significant problems for floodproofing in the town of Matewan. In 1986, the act directed the Army, acting through its Chief of Engineers, to design and construct at full Federal expense, flood control measures in a number of cities affected by the 1977 flood. This specifically included the town of Matewan.

On October 28, 1985, the Matewan project was defined, excluding a portion of the city called Hatfield Bottom. At that time, it was determined that Hatfield Bottom could be best flood proofed through a project called the Tug Fork Big Bend Cutoff. There was no objection to dividing the project at that time, because project funding was to remain at 100 percent Federal cost and it was expected that both projects would be completed within the same time frame.

Unfortunately, the Big Bend cutoff was delayed, and then abandoned. Consequently, the floodproofing of Hatfield Bottom did not begin prior to the implementation of the cost-sharing under water resources development legislation of 1986. Although the Matewan project was grandfathered, the floodproofing of Hatfield Bottom was not, since it was no longer included within the Matewan project definition.

Simply put, Madam Chairman, this divided the town of Matewan in half, floodproofing one-half of it and leaving the other, mostly populated by both residences and businesses, at risk, and town officials and residents bewildered to say the least.

For example, parents are bewildered because Hatfield Bottom is the location of the local high school, leaving them very concerned for the safety of their children. The majority of residents and business-owners are bewildered because that half of the town that would not be floodproofed, and should there be another disaster, would be wiped out, leaving the health and lives of those living and working there in shreds, not to mention the local economy which would be devastated.

The Hatfield Bottom floodproofing provision in H.R. 5314 is one of the most important projects in my district, and I am greatly indebted to the chairman and other members of the committee for their understanding, and certainly their compassion, in realizing its importance and for including it in this year's reauthorization bill.

H.R. 5314 contains other West Virginia water resources projects, including an authorization for flood control in Krouts Creek in the vicinity of Huntington, WV, which will include deepening and widening of the channel and culvert replacement there. This is an urgently needed project in my district. Krouts Creek flows through a densely developed residential area of west Huntington, where approximately 200 families live in the 100-year flood plain, and where five businesses and three public buildings including churches and schools are located.

This year's—fiscal year 1991—appropriations bill for water resources development projects contains $75,000 for use by the Corps of Engineers to negotiate a cost-share agreement with the city of Huntington, and to complete its report on this Krouts Creek project.

Another matter in the pending legislation of importance to southern West Virginia is a provision which would modify the authorized project purposes of the Bluestone Lake project.

One of the most pressing problems we face in southern West Virginia from the operation of an Army Corps of Engineers' project involves the massive amounts of debris that backs up behind the Bluestone Dam. This concern is heightened because the New River Gorge National River, a unit of the National Park System, lies below the dam.

It is of the utmost importance that we protect the unique values and resources of the New River Gorge National River. Simply put, we did not go to the trouble and expense of establishing the New River Gorge National River only to have park visitors and river users assaulted by large amounts of trash floating down the river, accumulating on the river banks and hanging from tree limbs.

Under H.R. 5314, the Secretary of the Army would be required to take such measures as are technologically feasible to minimize the release of drift and debris into waters downstream from the Bluestone Lake project. Moreover, the minimization of drift and debris release would be included as an authorized project purpose of the Bluestone Lake project.

Among the types of activities that could be undertaken by the corps are measures to prevent the accumulation of drift and debris at the project, including through the collection and removal of drift and debris on the segment of the New River upstream from the project, as well as the removal and disposal of accumulated drift and debris at Bluestone Dam, including through the employment of temporary or permanent systems for such removal.

Finally, I would note that H.R. 5314 contains one additional provision relating to certain corps projects in southern West Virginia.

In the last water resources bill, enacted in 1988, we provide a specific recreation authorization for 11 projects, 7 of which are located in West Virginia. In other words, we required the corps to manage the land and water resources at these projects in a manner as will improve opportunities for recreation so long as this is compatible with other authorized project purposes such as flood control and low flow augmentation.

As we all know, the environment and recreation is a hot item these days for Federal surface managing agencies. The Bureau of Reclamation, for example, wants to be an environmental agency and atone for its past sins. Recreation is stamped all over the Bureau of Land Management's budget and the same goes for the Forest Service.

The corps, however, stands alone among Federal surface managing agencies and continues to resist emphasizing recreation at its projects. I would submit it is time the corps get with the program, and that was one of the reasons for the 1988 legislation.

Nonetheless, incredible as it may seem, recently the corps announced that it wanted to emphasize timber management at the seven West Virginia projects listed in the 1988 bill's provision on recreation. The project lands, however, are under lease to the State of West Virginia and are managed as public hunting and fishing areas.

I would submit that the sounds of timber cutting are not exactly conducive to hunting and fishing, not to the wildlife habitat itself. I also believe that any attempt to deemphasize recreation at these seven corps' projects would be inconsistent with section 6 of the Water Resources Development Act of 1988.

The affect of this amendment would be to maintain the status quo at the seven West Virginia projects by prohibiting the implementation of any plan that would emphasize timber management over recreation. These projects are Summerville, R.D. Bailey, Beech Fork, Bluestone, East Lynn, Sutton, and Stonewall Jackson.

I commend our able Public Works and Transportation Chairman GLENN ANDERSON, and the committee ranking Republican, Mr. HAMMERSCHMIDT, for bringing this urgently needed reauthorization measures to the floor for passage today.

I strongly support the provisions in H.R. 5314, which will go far in providing the upgrading of our Nation's infrastructure needs.

I strongly commend the bill to my colleagues, and urge its immediate passage.

Mr. FIELDS. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act of 1990, and I compliment the leadership of the House Public Works and Transportation Committee for bringing this vial legislation to the floor today.

While there are a number of important projects authorized by this bill, I will confine my remarks to the Buffalo Bayou and tributaries flood control project which is located in Harris County, TX.

Madam Chairman, H.R. 5314 authorizes the Army Corps of Engineers to construct a comprehensive flood control project for the Buffalo Bayou watershed. This project, which is partially located in my congressional district, will provide benefits to nearly 2 million people who live in the Buffalo Bayou drainage basin.

A large segment of this population is adversely affected by severe flooding because of inadequate drainage facilities. In fact, nearly 96,000 acres and over 98,000 structures, valued at over $9 billion, are subject to stream flooding.

During the past few years, the Houston metropolitan area has been ravaged by persistent flooding. We must do everything we can to minimize the effects of future floods because it has been estimated that should a 100-year flood occur in the Buffalo Bayou watershed, which provides drainage to some 1,034 square miles, it could cause property damage in excess of $2.2 billion.

Madam Chairman, the Buffalo Bayou flood control project is a massive undertaking which will provide relief and protection to citizens who live along six separate tributaries. The proposed plan for these six tributaries is economically justified, it represents the most cost-effective solution, and it will produce no unresolveable adverse environmental impacts. In short, it is a project which deserves funding by both the Federal Government and its local sponsors.

While each of the six tributary flood control plans could be constructed separately, the Corps of Engineers believes there is considerable merit in combining them into one comprehensive project.

Briefly, the project proposed by the Corps of Engineers consists of the following elements:

Carpenters Bayou plan—provides for stream enlargement, recreational trails, and picnic facilities. The total cost of this flood protection is estimated at $11,066,000.

Greens Bayou plan—includes selective stream clearing, stream enlargement, flood detention basins, and assorted recreational facilities. The estimated cost of this plan is $195,725,000.

Halls Bayou plan—provides stream enlargement, hiking trails, picnic facilities, and a boat launching ramp. The estimated cost of these improvements is $88,685,000.

Hunting Bayou plan—consists of stream improvement, recreational trails, picnic facilities, and parking areas. The estimated cost of these modifications is $93,946,000.

Little White Oak Bayou plan—would include stream enlargement, hiking trails, and recreational facilities. The estimated cost of this plan is $34,578,000, and

Brays Bayou plan—provides for channel improvement, flood detention basins, diversion structures, and new interconnecting channels. In addition, recreational features such as trails, picnic facilities, sports fields, comfort stations, and parking lots will be constructed. The estimated cost of the Brays Bayou plan is $299,133,000.

Madam Chairman, the total cost of this project is $727,364,000. Under the existing cost-sharing formula, the Federal Government will contribute $403,360,000 toward the cost of this project and the local non-Federal share will be $324,000.

This comprehensive project will provide $3.10 in benefits for every dollar it cost to implement the badly needed flood control and recreational improvements. In addition, it will remove 30,600 acres from the 100-year flood plain, it will provide about $217 million each year in various economic benefits for those living in the Buffalo Bayou watershed. In short, this is an important project providing badly needed flood protection for many Eight District residents.

Madam Chairman, this flood control project is the result of careful study and evaluation by the Army Corps of Engineers. Since the completion of its draft report in September 1987, the corps has conducted 13 public meetings in the affected area. During these meetings, it became clear that the overwhelming majority of citizens strongly support efforts to reduce the threat of urban flooding. In fact, in November 1987, a local flood control bond referendum was adopted. In addition, the corps has now satisfied the concerns of a few environmental groups who raised minor objections over the removal of certain vegetation in the Little White Oak Bayou flood plain.

In summary, this project is clearly a sound and financially responsible investment in the future of these communities. It will save lives and money for the millions of Houstonians who live along the Buffalo Bayou watershed. It will also ensure that in the future the Federal Flood Insurance Program is not continually bombarded by insurance claims filed by those living in this area. It is a project worthy of our support.

Madam Chairman, as someone who has consistently supported water resources development projects, I am extremely pleased that we are today authorizing the Buffalo Bayou and tributaries flood control project. I would again compliment the leadership of the Public Works Committee, in particular, Congressmen GLENN ANDERSON, HENRY NOWAK, JOHN PAUL HAMMERSCHMIDT, and ARLAN STANGELAND, for their tireless efforts on behalf of the people of this Nation.

By working together, we can help to ensure that in the future fewer Americans will have to experience the ravages and destruction of flooding. H.R. 5314 is an important step in the direction of providing protection for our citizens and it is a worthy successor to the landmark Water Resources Development Acts of 1986 and 1988.

I urge my colleagues to join with me in voting aye on this most important legislation.

Mr. McCANDLESS. Madam Chairman, at this time, I rise in support of 5314, the Water Resources Development Act of 1990. Amidst all of the controversy surrounding the budget impasse and the authorization levels in H.R. 5314, one community in my district is literally hanging in the balance awaiting congressional action on their behalf. First, let me set the scene.

The hazardous situation that I speak of is located along the Santa Ana River, in Riverside County, CA. It is commonly known as the Norco Bluffs.

A series of natural events is disintegrating the sheer face of the Norco Bluffs. Since 1969, major storms have caused rampant flooding up and over the lower northern banks of the Santa Ana River.

Although the floodwaters do not overflow the very high southern banks of the river in the vicinity of the city of Norco, the effects there can be even more devastating.

Along approximately 1 mile of the Norco Bluffs, the high waters churn against the toe of the steep bank, causing unstable conditions and Bluff undercutting. As the banks fall into the river, private and public property is lost and endangered. After years of deterioration, some 50 homes are precariously close to a vertical drop of 80 to 90 feet in several places. One home has already been lost. Other houses close to the bluff have suffered foundation cracks and other problems caused by the continuing disintegration problem.

The Corps of Engineers has built revetments of rock and rubble to prevent further undercutting, but these measures are temporary at best.

The original 2,100-foot long revetment, built by the corps after the 1969 flood, lasted only 5 years before it was virtually useless against the river flows. In its present deteriorated state, this protective barrier would last only a few days against a major Santa Ana River flood. Additional storms in 1979 and 1980 further compounded the problem. Since then, long term bluff retreat has accelerated as the bluffs try to return to a stable grade. As the lower part of the bluff is washed away by flooding water, the higher parts of the bluff, supporting houses and structures, eventually fall into the river.

In addition to the loss of private homes, about three-fourths of a mile of River Drive is in danger. Utilities affected by continuing undermining include water, sewer, telephone, and gas lines. The Hamner Avenue Bridge—State Route 31—is in serious danger of being damaged should structures and vegetation continue to fall into the Santa Ana and plug the river downstream.

The need to protect the Norco Bluffs is urgent and severe. I am extremely pleased that the Committee on Public Works and Transportation has decided to authorize the construction for this economically viable project proposed by the Corps of Engineers. I also commend the chairman of that committee for his attention to this matter. Construction of the proposed 5,500-foot levee along the Santa Ana Bluffs at Norco would greatly stabilize these bluffs and save thousands of dollars of damage and property loss.

After all is said and done, because of technical language under section 205, small flood control project authority, the Corps of Engineers cannot aid the residents of the Norco Bluffs due to the strict definition of small flood control project criteria. Explicit congressional action authorized in H.R. 5314 is necessary. As important as the funding is for Norco, CA, the authority for the Corps of Engineers to take action is even more crucial.

Mr. RICHARDSON. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act. This bill authorizes water projects crucial to the Nation and to New Mexico.

H.R. 5314 authorizes $20 million for reconstruction of the Acequia irrigation system in New Mexico, raising the total authorized for this project to over $73 million. During consideration of the 1986 Water Resources Development Act, Congress found that these irrigation ditch systems, which date from the 18th century and were significant in the settlement and development of the West, continue to play a vital role in the local economy. Congress also declared that the restoration and preservation of the Acequias has cultural and historic values to the region. The renovation of the canals and small diversion dams making up the Acequias system is essential to

continue the delivery of water to the many small communities which depend on them for their economic livelihood.

According to the Army Corps of Engineers, the current funding level authorized for the Acequias irrigation system will permit construction of an estimated 270 projects. The design and construction phase is underway for several of these projects. There are, however, over 1,000 Acequia associations and many of these are also in need of repair. The Army Corps of Engineers estimates the additional $20 million authorized in this bill will allow for the reconstruction of an additional 100 Acequia projects.

Madam Chairman, your help in securing authorization of this funding is sincerely appreciated. I urge my colleagues to support this legislation.

Mr. SHAW. Madam Chairman, today I rise in support of H.R. 5314, the Water Resources Development Act of 1990. Although there are many fine provisions contained in this bill, I am especially pleased the Public Works Committee included a section in the bill which should finally put the Cross Florida Barge Canal to its well-deserved rest. The issue of the Cross Florida Barge Canal has been a contentious one in my home State of Florida for many years, and I am glad that a resolution to this problem is finally within sight.

The Cross Florida Barge Canal project was first formally authorized by Congress over 48 years ago, way back in 1942. The canal was to run from Jacksonville to Yankeetown, on Florida's gulf coast. Construction of the canal commenced in 1964, but this work was stopped, due to environmental concerns, by President Nixon in 1971. In 1986, my former Florida colleague, Buddy Mackay, and I moved to have the canal partially deauthorized, and this provision was included as part of that year's Water Resources Development Act. With the passage of H.R. 5314 today, and the State of Florida's acceptance, the dissolution of the Cross Florida Barge Canal will be complete.

Certainly this massive project will go down in history as one of the greatest public works boondoggles of all time. The Cross Florida Barge Canal was not only an environmental disaster, disrupting the fragile ecosystem of that area, but it was also a financial disaster, costing the Federal Government tens of millions of dollars.

And what did the Federal Government get for its investment? A canal that leads to nowhere. A canal which is utterly useless. I find it to be sweetly ironic that this behemothic project which embodied the dredge-and-fill mentality of previous generations, will be turned into a park for all to enjoy.

Madam Chairman, it is my hope that the mistake of the Cross Florida Barge Canal will never be repeated again. Passage of H.R. 5314 will give the citizens of Florida, the American taxpayer, and environmentalists everywhere something to cheer about, and I urge my colleagues to vote yes on this important bill.

As a supporter of H.R. 5314, the Water Resources Development Act of 1990, I would also like to bring to my colleagues' attention a project contained in the bill that is of great importance to the people of Broward County, FL.

The project to which I refer is the dredging of Hillsboro Inlet, located in my congressional district. This project was originally authorized as part of the Broward County Beach Erosion Control and Hillsboro Inlet Navigation Program, which was passed by Congress in 1965. The original project was extensive and costly. After examining all the options, local officials decided not to proceed with the program and instead the Hillsboro Inlet Improvement and Maintenance District purchased a dredge and has been keeping the inlet clear for the past 23 years. The Army Corps of Engineers therefore categorized the project as inactive and shelved further construction plans.

Unfortunately, the forces of nature and economic development have recently overtaken the abilities of the local community. A large sandbar has built up across the mouth of the inlet, beyond the range of the local dredge. This shoaling up of the inlet creates treacherous, often impossible, navigation hazards and prevents a proper flow of water through the inlet. Present conditions needlessly endanger recreational boaters who are not familiar with conditions around the mouth of the inlet, and discourages commercial use of the inlet by charter boats, long-line fishing vessels and other marine enterprises. Perhaps most importantly, the sandbar prevents the inlet from properly serving as a flush-out point and floodgate for the communities to the west of Hillsboro.

The flood control properties of the inlet were not considered in the originally authorized project. At the time the area west of Hillsboro was sparsely populated and the periodic flooding which occurred caused little concern. Since that time, there has been explosive population growth in Broward County. Flooding in this area would now cause severe economic damage as well as endanger the lives and safety of the people in the area, many of whom are senior citizens who would not be able to evacuate quickly.

The dredge, which the Hillsboro Authority owns and operates, is not certified for operation in the open ocean and would be prone to capsize if the attempt were made to utilize it outside the sheltered waters of the inlet. Clearly, the job cannot properly or safely be done without the active participation by the Army Corps of Engineers. This is why the authorization of this worthy project is crucial.

Madam Chairman, I would like to thank Chairmen NOWAK and ANDERSON, as well as Congressmen STANGELAND and HAMMERSCHMIDT for their efforts in putting together this comprehensive bill. These gentlemen were instrumental in including the Hillsboro Inlet project in H.R. 5314, and I commend them for their foresight and wisdom in helping to authorize this much needed project.

Mr. COLEMAN of Texas. Madam Chairman, I rise to offer H.R. 4758 as an amendment to the Water Resources Development Act of 1990. This amendment would authorize the construction, operation, and maintenance of an extension to the American Canal in El Paso, TX, by the Secretary of State acting through the Commissioner of the International Boundary and Water Commission. Many of you will recall that this bill passed the House of Representatives on June 12, 1990, by a voice vote. There is nothing new in this amendment, and it is being included in the Water Resources Development Act in order to make it conferenceable with the companion bill already passed by the Senate.

I want to especially thank the chairman of the Committee on Public Works and Transportation, Mr. GLENN ANDERSON, and the chairman and the ranking minority member of the Subcommittee on Water Resources, Mr. HENRY NOWAK and Mr. ARLAN STANGELAND, respectively, for agreeing to include this project as an amendment to H.R. 5314. In addition, Chairman DANTE B. FASCELL of the Foreign Affairs Committee and Chairman MORRIS UDALL of the Interior and Insular Affairs Committee, who had jurisdiction of H.R. 4758, deserve recognition for their work and for consenting to my offering this bill as an amendment to the Water Resources Development Act. And finally, I commend the staff at the Foreign Affairs and Interior and Insular Affairs Committees and at the Water Resources Subcommittee for all their help.

As a feature of the Rio Grande project, the American Canal extension would be located along the Rio Grande River within the city of El Paso, county of El Paso, in west Texas. The extension project would consist of widening about 1.4 miles of the existing American Canal, constructing a 13-mile extension of the canal, modifying traffic and drainage structures, and eliminating a portion of the existing Franklin Canal.

This project would bestow numerous benefits upon this area in southwest Texas and enjoys the support of local, State, and Federal agencies. During the last 7 years, I have worked closely with local officials interested in the extension of the American Canal and the two most directly involved Federal agencies, the Bureau of Reclamation and the International Boundary and Water Commisson, have both supported this project. The International Boundary and Water Commission has stated it would complete an environmental assessment on the project. Further, the legislation calls for cost sharing by the local Irrigation district, and contributions from Mexico and other non-Federal beneficiaries such as the city of El Paso. The irrigation district would contribute $5 million for construction costs plus $50,000 a year in maintenance costs.

The construction of an extension to the American Canal—which would lie in its entirety on the United States' side of the international border with Mexico—and its operations would result in a number of needed benefits to the communities on both sides of the border. Among these benefits are a more equitable distribution of waters between the United States and Mexico, the reduction of water losses, and the elimination of many hazards to public safety.

The possibility of international friction between Mexico and the United States would be reduced if the American Canal is extended. The present canal does not allow optimal control over the portion of water belonging to the United States and it is believed that illegal diversion of water is taking place by Mexican farmers. As such, potentially disruptive international issues might arise from the commin-

gling of the waters of the United States and the waters of Mexico in this reach of the Rio Grande, while such issues would not arise if a canal extension were constructed and operated wholly on the American side of the river. The proposed extension would eliminate that diversion and would eliminate the source of potential disputes and tension.

Another benefit to be achieved from the legislation would be the salvage of between 12,000 and 22,000 acre-feet of water lost annually because of seepage. Water transportation losses fluctuate greatly in the Franklin Canal as well as the Rio Grande due to the dirt lining and seepage losses. Salvaged water could increase annual allotments to each water right acre if a cement-lined canal were available. The value of this amount of conserved water is enormous to a community such as El Paso because of the water shortage in the area.

A third benefit that would result is the elimination of health and safety hazards to El Paso citizens. The current use of the Franklin Canal, located in the downtown area, has created a health and safety problem because refuse and garbage are illegally dumped in the canal, creating a breeding ground for bacteria. Disease-carrying mosquitos, spiders, scorpions, and snakes breed and live in the vegetation along the canal, and stagnant water during the months when irrigation is not carried through the Franklin Canal creates further health problems due to contamination. In addition, a number of drownings occur every year in the canal because of its proximity to residential areas. The 5.5 miles of the Franklin Canal I am proposing to eliminate have the heaviest density of population per square mile than any other area of El Paso. The average size of a family in this area is 5.6 persons, and the largest percentage of children in the families are less than 13 years of age and have no access to public or private swimming pools. The proposed extension would render the Franklin Canal obsolete and it could be filled in for some more beneficial public use in the area.

Finally, this project would have the added benefit of creating construction jobs as well as other employment opportunities in a border area that is beset with economic problems and high unemployment.

Again, I thank my colleagues for their continued support for this worthwhile project.

Mr. GALLO. Madam Chairman, I rise today in support of the Water Resources Development Act of 1990. This act includes many programs designed to end the devastation caused each year by flooding. Included in this year's authorization is the Passaic River tunnel project which is designed to alleviate the major flooding problems in northern New Jersey.

The Passaic River basin has been recognized as being one of the most serious flood problems on the east coast. The basin contains some of the most densely developed metropolitan area in the country. The development of its flood plain, due to heavy residential and industrial growth, and its location in the east coast storm belt has led to a history of severe hardship during flooding.

Since records have been kept, there have been 19 major floods in the Passaic River basin. The lower basin has been declared a Federal disaster area seven times in the last 20 years.

You only have to look at the flood of 1984 to understand the devastation that takes place in the basin. The 1984 flood damaged some 6,400 properties at a loss of $355 million. Homes were under 9 feet of water, more than 9,000 people were evacuated, 4 lives were lost and nearly 4,000 homes suffered a long-term loss of utility service.

Since that flood, we have redoubled our efforts to begin the construction of the tunnel project and to protect the public health and safety of the residents.

I am satisfied that the Army Corps has chosen the only viable solution to solve the flooding problems of the Passaic River basin. The comprehensive Passaic River tunnel project, including a terminus in Newark Bay, the preservation of 5,350 acres of wetlands and 5.9 miles of channel modifications, incorporates a state-of-the-art concept—the construction of a 13.5-mile underground water diversion tunnel and a 1.2-mile spur tunnel.

In addition, the flood control plan, including the tunnel construction, has the support of most of the residents of the Passaic River basin, who have seen what this river can do and want to prevent the devastation that is possible in the future.

The project is a good solution and I am pleased that it has the committee's and the administration's support. It is time to stand firm on the urgent need for flood control in the Passaic River basin and I am happy to lend my support for an integral part of the Water Resources Development Act of 1990.

Mr. DAVIS. Madam Chairman, I rise in strong support of H.R. 5314 as amended by the committee substitute.

Madam Chairman, this legislation authorizes or reauthorizes many worthwhile and important navigational and flood control projects around the country. Included in this legislation are several projects important to northern Michigan.

In particular, this legislation includes the reauthorization of the new, large Soo Lock at Sault Ste. Marie, MI. The language of this bill also makes a very important change along with this reauthorization. For the first time, the Secretary of the Army will be allowed to recognize the unique nature of this project and to identify all of the parties which benefit from this project. In the past, the local cost-share partner for this project was required to be the State of Michigan. While this is the standard arrangement for major projects, this project would modernize a lock system which benefits not just Michigan, but eight States as well as Canada.

The legislation also makes minor changes to current regulations to allow the State of Michigan to take control of the operations of a Federal water control and navigation facility which the Army Corps of Engineers can no longer afford to operate. Without this language, the project would probably be abandoned by the Federal Government.

Madam Chairman, this legislation is important and I urge my colleagues to support it as amended by the committee substitute.

Mr. CLEMENT. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act. I particularly want to commend our full committee chairman, GLENN ANDERSON, our water resources subcommittee chairman, HENRY NOWAK, and the respective ranking Republican members, JOHN PAUL HAMMERSCHMIDT and ARLAN STANGELAND, for their leadership on this important measure.

Madam Chairman, I am particularly pleased to bring to my colleagues' attention the provision authored by JOHN TANNER and myself authorizing a study by the Secretary of the Army of the steps necessary to restore the public works infrastructure should an earthquake strike the New Madrid Fault and the Central United States.

The language of the provision is modeled on a similar provision requiring a study of southern California's public works infrastucture requirements following an earthquake there.

As my colleagues know, the New Madrid Fault poses a tremendous hazard to the Nation. It a considered a seismically active fault affecting several States in the Central United States, including the States of Tennessee, Mississippi, Missouri, Arkansas, Kentucky, Illinois, and Indiana. Coincidentally, a small tremor struck the fault this morning.

Historical data show that one of the most severe earthquakes in the recorded history of our country occurred along the New Madrid Fault in 1811–12. In a period of approximately 7 weeks, 3 separate quakes occurred. Scientists tell us that each would have registered over 8 on the Richter scale if that measurement device had been available in those days.

Newspaper accounts of the period report that these earthquakes were felt as far away from the epicenter as Washington, New York, Chicago, and Boston. In the immediate area, the forces of the earthquakes produced a change in the course of the Mississippi River. Reelfoot Lake, encompassing some 50,000 acres in Obion and Lake Counties, TN, was formed overnight.

Since that time, the New Madrid Fault has been continuously active with numerous moderate earthquakes having occurred periodically and thousands of smaller tremors occurring regularly. Experts predict an 80-percent chance of a major quake of the magnitude of last year's Loma Prieta occurring along the fault within the next 20 years. More than 12 million people live in an area likely to be effected. More importantly, the disruption such a quake would bring on the Nation is staggering.

The failure of bridges that cross the Mississippi River would hamper east-west ground transportation and disrupt north-south river traffic for months. In addition, pipelines carrying natural gas supplies from Texas and Louisiana to the Northeast and Midwest cross the Mississippi in this region. Breaks in those lines would create enormous shortages in the Northeast, where our country is most densely populated. If an earthquake occurred in winter, one could readily imagine the consequences for all our citizens.

Unfortunately, a recent earthquake response exercise conducted by the Federal Emergency Management Agency demonstrated that communities along the fault are unprepared. They are not only poorly prepared to prevent damage, they are also poorly pre-

pared to restore services and public works infrastructure. This fact was underscored at a recent hearing before the Science, Space, and Technology Investigations and Oversight Subcommittee on the earthquake threat in the Central United States.

The need for this study is great and I thank the members of the Public Works Committee for approving its inclusion in this bill.

Ms. SCHNEIDER. Madam Chairman, the Water Resources Development Act is a vital bill of national importance, both economically and environmentally. By providing necessary funding to the Army Corps of Engineers, this bill will enable the corps to proceed with missions ranging from harbor dredging and flood control to technology demonstration and environment cleanup.

I am especially glad to note that the Public Works Committee, in response to my request, has included two provisions of special significance to the State of Rhode Island. The first of these is an authorization for a feasibility report and design demonstration for a project in Cranston, RI.

This project would connect several sources of pollution, including a landfill that is a superfund site, to a wastewater treatment facility with excess capacity.

Since the actual construction of the connector system would be paid for locally, corps support for the feasibility report and design demonstration would be an especially cost effective use of Federal resources.

The final result of this project will be an innovative solution to several environmental problems including ground water contamination, river pollution, and threats to drinking water from the Scituate Reservoir.

The second of these provisions is actually the deauthorization of a project, namely; the Big River Reservoir project.

Construction of the Big River Reservoir would have led to the destruction of 20 miles of cold water streams, 570 acres of wetlands, and 2,000 acres of upland forest, seriously threatening hundreds of wildlife species in the area.

As a result of this environmental threat, the EPA denied the corps a project permit. I strongly supported this EPA project veto, and now urge congressional action to remove this misconceived proposals from the list of authorized corps projects.

Overall, I would like to praise the corps for the capable way in which it carriers out the directives of Congress. Furthermore, I would like to commend my colleagues on the Public Works Committee for their fine work on this legislation, which I believe will provide proper guidance to the corps. I urge the House to adopt it.

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

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section shall be considered as having been read.

It shall be in order to consider en bloc the amendments printed in House Report 101-719. Said amendments en bloc shall not be subject to a demand for a division of the question.

The Clerk will designate section 1.

Mr. ANDERSON. Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the committee amendment in the nature of a substitute is as folllows:

H.R. 5314

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Private sector development of infrastructure.
Sec. 6. Planning and engineering.
Sec. 7. Funding of costs assigned to commercial navigation.
Sec. 8. Emergency response.
Sec. 9. Construction of navigation projects by non-Federal interests.
Sec. 10. Project modifications for improvement of environment.
Sec. 11. Ability to pay.
Sec. 12. Environmental protection mission.
Sec. 13. Flood plain management.
Sec. 14. Shoreline protection.
Sec. 15. Reservoir management.
Sec. 16. Changes in reservoir project operations.
Sec. 17. Environmental dredging.
Sec. 18. Protection of recreational and commercial uses.
Sec. 19. Multipurpose water resources projects.
Sec. 20. Great Lakes remedial action plans.
Sec. 21. Matters to be addressed in planning.
Sec. 22. Cross Florida Barge Canal.
Sec. 23. Small navigation projects.
Sec. 24. Onondaga Lake, New York.
Sec. 25. Sauk Lake, Minnesota.
Sec. 26. Wappingers Lake, New York.
Sec. 27. Small flood control projects.
Sec. 28. Bay City, Michigan.
Sec. 29. Delaware River and tributaries, Pennsylvania.
Sec. 30. Continuation of authorization of certain projects.
Sec. 31. Erosion prevention projects, Louisiana.
Sec. 32. Hazard, Kentucky.
Sec. 33. Demonstration of construction of Federal project by non-Federal interests.
Sec. 34. Modification of reversionary interest.
Sec. 35. Upper Mississippi River plan.
Sec. 36. Section 221 agreements.
Sec. 37. Cabin site leases.
Sec. 38. San Luis Rey, California.
Sec. 39. Construction of Virgin Island projects by Secretary of the Army.
Sec. 40. Protection of recreation project purposes.
Sec. 41. Liberty, Ohio.
Sec. 42. Washingtonville, Ohio.
Sec. 43. Albermarle Sound-Roanoke River Basin, North Carolina.
Sec. 44. Cranston, Rhode Island.
Sec. 45. Santa Rosa, California.
Sec. 46. Generation facilities.
Sec. 47. Flat Rock, Michigan.
Sec. 48. Warroad Harbor, Minnesota.
Sec. 49. Rondout Creek and Wallkill River, New York and New Jersey.
Sec. 50. Struthers, Ohio.
Sec. 51. Virginia Beach, Virginia.
Sec. 52. Youngstown, Ohio.
Sec. 53. Southwest Region Flood Response Commission.
Sec. 54. Rehabilitation of Federal flood control levees.
Sec. 55. Flood warning system.
Sec. 56. Rend Lake water storage contract extension.
Sec. 57. Declaration of nonnavigability for portions of Lake Erie.
Sec. 58. Wetlands enhancelent opportunities.
Sec. 59. Radium removal demonstration program.
Sec. 60. Studies.
Sec. 61. Lake of the Woods, Minnesota.
Sec. 62. Project deauthorizations.
Sec. 63. Half Moon Bay Harbor.

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORT OF THE CHIEF OF ENGINEERS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this subsection:

(1) BAYOU LA BATRE, ALABAMA.—The project for navigation for Bayou La Batre, Alabama: Report of the Chief of Engineers, dated August 3, 1989, at a total cost of $16,230,000, with an estimated first Federal cost of $4,490,000 and an estimated first non-Federal cost of $11,740,000.

(2) HOMER SPIT, ALASKA.—The project for storm damage prevention, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of $4,700,000, with an estimated first Federal cost of $3,050,000 and an estimated first non-Federal cost of $1,650,000.

(3) CLIFTON, SAN FRANCISCO RIVER, ARIZONA.—The project for flood control on the San Francisco River at Clifton, Arizona, authorized by section 401(d) of the Water Resources Development Act of 1986 (100 Stat. 4130), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated September 6, 1988, at a total cost of $12,510,000, with an estimated first Federal cost of $9,150,000 and an estimated first non-Federal cost of $3,360,000.

(4) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona: Report of the Chief of Engineers, dated February 28, 1989, at a total cost of $7,260,000, with an estimated first Federal cost of $5,440,000 and an estimated first non-Federal cost of $1,820,000. The Secretary shall cooperate

with the Government of Mexico as necessary to provide for flood warning gauges in Mexico.

(5) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, at a total cost of $56,300,000, with an estimated first Federal cost of $39,000,000 and an estimated first non-Federal cost of $17,300,000.

(6) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation and storm damage reduction, Oceanside Harbor, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of $5,100,000, with an estimated first Federal cost of $3,350,000 and an estimated first non-Federal cost of $1,750,000.

(7) VENTURA HARBOR, CALIFORNIA.—The project for navigation, Ventura Harbor, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of $6,460,000, with an estimated first Federal cost of $5,180,000 and an estimated first non-Federal cost of $1,280,000.

(8) MARTIN COUNTY, FLORIDA.—The project for storm damage reduction, Martin County, Florida: Report of the Chief of Engineers dated November 20, 1989, at a total first cost of $9,400,000, with an estimated first Federal cost of $3,850,000 and an estimated first non-Federal cost of $5,550,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Florida: Report of the Chief of Engineers dated September 25, 1989, at a total cost of $65,700,000, with an estimated first Federal cost of $41,920,000 and an estimated first non-Federal cost of $23,780,000.

(10) MCALPINE LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, McAlpine Lock and Dam, Indiana and Kentucky: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $219,600,000, with a first Federal cost of $219,600,000. The Federal share of costs of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(11) FORT WAYNE, ST. MARY'S AND MAUMEE RIVERS, INDIANA.—The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana: Report of the Chief of Engineers, dated May 1, 1989, at a total cost of $16,300,000, with an estimated first Federal cost of $12,100,000 and an estimated first non-Federal cost of $4,200,000.

(12) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette Area, Louisiana: Report of the Chief of Engineers dated April 11, 1990, at a total cost of $8,283,000, with an estimated first Federal cost of $6,212,000 and an estimated first non-Federal cost of $2,071,000.

(13) BOSTON HARBOR, MASSACHUSETTS.—The project for navigation, Boston Harbor, Massachusetts: Report of the Chief of Engineers, dated May 11, 1989, at a total cost of $27,215,000, with an estimated first Federal cost of $16,854,000 and an estimated first non-Federal cost of $10,361,000.

(14) ECORSE CREEK, WAYNE COUNTY, MICHIGAN.—The project for flood control, Ecorse Creek, Wayne County, Michigan: Report of the Chief of Engineers, dated August 8, 1989, at a total cost of $7,280,000, with an estimated first Federal cost of $4,560,000 and an estimated first non-Federal cost of $2,720,000.

(15) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN AND MINNESOTA.—The project for navigation, Great Lakes Connecting Channels and Harbors, Michigan and Minnesota: Report of the Chief of Engineers, dated January 30, 1990, at a total cost of $7,489,100 with an estimated first Federal cost of $5,037,500 and an estimated first non-Federal cost of $2,451,600.

(16) COLDWATER CREEK, MISSOURI.—The project for flood control, Coldwater Creek, Missouri: Report of the Chief of Engineers, dated August 9, 1988, at a total cost of $22,380,000, with an estimated first Federal cost of $15,500,000 and an estimated first non-Federal cost of $6,880,000.

(17) RIVER DES PERES, MISSOURI.—The project for flood control, River Des Peres, Missouri: Report of the Chief of Engineers, dated May 23, 1989, at a total cost of $20,550,000, with an estimated first Federal cost of $15,270,000 and an estimated first non-Federal cost of $5,280,000.

(18) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—

(A) FLOOD CONTROL ELEMENTS.—

(i) IN GENERAL.—The project for flood control, Passaic River Main Stem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, except that the main diversion tunnel shall be extended to include the outlet to Newark Bay, New Jersey, at a total cost of $1,200,000,000, with an estimated first Federal cost of $890,000,000 and an estimated first non-Federal cost of $310,000,000.

(ii) DESIGN AND CONSTRUCTION.—The Secretary shall design and construct the project in accordance with the Newark Bay tunnel outlet alternative described in the Phase I General Design Memorandum of the District Engineer dated December 1987.

(iii) APPLICABILITY OF COST SHARING.—Except as otherwise provided in this paragraph, the total project, including the extension to Newark Bay, shall be subject to cost sharing in accordance with section 103 of the Water Resources Development Act of 1986.

(iv) OPERATION AND MAINTENANCE.—The non-Federal sponsor shall maintain and operate the project after its completion in accordance with the regulations prescribed by the Secretary; except that the Secretary shall operate and maintain the diversion tunnels element, including inlet and outlet works, at full Federal expense.

(v) CREDIT FOR NON-FEDERAL WORK.—In recognition of the State of New Jersey's commitment to the project on June 28, 1984, all work subsequently completed by the State or other non-Federal interests which is either compatible with or complementary to the project shall be considered as part of the project and shall be credited by the Secretary toward the non-Federal share of the cost of the project. Such work shall include, but not be limited to, those activities specified in the letter of the New Jersey Department of Environmental Protection, dated December 9, 1988, to the Office of the Chief of Engineers. However, only the portion of such work that meets the guidelines established under section 104 of the Water Resources Development Act of 1986 shall be considered as project costs for economic purposes. In applying such section 104 to the project, the Secretary shall likewise consider work carried out by non-Federal interests after June 28, 1984, and before the date of the enactment of this Act that otherwise meets the requirements of such section 104.

(B) STREAMBANK RESTORATION MEASURES.—The project shall include the construction of environmental and other streambank restoration measures (including bulkheads, recreation, greenbelt, and scenic overlook facilities) on the west bank of the Passaic River between Bridge and Jackson Streets in the city of Newark, New Jersey, at a total cost of $6,000,000. The non-Federal share of the project element authorized by this subparagraph shall be 25 percent. The value of the lands, easements, and rights-of-way provided by non-Federal interests shall be credited to the non-Federal share. Construction of the project element authorized by this subparagraph may be undertaken in advance of the other project features and shall not await implementation of the overall project.

(C) WETLANDS BANK.—

(i) ESTABLISHMENT.—The State of New Jersey shall establish a Passaic River Central Basin Wetlands Bank (hereinafter in this paragraph referred to as the "Wetlands Bank") to be comprised of lands which are acquired before, on, or after the date of the enactment of this Act by the State or any other non-Federal interest and which lie within the Passaic River Central Basin, New Jersey, natural storage area discussed in the report of the Chief Engineers and the Phase I General Design Memorandum.

(ii) USE.—The Wetlands Bank shall be available for mitigation purposes required under Federal or State law with respect to non-Federal activities carried out in the State.

(iii) COMPENSATION.—The State may receive compensation for making lands available under clause (ii).

(iv) STATE OWNERSHIP AND OPERATION.—The State shall continue to own and operate, consistent with the purposes of the project authorized by this paragraph, lands made available for mitigation purposes under clause (ii).

(v) ACQUISITION OF ADDITIONAL LANDS.—The State or other non-Federal interests may acquire for the Wetlands Bank additional lands which are in, adjacent to, or provide drainage for runoff and streamflows into the storage area described in clause (i) and may use funds provided by sources other than the State for such purpose. Such lands shall include transition and buffer areas adjacent to the Central Basin natural storage wetlands, and other Passaic River Basin areas, including the Rockaway, Pequannock, Ramapo, and Wanaque River watershed areas.

(vi) CREDIT.—The fair market value of lands acquired by the State or other non-Federal interests in the storage area described in clause (i) before, on, or after the date of the enactment of this Act, the fair market value of lands acquired for the Wetlands Bank under clause (v) before, on, or after such date of enactment, and the costs incurred by the State or other non-Federal interests in converting any of such lands to wetlands shall be credited to the non-Federal share of the project authorized by this paragraph.

(vii) TREATMENT OF ACQUIRED LANDS.—Lands acquired by the State for the Wetlands Bank shall not be treated as a project cost for purposes of economic evaluation of the project.

(19) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio De La Plata, Puerto Rico: Report of the Chief Engineers, dated January 3, 1989, at a total cost of $56,990,000, with an estimated first Federal cost of $34,780,000 and an estimated first non-Federal cost of $22,210,000.

(20) MYRTLE BEACH, SOUTH CAROLINA.—The project for storm damage reduction, Myrtle Beach, South Carolina: Report of the Chief of Engineers, dated March 2, 1989, at a total

cost of $59,730,000, with an estimated first Federal cost of $38,820,000 and an estimated first non-Federal cost of $20,910,000.

(21) BUFFALO BAYOU AND TRIBUTARIES, TEXAS.—The project for flood control, Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers dated February 12, 1990, at a total cost of $544,604,000, with an estimated first Federal cost of $309,313,000 and an estimated first non-Federal cost of $235,291,000.

(22) RAY ROBERTS LAKE GREENBELT, TEXAS.—The multiple purpose project, Ray Roberts Lake Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965, is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers, dated December 24, 1987, at a total cost of $4,620,000, with an estimated first Federal cost of $1,730,000 and an estimated first non-Federal cost of $2,890,000.

(23) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah: Report of the Chief of Engineers, dated November 16, 1988, at a total cost of $7,900,000, with an estimated first Federal cost of $5,200,000 and an estimated first non-Federal cost of $2,700,000.

(24) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia: Report of the Chief of Engineers, dated June 27, 1990, at a total cost of $55,100,000, with an estimated first Federal cost of $41,300,000 and an estimated first non-Federal cost of $13,800,000.

(25) PETERSBURG, WEST VIRGINIA.—The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $17,904,000, with an estimated first Federal cost of $10,044,000 and an estimated first non-Federal cost of $7,860,000.

(b) PROJECTS SUBJECT TO FAVORABLE REPORT OF THE CHIEF OF ENGINEERS.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited with such modifications as are recommended in a final report of the Chief of Engineers and approved by the Secretary and with such other modifications as are recommended by the Secretary (and if no report is cited for a project the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers and with such other modifications as are recommended by the Secretary) and no construction on such a project may be initiated until such a report of the Chief of Engineers is issued:

(1) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County drainage area, California, at a total cost of $327,000,000, with an estimated first Federal cost of $163,500,000 and an estimated first non-Federal cost of $163,500,000.

(2) MORRO BAY, CALIFORNIA.—The project for navigation, Morro Bay, California, to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet and thereafter maintain such channel at such depth, at a total cost of $1,900,000.

(3) NORCO BLUFFS, CALIFORNIA.—The project for bank stabilization and erosion control, Norco Bluffs, California, at a total cost of $10,000,000.

(4) LOCKS AND DAMS 2 AND 3, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2 and 3, Monongahela River, Pennsylvania, including replacement of locks and dams and related improvements as appropriate, at a total cost of $450,000,000, with a first Federal cost of $450,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(5) MARMET LOCK AND DAM, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock and Dam, Kanawha River, West Virginia, at a total cost of $300,000,000, with a first Federal cost of $300,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

SEC. 4. PROJECT MODIFICATIONS.

(a) VILLAGE CREEK, ALABAMA.—The project for flood control, Village Creek, Alabama, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4111), is modified to authorize the Secretary to acquire private vacant lands within the definite project boundaries established in the Real Estate Design Memorandum, dated March 4, 1988, as a nonstructural element of the project.

(b) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—Section 4(d) of the Water Resources Development Act of 1988 (102 Stat. 4015) is amended by inserting after "approved by the Secretary" in the first sentence the following: "or which, after the date of issuance of a report of the Chief of Engineers for such project, is included in such report".

(c) OAKLAND INNER HARBOR, CALIFORNIA.—The project for navigation, Oakland Inner Harbor, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified—

(1) to provide that the maximum amount reimbursable to non-Federal interests by the Secretary under section 215 of the Flood Control Act of 1968 with respect to the project shall be $10,000,000; and

(2) to direct the Secretary to enforce the navigational servitude with respect to construction of the project on a reimbursable basis if requested by a non-Federal sponsor of the project.

(d) SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA.—The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to direct the Secretary, if requested by a non-Federal sponsor, to enforce, on a reimbursable basis, the terms of any permit issued by the Secretary under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, to compel the relocation of any utility necessitated by the construction of an authorized navigation project.

(e) SANTA ANA MAINSTEM, CALIFORNIA.—The project for flood control, Santa Ana Mainstem, including Santiago Creek, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), is modified to authorize the Secretary to develop recreational trails and facilities on lands between Seven Oaks Dam and Prado Dam, including flood plain management areas.

(f) SANTA FE DAM, LOS ANGELES AND SAN GABRIEL RIVERS, CALIFORNIA.

(1) IN GENERAL.—The Santa Fe Dam project authorized as part of the flood control project for the Los Angeles and San Gabriel Rivers, California, by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1589), is modified to authorize the Secretary to contract for the removal and sale of dredged material from the flood control basin for Santa Fe Dam, Los Angeles County, California, for the purposes of facilitating flood control, recreation, and water conservation. All funds received by the Secretary from the removal and sale of such dredged material shall be deposited in the general fund of the Treasury.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1990, an amount not to exceed the amount of funds received by the Secretary from the removal and sale of dredged material under subsection (a). Amounts appropriated under this subsection shall be available to the Secretary—

(A) to construct, operate, and maintain recreational facilities at the Santa Fe Dam project, at full Federal expense; and

(B) to the extent consistent with other authorized project purposes, to facilitate, in coordination with the county of Los Angeles, water conservation and ground water recharge measures at the Sante Fe Dam project, at full Federal expense.

(g) SANTA PAULA CREEK CHANNEL AND DEBRIS BASIN, SANTA CLARA RIVER BASIN, CALIFORNIA.—The project for flood control, Santa Paula Creek Channel and Debris Basin, Santa Clara River Basin, California, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1178), is modified to direct the Secretary to construct the debris basin feature of the project at the Mupu site in accordance with General Design Memorandum Number 4, Supplemental Design for Santa Paula Creek Channel, March 1972, at a total cost of $41,000,000.

(h) DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.—The project for navigation, inland waterway from the Delaware River to the Chesapeake Bay, Delaware and Maryland, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030), and modified by the Act entitled "An Act authorizing construction of a highway bridge across the Chesapeake and Delaware Canal at Saint Georges, Delaware", approved August 7, 1939 (53 Stat. 1240-1241), is modified to direct the Secretary to replace the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to meet current and projected traffic needs, at a Federal cost of $115,000,000. The State may carry out the bridge replacement. If the State carries out the bridge replacement, the Secretary may reimburse the State for costs incurred.

(i) ALAFIA CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Rivers and Harbors Act of September 22, 1922 (42 Stat. 1042), is modified to authorize the Secretary to maintain the Alafia Channel at a depth of 34 feet.

(j) FERNANDINA HARBOR, FLORIDA.—The project for navigation, Fernandina Harbor, Florida, authorized by the River and Harbor Appropriation Act of June 14, 1880, is modified to redesignate the location of the turning basin between stations 0+00 of cut 8 and 5+45 of cut 10 to the area between stations 11+70 and 23+30 of cut 5. Such redesignation shall remain in effect until the ongoing study of Fernandina Harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed.

(k) KISSIMMEE RIVER, CENTRAL AND SOUTHERN FLORIDA.—

(1) IN GENERAL.—The flood control project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is modified to provide for restoration of the Kissimmee River for environmental purposes, at an estimated total cost of $270,000,000. Such restoration includes filling of Canal C-38, removal of spillway structures and locks, and increasing the storage in the upper Kissimmee basin and shall minimize to the fullest extent possible any effect on the project's flood control and navigation purposes.

(2) REPORT OF CHIEF OF ENGINEERS.—The Secretary may undertake restoration of the Kissimmee River under this subsection only in accordance with a final report of the Chief of Engineers, including such modifications as the Secretary may recommend, which is based on the Level II Backfilling plan recommended by the South Florida Water Management District in the report entitled "Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design Report".

(3) NON-FEDERAL SHARE.—Non-Federal interests shall provide without cost to the United States all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project authorized by this subsection, except that the aggregate non-Federal share for the project shall not exceed 50 percent of the total cost of the project. In the event that the value of lands, easements, rights-of-way, relocations, and disposal areas is less than 25 percent of the total first cost of the project, non-Federal interests shall pay, during the period of construction, such amounts as may be necessary to make the total non-Federal contribution equal 25 percent. The non-Federal interests shall provide 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project. In addition, the non-Federal interests shall hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors.

(l) MANATEE HARBOR, FLORIDA.—The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), is modified to direct the Secretary to construct the project substantially in accordance with the post authorization change report, dated April 1990, at an estimated total cost of $27,589,000, with an estimated first Federal cost of $12,381,000 and an estimated first non-Federal cost of $15,208,000.

(m) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida, authorized by section 3 of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to direct the Secretary, in cooperation with the State of Florida, to renourish the southern beaches of Fernandia (south Amelia Island), Florida, from Florida Department of Natural Resources Monument Number 60 to Monument Number 74. The non-Federal share of the cost of such renourishment shall be 50 percent.

(n) PORT SUTTON CHANNEL, FLORIDA.—Section 3(a)(4) of the Water Resources Development Act of 1988 (102 Stat. 4013) is amended by striking "; except" and all that follows through "beneficiary".

(o) DES MOINES RIVER AND GREENBELT, IOWA.—

(1) AREA DESCRIPTION.—The project for Des Moines Recreational River and Greenbelt, Iowa, authorized by the Supplemental Appropriations Act, 1985 (99 Stat. 313), is modified to include the area described in the Des Moines Recreational River and Greenbelt map, which description is printed in Committee Print 101-47 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990.

(2) FORMER AREA DESCRIPTION.—Section 604 of the Water Resources Development Act of 1986 (100 Stat. 4153) is repealed.

(p) KENTUCKY RIVER, KENTUCKY.—The project for the disposition of Kentucky River, Kentucky, Locks and Dams 5 through 14, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4109), is modified to provide that the Secretary may not proceed with such disposition until the Secretary has performed major maintenance on the lock and dam structures. Such major maintenance is to include resurfacing of lock chamber walls, timber replacement, valve repair, and gate leaf replacement, at a total cost of $3,500,000. Until such time as the lock and dam facilities are transferred to non-Federal interests, the Secretary shall perform routine maintenance that is necessary to prevent permanent failure of project components and to maintain operational capability.

(q) LAKE PONTCHARTRAIN, LOUISIANA.—The project for flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to make construction, operation, and maintenance of the project a Federal responsibility. The modification made by this subsection shall take effect January 1, 1966.

(r) BUFFUMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffumville Lake, Massachusetts, authorized by the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to authorize the Secretary to undertake low flow augmentation for improving water quality on the French River.

(s) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—The navigation project for replacement of locks and dam 26, Mississippi River, Alton, Illinois and Missouri, authorized by section 102 of Public Law 95-502, is modified to authorize the Secretary to provide project-related recreation development in the State of Illinois, that requires no separable project lands, and includes site preparations and infrastructure for a marina and docking facilities, access roads and parking, a boat launching ramp, hiking trails, and picnicking facilities, at a Federal construction cost that will not increase the overall project cost estimate for recreation development. The recreation development shall be subject to cost-sharing with the State of Illinois and costs incurred by non-Federal public interests for items of work that may have been completed before the date of the enactment of this Act may be credited to the non-Federal share of the overall cost if, in the Secretary's opinion, such work is directly related to and necessary for project-related recreation development described in the preceding sentence.

(t) ROUGE RIVER, MICHIGAN.—The multipurpose project at Rouge River, Michigan, authorized by the Act of August 30, 1935 (49 Stat. 1036-1037), is modified to authorize and direct the Secretary, in consultation with appropriate State and local agencies, to conduct a 1-year comprehensive study of the Rouge River streamflow enhancement project at the Rouge River, Huron River, and Belleville Lake for the purpose of identifying measures which will optimize achievement of the project's purposes while preserving and enhancing the quality of the Rouge River, Huron River, and Belleville Lake for current and future users. Upon completion of the study, the Secretary shall undertake a demonstration project at the Rouge River to determine the effectiveness of measures identified in such study, at a total cost of $88,183,000, with an estimated Federal share of $19,612,000 and an estimated non-Federal share of $68,571,000.

(u) REDWOOD RIVER, MARSHALL, MINNESOTA.—The project for flood control, Redwood River at Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117) and modified by section 4(k) of the Water Resources Development Act of 1988, is modified to provide that the costs of the project are as follows: The total cost of the project is $9,632,000, with an estimated first Federal cost of $7,823,000 and an estimated first non-Federal cost of $1,809,000.

(v) MISSISSIPPI RIVER, ST. PAUL, MINNESOTA.—The project for flood control, Mississippi River at St. Paul, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to construct the project substantially in accordance with the Design Memorandum, dated March 1990, and the Recreational Supplement, dated April 1990, at a total cost of $18,021,000, with an estimated first cost of $10,226,000 and an estimated first non-Federal cost of $7,795,000.

(w) SOUTH FORK ZUMBRO RIVER WATERSHED, ROCHESTER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed at Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum of the Chief of Engineers, dated September 1982, at a total cost of $112,000,000, with an estimated first Federal cost of $82,900,000 and an estimated first non-Federal cost of $29,700,000.

(x) PEARL RIVER BASIN, MISSISSIPPI.—Section 401(e)(3) of the Water Resources Development Act of 1986 (100 Stat. 4132) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B)(vi) and inserting "; and";

(3) by inserting after subparagraph (B)(vi) the following new subparagraph:

"(C) for measures to provide flood protection for the Jackson metropolitan area, Mississippi, and all areas affected by flooding of the Pearl River downstream of the areas covered by subparagraph (B) in the State of Mississippi, including the counties of Rankin, Hinds, Simpson, Lawrence, Marion, and Madison, Mississippi."; and

(4) by adding at the end the following new sentence:

"In carrying out the projects and measures described in subparagraphs (A), (B), and (C), the Secretary shall consult with local governmental entities affected by such projects.".

(y) ACEQUIAS SYSTEM, NEW MEXICO.—The irrigation system project, New Mexico, authorized by section 1113 of the Water Resources Development Act of 1986 (100 Stat. 4232), is modified to provide that the costs of the project are as follows: The total cost of

the project is $73,300,000, with an estimated first Federal cost of $55,000,000 and an estimated first non-Federal cost of $18,300,000.

(z) NEW YORK HARBOR DRIFT REMOVAL PROJECT, NEW YORK AND NEW JERSEY.—

(1) REMOVAL OF FLOATING MATERIAL.—The New York Harbor collection and removal of drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), is modified to authorize the Secretary to collect and remove floating material whenever the Secretary is collecting and removing debris which is an obstruction to navigation.

(2) CONTINUATION.—The Secretary shall continue engineering, design, and construction on the New York Harbor collection and removal of drift project, including construction of the 2nd phase in the Jersey City North reach which shall include remaining piers and debris in the Harsimus Cove area, construction of the Brooklyn II reach, and engineering and design for the remaining unconstructed reaches.

(3) BARGE REMOVAL.—As part of the New York Harbor collection and removal of drift project, the Secretary shall expedite necessary engineering, design, and removal of 7 abandoned barges from the Passaic River in Kearny, Nutley, and Passaic, New Jersey.

(aa) IRONDEQUOIT BAY, NEW YORK.—The navigation project for Irondequoit Bay, New York, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299), is modified to authorize the Secretary to construct a highway bridge across the new channel constructed as part of such project if non-Federal interests—

(1) agree to be responsible for operation and maintenance of such bridge,

(2) agree to pay 50 percent of the cost of such construction, and

(3) agree that title to such bridge will be held by non-Federal interests.

(bb) CLEVELAND HARBOR, OHIO.—The project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to direct the Secretary to reimburse the non-Federal sponsor for the Federal share of amounts expended by the non-Federal sponsor for improvements to Pier 34 of such project.

(cc) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio, authorized by section 3(a) of the Water Resources Development Act of 1988 (102 Stat. 4014), is modified to increase the total cost of the project to $90,000,000.

(dd) CANTON LAKE, OKLAHOMA.—The second paragraph under the heading "ARKANSAS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 647), as amended by the first paragraph under the heading "ARKANSAS RIVER BASIN" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is amended—

(1) by striking "Enid, Oklahoma" and inserting "Oklahoma City, Oklahoma"; and

(2) by adding at the end the following: "Not later than 180 days after the date of the enactment of the Water Resources Development Act of 1990, the Secretary of the Army is directed (subject to agreement between the city of Oklahoma City, Oklahoma, or the Oklahoma City Municipal Improvement Authority and the city of Enid, Oklahoma, providing for such reassignment) to reassign to the city of Oklahoma City all the municipal and industrial storage in the Canton Reservoir for the city of Enid and all irrigation storage to municipal and industrial water supply storage (under the terms of the Water Supply Act of 1958 (72 Stat. 319-320)); except that if the city of Oklahoma City contracts for permanent municipal and industrial water supply storage under this Act, the city of Oklahoma City shall receive credit for amounts previously paid by it, or on its behalf, toward the principal investment cost for storage under prior term contracts and other payments. The principal amount to be paid by the city of Oklahoma City shall be the proportional amount of original project construction cost for which the city of Oklahoma City contracts for storage and at the original project interest rate over a 50-year payback amortization schedule beginning in 1955.".

(ee) DELAWARE RIVER, PENNSYLVANIA, NEW JERSEY, AND DELAWARE.—The project for navigation, Delaware River, Pennsylvania, New Jersey, and Delaware, Philadelphia to the Sea, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, is modified to authorize the Secretary to make improvements to the Tioga Marine Terminal, at a total cost of $2,700,000. Such improvements include piling replacement, a new pier fendering system, paving, deck replacement, lighting, and fencing.

(ff) LOCK AND DAM 7 REPLACEMENT, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Lock and Dam 7 Replacement, Monongahela River, Pennsylvania, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), is modified to provide that the dam structure will be gated instead of fixed crest and to increase the total cost of the project to $133,000,000.

(gg) ROCHESTER, PENNSYLVANIA.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by section 13 of the River and Harbor Act of 1909 (35 Stat. 831), is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $90,000.

(hh) MCNARY LOCK AND DAM, WASHINGTON AND OREGON.—The project for McNary Lock and Dam, Second Powerhouse, Columbia River, Washington and Oregon, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4146), is modified to direct the Secretary to construct the levee beautification portion of the project described in the Phase I General Design Memorandum: Report of the Chief of Engineers, dated June 24, 1981. In determining the new levee heights, the Secretary shall complete the feasibility studies underway for the Tri-Cities Levees, Washington, giving full consideration to the impact that present upstream reservoir storage has had in lowering water surface elevations during major floods.

(ii) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—

(1) MINIMIZATION OF DRIFT AND DEBRIS RELEASE.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to minimize the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report detailing the Secretary's progress in carrying out paragraph (1).

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect the authority of the Secretary to carry out other authorized purposes of the project referred to in paragraph (1); except that no policy or priority established by the Secretary shall be used to defer or impede the implementation of the measures described in paragraph (1).

(jj) MATEWAN, WEST VIRGINIA.—The project for flood control, Matewan, West Virginia, authorized by section 202 of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to provide that the flood control project for Hatfield Bottom, West Virginia, shall be treated as being an inseparable element of the Matewan project for purposes of section 103 of the Water Resources Development Act of 1986.

SEC. 5. PRIVATE SECTOR DEVELOPMENT OF INFRASTRUCTURE.

(a) MARKET FEASIBILITY PROGRAM.—The Secretary, in cooperation with non-Federal interests, is authorized to carry out, during the 3-year period beginning on the date of the enactment of this Act, a market feasibility program for the purpose of determining what opportunities exist for private sector development of facilities for water, waste management, and energy generation and other critical support facilities.

(b) COOPERATIVE AGREEMENTS.—To carry out subsection (a), the Secretary may enter into cooperative agreements with non-Federal entities, including State and local governments, colleges and universities, corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of a State, the District of Columbia, or a territory or possession of the United States. The Secretary may not agree to provide more than 50 percent of the costs incurred under such an agreement.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress on implementation of this section. Such report shall include any recommendations of the Secretary concerning modification and extension of the program carried out under this section.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 to carry out this section.

SEC. 6. PLANNING AND ENGINEERING.

Section 105(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(b)) is amended by adding at the end the following new sentence: "This subsection shall not apply to planning and engineering of projects for which non-Federal interests contributed 50 percent of the cost of the feasibility study.".

SEC. 7. FUNDING OF COSTS ASSIGNED TO COMMERCIAL NAVIGATION.

Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting the following:

"(2) not more than 100 percent of the eligible operation and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States.".

SEC. 8. EMERGENCY RESPONSE.

The first sentence of section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended—

(1) by striking "flood emergency preparation," and inserting "preparation for emergency response to any natural disaster,"; and

(2) by striking the period at the end and inserting the following: "; or for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disaster.".

SEC. 9. CONSTRUCTION OF NAVIGATION PROJECTS BY NON-FEDERAL INTERESTS.

(a) TRANSMISSION OF HARBOR IMPROVEMENT STUDIES TO NON-FEDERAL INTERESTS.—Section 204(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(c)) is amended by inserting after the first sentence the following new sentence: "The Secretary is further authorized to complete and transmit to the appropriate non-Federal interest any study for improvement to harbors or inland harbors of the United States that is initiated pursuant to section 107 of the River and Harbor Act of 1960 or, upon request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest.".

(b) REIMBURSEMENT.—Section 204 of such Act is amended—

(1) by redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively;

(2) in paragraph (1) of the first subsection (e) by inserting "including any small navigation project approved pursuant to section 107 of the River and Harbor Act of 1960," after "or separable element thereof,"; and

(3) in paragraph (1)(A) of the first subsection (e) by inserting "(or, in the case of a small navigation project, after completion of a favorable project report by the Corps of Engineers)" after "authorization of the project".

SEC. 10. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.

(a) REVIEW OF PROJECT OPERATIONS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), is amended by striking "before the date of enactment of this Act".

(b) MODIFICATION PROGRAM.—Section 1135(b) of such Act is amended—

(1) by striking "demonstration program in the 5-year period beginning on the date of enactment of this Act" and inserting "program"; and

(2) by striking "before the date of enactment of this Act".

(c) REPORT.—Section 1135(d) of such Act as amended to read as follows:

"(d) BIENNIAL REPORT.—Beginning in 1992 and every 2 years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b).".

(d) FUNDING.—Section 1135(e) of such Act is amended by striking "$25,000,000 to carry out this section." and inserting "$15,000,000 annually to carry out this section.".

SEC. 11. ABILITY TO PAY.

Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) GENERAL RULE.—Any cost-sharing agreement under this section for flood control or water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) PROCEDURES.—

"(A) IN GENERAL.—The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

"(B) LIMITATIONS.—The procedures established pursuant to this subsection shall not prescribe a minimum non-Federal share and shall allow for situations in which no cash contribution is required from the non-Federal interest; except that nothing in this subsection shall affect the requirements of a non-Federal interest to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations pursuant to this section. In addition, such procedures shall provide for determination of the eligibility of the non-Federal interest for a reduction in the required cash contribution on the basis of local, not statewide, economic data and for consideration of reductions in non-Federal cash contributions without regard to project benefit-to-cost ratio.

"(C) REGULATIONS.—Not later than the 180th day following the date of the enactment of this subparagraph, the Secretary shall issue regulations establishing the procedures required by this paragraph.".

SEC. 12. ENVIRONMENTAL PROTECTION MISSION.

(a) GENERAL RULE.—The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

(b) LIMITATION.—Nothing in this section affects—

(1) existing Corps of Engineers' authorities, including its authorities with respect to navigation and flood control;

(2) pending Corps of Engineers permit applications or pending lawsuits involving permits or water resources projects; or

(3) the application of public interest review procedures for Corps of Engineers permits.

(c) REPORT.—The Secretary shall, not later than January 1, 1992, and on a biennial basis thereafter, transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the implementation of this section, including—

(1) specific measures taken and agency resources committed to carry out the purposes of this section;

(2) any legal, funding, or policy obstacles encountered or anticipated; and

(3) recommendations for administrative and legislative measures to further the purposes of this section.

SEC. 13. FLOOD PLAIN MANAGEMENT.

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1) any new or substantially reconstructed structure built in the 100-year flood plain after July 1, 1991; and

(2) any structure that becomes located in the 100-year flood plain by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COST SHARING.—Not later than January 1, 1992, the Secretary shall transmit to Congress a report on the feasibility and advisability of increasing the non-Federal share of costs for new projects in areas where new or substantially reconstructed structures and other constrictions are built or placed in the 100-year flood plain after the initial date of the affected governmental units entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968.

(c) REGULATIONS.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a). Such regulations shall define key terms, such as new or substantially reconstructed structure, constriction, and 100-year flood plain.

(d) APPLICABILITY.—The provisions of this section shall apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has not been forwarded to the Secretary on or before July 1, 1995.

SEC. 14. SHORELINE PROTECTION.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes—

(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 50 times the annual erosion rate;

(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

(3) provisions for the relocation of structures in erosion-prone areas;

(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.

SEC. 15. RESERVOIR MANAGEMENT.

(a) TECHNICAL ADVISORY COMMITTEES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall establish for each major reservoir (including reservoirs of greater than 200,000 acre feet of gross storage) under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir management. The Secretary shall determine the membership of each committee, except that for each committee the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b) PUBLIC PARTICIPATION.—The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this subsection, including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the

Secretary shall transmit to Congress a report on measures taken pursuant to this subsection.

(c) RECREATION, FISH, AND WILDLIFE PURPOSES.—The Secretary is authorized to manage any existing dam and reservoir project of the Corps of Engineers for recreation and fish and wildlife purposes to the extent such management does not impair any other authorized project purpose.

SEC. 16. CHANGES IN RESERVOIR PROJECT OPERATIONS.

(a) REVIEW.—The Secretary shall conduct a review of the operations of reservoir projects which are under the jurisdiction of the Secretary—

(1) to determine whether or not such projects are being operated in accordance with their authorized purposes;

(2) to identify deficiencies in the operations of such projects which prohibit the realization of project benefits; and

(3) to determine inconsistencies in the operations of those projects which have the same authorized project purposes.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under subsection (a), together with recommendations for correcting deficiencies and eliminating inconsistencies identified under subsection (a).

(c) WATER CONTROL MANUALS.—

(1) PRELIMINARY DRAFT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop a preliminary draft of a water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(2) PUBLIC REVIEW.—The Secretary shall make each draft developed under paragraph (1) available for review by the public for a period of not less than 90 days.

(3) FINAL DRAFT.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall develop and publish a final water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(4) CONSISTENCY WITH PROJECT PURPOSES.—Each manual developed under this subsection shall be consistent with the authorized purposes of the project for which such manual is developed.

(d) OPERATION OF PROJECTS.—After the last day of the 15-month period beginning on the date of the enactment of this Act, each reservoir project which is under the jurisdiction of the Secretary shall be operated in accordance with the final water control manual developed for such project under this section.

(e) SIGNIFICANT CHANGES.—Before making any significant change in a water control manual developed under this section, the Secretary shall—

(1) make the proposed change available for review by the public for a period of not less than 60 days;

(2) prepare a comprehensive assessment of the need for the proposed change, the expected effects of the proposed change, comments received on the proposed change, the impact of the proposed change on authorized project purposes, the anticipated cost and benefits of the proposed change, alternatives which were considered before selection of the proposed change, and the authority for making the proposed change; and

(3) transmit to Congress a copy of the proposed change, together with such assessment, so that the proposed change and assessment will be available to Congress for a period of not less than 60 days before the proposed change becomes effective.

SEC. 17. ENVIRONMENTAL DREDGING.

(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—Whenever necessary to meet the requirements of the Federal Water Pollution Control Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

(b) NAVIGATION PROJECTS.—In carrying out a navigation project in an area which is not meeting applicable water quality standards, the Secretary may remove contaminated sediments outside the boundaries of and adjacent to the navigation channel if such removal is necessary to enable the area to meet such standards, such removal is requested by a non-Federal sponsor, and the sponsor agrees to pay 50 percent of the cost of such removal.

(c) NONPROJECT SPECIFIC.—The Secretary may remove contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal is requested by a non-Federal sponsor and the sponsor agrees to pay 50 percent of the cost of such removal.

(d) JOINT PLAN REQUIREMENT.—The Secretary may only remove contaminated sediments under subsections (b) and (c) in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

(e) DISPOSAL COSTS.—Costs of disposal of contaminated sediments removed under this section shall be a non-Federal responsibility.

SEC. 18. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) GENERAL RULE.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) MAINTENANCE.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practicable, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

(c) MITIGATION.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(d) APPLICABILITY.—

(1) GENERAL RULE.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) LIMITATION.—Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(e) COST SHARING.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 19. MULTIPURPOSE WATER RESOURCES PROJECTS.

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of hydroelectric power generating facilities at Corps of Engineers multipurpose water resources projects are to be considered as inherently governmental functions and not commercial activities. This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

SEC. 20. GREAT LAKES REMEDIAL ACTION PLANS.

The Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978. Non-Federal interests shall contribute 50 percent of the costs of such development and implementation.

SEC. 21. MATTERS TO BE ADDRESSED IN PLANNING.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting "(including preservation and enhancement of the environment)" after "environment".

SEC. 22. CROSS FLORIDA BARGE CANAL.

Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt; 100 Stat. 4232) is amended to read as follows:

"SEC. 1114. CROSS FLORIDA BARGE CANAL.

"(a) DEAUTHORIZATION.—The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter in this section referred to as the 'project'), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution specifically agreeing on behalf of the State of Florida (hereinafter in this section referred to as the 'State') to all of the terms of the agreement prescribed in subsection (b).

"(b) TRANSFER OF PROJECT LANDS.—Notwithstanding any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e), directed to transfer to the State all lands and interests in lands acquired by the Secretary and facilities completed for the project in subsection (a), without consideration, if the State agrees to each of the following:

"(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

"(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which

shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

"(A) Any area of the project corridor where, as of the date of the enactment of this subparagraph, no land is owned by the State or State Canal Authority.

"(B) Any area of the project corridor where, as of the date of the enactment of this subparagraph, the land owned by the State or State Canal Authority is less than 300 yards wide.

"(C) Any area of the project corridor where a road or bridge crosses the project corridor.

"(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east.

"(4) The State shall agree, consistent with paragraphs (2), (5) and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

"(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of $32,000,000 in cash or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

"(6) The State shall agree to provide that, after repayment of all sums due to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2), (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

"(c) ENFORCEMENT.—

"(1) REMEDIES AND JURISDICTION.—The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

"(2) STATE REMEDIES.—The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

"(d) TIME OF TRANSFER.—Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until the last day of the 24-month period beginning on the date of the enactment of the Water Resources Development Act of 1990.

"(e) MANAGEMENT PENDING TRANSFER.—In the 24-month period following the date of the enactment of the Water Resources Development Act of 1990, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d).

"(f) SURVEY.—The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State.".

SEC. 23. SMALL NAVIGATION PROJECTS.

(a) BUFFALO, NEW YORK.—The Secretary shall carry out a navigation project south of the existing dike disposal area in Buffalo, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater, fishing pier, and floating docks.

(b) ROCHESTER, NEW YORK.—The Secretary shall carry out a navigation project for the mouth of the Genesee River in Rochester, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by development and implementation of wave surge control measures.

(c) BOLLES HARBOR, MICHIGAN.—The Secretary shall carry out a navigation project at the mouth of the LaPliasance Creek, Bolles Harbor, Michigan, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of an offshore barrier.

(d) FORT PECK RESERVOIR, MONTANA.—The Secretary shall carry out a navigation project at the Fort Peck Reservoir, Montana, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater.

SEC. 24. ONONDAGA LAKE, NEW YORK.

(a) MANAGEMENT CONFERENCE.—The Secretary and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator"), and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake.

(b) PURPOSES OF CONFERENCE.—The purpose of the management conference under this section shall include but not be limited to—

(1) developing, within the 1-year period following the date of the enactment of this Act, a comprehensive restoration, conservation, and management plan that recommends priority corrective actions and compliance schedules for the cleanup of Onondaga Lake; and

(2) coordinating implementation of the plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in the conference.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The members of the management conference shall include, at a minimum—

(A) the Secretary,

(B) the Administrator,

(C) the Governor of the State of New York,

(D) a representative of the Attorney General of the State of New York,

(E) a representative of Onondaga County, New York, and

(F) a representative of the city of Syracuse, New York.

(2) PERMANENT REPRESENTATIVE.—The members of the management conference may designate a permanent representative to attend meetings of the management conference and otherwise represent and vote on their behalf on the management conference.

(3) EX OFFICIO MEMBERS.—The management conference shall include the following ex officio members:

(A) The United States Senators from the State of New York.

(B) The members of the United States House of Representatives within whose congressional districts Onondaga Lake lies.

(4) STANDING COMMITTEES.—There shall be two standing committees of the management conference as follows:

(A) The Citizens Advisory Committee.

(B) The Technical Review Committee.

(d) PLAN.—

(1) APPROVAL.—Not later than 120 days after the completion of a plan and after providing for public review and comment, the Secretary and the Administrator shall approve such plan if the plan meets the requirements of this section, and the Governor of the State of New York concurs in such approval.

(2) IMPLEMENTATION.—Upon approval of the plan under this section, such plan shall be implemented.

(e) GRANT PROGRAM.—

(1) IN GENERAL.—The management conference, with the approval of the Secretary, the Administrator, and the Governor of the State of New York, is authorized to make grants to the State of New York and public or nonprofit private agencies, institutions, organizations, and individuals.

(2) PURPOSES; NON-FEDERAL SHARE.—Grants under this subsection may be made for—

(A) research, surveys, and studies necessary for the development of the plan under this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources;

(B) conducting activities identified in the plan developed pursuant to this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources; and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage cost from parties responsible for the pollution of Onondaga Lake.

(3) IN-KIND PAYMENTS.—In-kind payments shall qualify for the purpose of meeting the non-Federal matching requirements of this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary and the Administrator $15,000,000 per fiscal year for each of fiscal years 1992 through 1998 to carry out this section.

SEC. 25. SAUK LAKE, MINNESOTA.

The Secretary shall complete the project for removal of silt and aquatic weeds, Sauk Lake, Minnesota, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148), including acquisition of weed harvesting equipment using funds appropriated by Congress for such purpose.

SEC. 26. WAPPINGERS LAKE, NEW YORK.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148-49) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(10) Wappingers Lake, New York, for removal of silt and aquatic growth.".

SEC. 27. SMALL FLOOD CONTROL PROJECTS.

(a) DRY JORDAN AND CROOKED CREEKS, ARKANSAS.—The Secretary may carry out a project for flood control, Dry Jordan and Crooked Creeks, Harrison, Arkansas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—The Secretary may carry out a project for flood control, East Fork of the Blue River and Brock Creek, Salem, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(c) OLD SULFUR CREEK, ORLEANS, INDIANA.—The Secretary may carry out a project for flood control, Old Sulfur Creek, Orleans, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(d) WHITE RIVER, GIBSON COUNTY, INDIANA.—The Secretary may carry out a project for flood control, White River, Hazelton, Gibson County, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(e) FARMERS BRANCH CREEK, WHITE SETTLEMENT, TEXAS.—The Secretary shall carry out, on an expedited basis, a nonstructural project for flood control, Farmers Branch Creek, White Settlement, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall consist of relocation and purchase of residential structures located within the flood plain.

(f) VALLEY VIEW BRANCH, HURST, TEXAS.—The Secretary may carry out a project for flood control, Valley View Branch, Hurst, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). The maximum amount which may be allotted under such section for such project shall be $7,500,000 instead of $5,000,000.

(g) SAVAN GUT, VIRGIN ISLANDS.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Savan Gut, Virgin Islands, shall be $10,000,000 instead of $5,000,000. Nothing in this section shall be construed as affecting any cost sharing requirements applicable to such project under the Water Resources Development Act of 1986.

(h) KROUTS CREEK, WEST VIRGINIA.—The Secretary may carry out a project for flood control, Krouts Creek in the vicinity of Huntington, West Virginia, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall include deepening and widening of the channel and culvert replacement.

SEC. 28. BAY CITY, MICHIGAN.

The Secretary may undertake a project for shoreline protection along the Saginaw River in Bay City, Michigan, at a total estimated cost of $6,105,000.

SEC. 29. DELAWARE RIVER AND TRIBUTARIES, PENNSYLVANIA.

The Secretary may carry out a project for shoreline protection for the Glen Foerd Historic Property in Philadelphia, Pennsylvania, along the Delaware River and tributaries, including restoration of seawalls.

SEC. 30. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) SANTA CRUZ HARBOR, CALIFORNIA.—The modification for sealing the east jetty of the project for Santa Cruz Harbor, California, authorized by section 811 of the Water Resources Development Act of 1986 (100 Stat. 4168).

(2) PAJARO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, Pajaro River and tributaries, Santa Cruz, California, authorized by the Flood Control Act of 1966 (80 Stat. 1421).

(3) HILLSBORO INLET, FLORIDA.—Dredging of Hillsboro Inlet, Florida, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(4) LITTLE CALUMET RIVER BASIN, INDIANA.—The project for flood control, Little Calumet River basin (Cady Marsh Ditch), Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(5) ONTONAGON HARBOR, MICHIGAN.—The project for navigation, Ontonagon Harbor, Michigan, authorized by the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 655).

(6) OTTAWA RIVER HARBOR, MICHIGAN AND OHIO.—The project for navigation, Ottawa River Harbor, Michigan and Ohio, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, in accordance with the Phase I General Design Memorandum (dated November 1976) for such project, at a total cost of $13,200,000, with an estimated first Federal cost of $6,530,000 and an estimated non-Federal cost of $6,670,000.

(7) SAULT SAINTE MARIE, MICHIGAN.—The second lock for Sault Sainte Marie, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254-55); except that—

(A) the Secretary shall allocate, not later than 180 days after the date of the enactment of this Act and after providing an opportunity for notice and comment, the non-Federal share of the cost for such lock to Canada and the States of Minnesota, Wisconsin, Indiana, Illinois, Michigan, Ohio, Pennsylvania, and New York based on the Secretary's estimate, using current traffic statistics, of the projected total tonnage of commercial cargo which will be delivered to or from ports in Canada and each such State by vessels using such lock,

(B) the non-Federal share so allocated shall not include any cost allocated to Canada under subparagraph (A), and

(C) the amount of the non-Federal share of such cost shall be reduced by the amount of any contribution made by the Government of Canada toward construction of such lock.

(8) CONNEAUT, OHIO.—The small boat harbor project for Conneaut, Ohio, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(9) FAIRPORT, OHIO.—The small boat harbor project for Fairport, Ohio, and the dredging of the navigation project for Fairport, Ohio, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f).

(10) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—The project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145).

(11) NORFOLK HARBOR, VIRGINIA.—The project for deepening of 3 navigation anchorages at Norfolk Harbor, Virginia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

(c) FREEPORT, ILLINOIS.—The project for flood control, Freeport, Illinois, as authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1586), which was deauthorized by section 1002 of the Water Resources Development Act of 1986 (100 Stat. 4208) is authorized to be carried out by the Secretary.

SEC. 31. EROSION PREVENTION PROJECTS, LOUISIANA.

The Secretary shall carry out erosion prevention projects in Vermilion Parish and Calcasieu Parish, Louisiana, at a total cost of $200,000. Such projects shall include revetment work and reconstruction of spoiled banks with dredged material.

SEC. 32. HAZARD, KENTUCKY.

The Secretary is authorized and directed to design and construct such flood control measures at or in the vicinity of Hazard, Kentucky, on the North Fork of the Kentucky River as the Secretary determines necessary and appropriate to afford the city of Hazard, Kentucky, and its immediate environs a level of protection against flooding at least sufficient to prevent any future losses to such city from the likelihood of flooding such as occurred in January 1957, at a total cost of $30,000,000. With respect to such project, Congress finds that the benefits determined in accordance with section 209 of the Flood Control Act of 1970 and attributable to the flood measures authorized for such project exceed the cost of such measures.

SEC. 33. DEMONSTRATION OF CONSTRUCTION OF FEDERAL PROJECT BY NON-FEDERAL INTERESTS.

(a) IN GENERAL.—For purposes of demonstrating the safety benefits and economic efficiencies which would accrue as a consequence of non-Federal management of harbor improvement projects, the Secretary shall enter into agreements with 2 non-Federal interests pursuant to which the non-Federal interests will undertake part or all of a harbor project authorized by law, by utilizing their own personnel or by procuring outside services, if the cost of doing so will not exceed the cost of the Secretary undertaking the project. If proposals for such agreements meet the criteria of section 204 of the Water Resources Development Act of 1986, the agreements shall be entered into not later than 1 year after the date of the enactment of this Act.

(b) LIMITATION.—At least 1 project carried out pursuant to this section shall pertain to

improvements to a major ship channel which carries a substantial volume of both passenger and cargo traffic.

(c) REPORT.—The Secretary shall transmit to Congress a report regarding the safety benefits and economic efficiencies accrued from entering into agreements with non-Federal interests under this section.

SEC. 34. MODIFICATION OF REVERSIONARY INTEREST.

(a) IN GENERAL.—The Secretary shall modify the reversionary interest of the United States in approximately 50 acres of land reserved in the deed described in subsection (b) for the purpose of allowing the United Methodist Church to construct and operate a retirement village on such land.

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(c) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office an amended deed or other appropriate instrument effecting the modification of the reversionary interest under section 1.

SEC. 35. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF PROGRAMS.—Section 1103(e)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(2)) is amended—

(1) by striking "ten years" and inserting "15 years"; and

(2) by striking "ten-year" and inserting "15-year".

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1103(e) of such Act is amended—

(1) in paragraph (3) by striking "eight" and inserting "13";

(2) in paragraph (4) by striking "nine" and inserting "14"; and

(3) in paragraph (5) by striking "seven" and inserting "12".

(c) RECREATIONAL PROJECTS.—Section 1103(f)(2)(A) of such Act is amended by striking "ten" and inserting "15".

SEC. 36. SECTION 221 AGREEMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(a)) is amended by striking "State legislative" in the last sentence.

SEC. 37. CABIN SITE LEASES.

Section 1134(d) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "cabin and" after "lawfully installed dock or".

SEC. 38. SAN LUIS REY, CALIFORNIA.

Notwithstanding section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f), the authorized first Federal cost of construction of the project for flood control, San Luis Rey, California, being carried out under such section shall be $60,000,000.

SEC. 39. CONSTRUCTION OF VIRGIN ISLAND PROJECTS BY SECRETARY OF THE ARMY.

(a) GENERAL RULE.—Upon request of the Governor of the Virgin Islands with respect to a construction project in the Virgin Islands for which Federal financial assistance is available under any law of the United States, the Federal official administering such assistance may make such assistance available to the Secretary instead of the Virgin Islands. The Secretary shall use such assistance to carry out such project in accordance with the provisions of such law.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as relieving the Virgin Islands from complying with any requirements for non-Federal cooperation with respect to a construction project carried out with Federal financial assistance provided to the Secretary pursuant to this section; except that the Secretary shall be responsible for complying with administrative and fiscal requirements associated with utilization of such assistance.

(c) TERMINATION DATE.—Subsection (a) shall not be effective after the last day of the 3-year period beginning on the date of the enactment of this Act; except that the Secretary shall complete construction of any project commenced under subsection (a) before such day.

SEC. 40. PROTECTION OF RECREATION PROJECT PURPOSES.

Notwithstanding any other provision of law, section 1 of the Act of September 6, 1960 (16 U.S.C. 580m), shall not apply to the projects referred to in paragraphs (1), (2), (3), (6), (9), (10), and (11) of section 6(a) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 41. LIBERTY, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Liberty, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Liberty, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Liberty, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 42. WASHINGTONVILLE, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Washingtonville, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Washingtonville, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Washingtonville, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 43. ALBERMARLE SOUND-ROANOKE RIVER BASIN, NORTH CAROLINA.

No construction may be carried out with respect to the permit granted by the Corps of Engineers for project application 83-0747-06 until—

(1) submission of the report mandated by section 5 of Public Law 100-589; and

(2) review of such report and determination by the Corps of Engineers of the impact of the project in light of such report.

SEC. 44. CRANSTON, RHODE ISLAND.

(a) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a feasibility study of wastewater treatment options for transporting contamination from the Central Landfill site and other sources of pollution in Rhode Island to a wastewater treatment facility in Cranston, Rhode Island, through the use of a regional connector system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

(c) DEMONSTRATION PROGRAM.—After completion of the feasibility study under this section, the Secretary shall conduct a technology demonstration of the connector system described in subsection (a) to determine the capability of the system design to operate properly.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $5,000,000 to carry out subsection (c).

SEC. 45. SANTA ROSA, CALIFORNIA.

The Secretary is authorized to assist the city of Santa Rosa, California, in the development and construction of storage facilities associated with wastewater reclamation, with an estimated Federal cost of $45,000,000.

SEC. 46. GENERATION FACILITIES.

The Secretary may not authorize, approve, or recommend any activity referred to in section 10 of the Rivers and Harbors Act of 1899 in connection with the construction (commencing after the enactment of this section) by any entity of generation facilities at the project on the Savage River referred to in section 6(a)(7) of the Water Resources Development Act of 1988 (102 Stat. 4022) or at any location on the Savage River downstream of such project and upstream of the confluence of the Savage River and the North Branch of the Potomac River. No permit under the Federal Water Pollution Control Act shall authorize any discharge in connection with the construction or operation of any such facilities and no certification shall be issued or waived under such Act for any discharge resulting from such construction or operation. The prohibitions contained in the first 2 sentences of this section shall also be applicable to the project referred to in section 6(a)(9) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 47. FLAT ROCK, MICHIGAN.

The Secretary shall provide assistance to non-Federal interests in the design and construction of repairs to the dam at Flat Rock, Michigan.

SEC. 48. WARROAD HARBOR, MINNESOTA.

The Secretary shall carry out a navigation project to dredge the navigation channel and adjacent basin at Warroad Harbor, Minnesota. The project shall be undertaken to provide safe boating access and egress and to upgrade existing retaining walls.

SEC. 49. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

The non-Federal share of correcting the design deficiency of the North Ellenville portion of the project for flood control, Rondout Creek and Wallkill River and their tributaries, New York and New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), shall be the same as the non-Federal share of the project as originally authorized and constructed.

SEC. 50. STRUTHERS, OHIO.

The Secretary is authorized to carry out planning, engineering, and design for replacement of the Bridge Street bridge in Struthers, Ohio, at a total cost of $2,000,000.

SEC. 51. VIRGINIA BEACH, VIRGINIA.

The Secretary shall, pursuant to section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d-5f), enter into a local cooperation agreement with the city of Virginia Beach, Virginia, for nourishment of the project for beach erosion, Virginia Beach, Virginia, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1254). Such agreement shall be deemed to have taken effect on February 6, 1987.

SEC. 52. YOUNGSTOWN, OHIO.

The Secretary is authorized to carry out planning, engineering, and design of the Center Street bridge new alignment for Youngstown, Ohio, at a total cost of $2,000,000.

SEC. 53. SOUTHWEST REGION FLOOD RESPONSE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Southwest Region Flood Response Evaluation Commission" (hereinafter in this section referred to as the "Commission").

(b) DUTIES OF COMMISSION.—The Commission shall evaluate—

(1) existing flood control measures in the Arkansas, Red, and Ouachita river basins, including the adequacy of flood control storage at existing reservoirs, operation of such reservoirs, and downstream flood control and local protection projects;

(2) the effectiveness of Federal emergency response capabilities to prevent or minimize loss of life and damage to property resulting from flooding; and

(3) the effectiveness of Federal disaster assistance programs in providing adequate and prompt compensation to flood victims.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members appointed as follows:

(A) The Secretary (or the Secretary's delegate).

(B) The Secretary of Agriculture (or the Secretary's delegate).

(C) The Director of the Federal Emergency Management Agency (or the Director's delegate).

(D) The Governor of the State of Arkansas (or the Governor's delegate).

(E) The Governor of the State of Oklahoma (or the Governor's delegate).

(F) The Governor of the State of Texas (or the Governor's delegate).

(2) TERMS.—Each member shall be appointed for the life of the Commission.

(3) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—Three members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish such information to the Commission.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) REPORT.—The Commission shall transmit a report to the President and Congress not later than 1 year after the date of the enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for such legislation and administrative actions as the Commission considers appropriate.

(f) TERMINATION.—The Commission shall terminate 30 days after submitting its final report pursuant to subsection (e).

SEC. 54. REHABILITATION OF FEDERAL FLOOD CONTROL LEVEES.

The Secretary shall undertake—

(1) projects for rehabilitation and reconstruction of Federal flood control levees on the Arkansas River, Arkansas and Oklahoma, substantially in accordance with the Little Rock District Engineer's Arkansas River Basin, Arkansas and Oklahoma, Draft Feasibility Report, dated March 1990, and the Tulsa District Engineer's Keystone to Tulsa Reconnaissance Report, dated September 1989; and

(2) projects for rehabilitation and reconstruction of Federal flood control levees on the Red River, Oklahoma and Arkansas, below Denison Dam.

The purpose of such projects shall be to make such levees comply with current Federal design standards. Such projects shall include repairs of design deficiencies and replacement of deteriorated drainage structures and other appurtenances.

SEC. 55. FLOOD WARNING SYSTEM.

(a) INSTALLATION.—The Secretary may develop and install a flood warning system for the Santa Clara River and its tributaries (including Santa Paula Creek), Ventura and Los Angeles Counties, California, at a total cost of $850,000. Such system shall provide, at a minimum, base stations in both Ventura and Santa Paula, California.

(b) OPERATION AND MAINTENANCE.—Before installation of the flood warning system under this section, non-Federal interests must agree to operate and maintain such system and to develop, maintain, and implement such emergency preparedness plans for flooding along the Santa Clara River and its tributaries in Ventura and Los Angeles Counties, California, as are satisfactory to the Secretary.

SEC. 56. REND LAKE WATER STORAGE CONTRACT EXTENSION.

Section 1137 of the Water Resources Development Act of 1986 (100 Stat. 4252) is amended by striking "5 years" and inserting "10 years".

SEC. 57. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF LAKE ERIE.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of Lake Erie described in Committee Print 101-4 the Committee on Public Works and Transportation of the House of Representatives, dated July 1990, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of Lake Erie, bounded and described in such Committee print, are declared to be nonnavigable waters of the United States.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in the Committee print referred to in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in the Committee print referred to in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b), or if work in connection with any activity permitting in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 58. WETLANDS ENHANCEMENT OPPORTUNITIES.

Not later than January 20, 1991, the Secretary shall transmit to Congress a list which specifically identifies opportunities of enhancing wetlands in connection with construction and operation of water resource projects.

SEC. 59. RADIUM REMOVAL DEMONSTRATION PROGRAM.

(a) GRANT PROGRAM.—The Secretary, in cooperation with State public authorities, may assist local governments in demonstrating methods of mitigating radium contamination in ground water. Upon application of a State public authority, the Secretary may make a grant to the authority for such purposes. Assistance provided pursuant to this section shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) PURPOSES OF GRANTS.—Funds made available through grants under this section may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such au-

thority of a program to provide financing for such acquisition and installation.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL COMMUNITY.—The term "small community" means a political subdivision of a State the population of which does not exceed 20,000 individuals.

(2) STATE PUBLIC AUTHORITY.—The term "State public authority" means an agency or instrumentality of a State which is established for the purposes of assisting local governments in financing capital improvements on a statewide or regional basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1991, $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993.

SEC. 60. STUDIES.

(a) HOT SPRINGS, ARKANSAS.—The amount which non-Federal interests would be required to pay, but for this section, of the costs of the feasibility study which the Secretary is conducting for a flood control project for Hot Springs, Arkansas, shall be reduced by the same percentage as the percentage of the total benefits of such project which are attributable to protection of lands owned by the United States.

(b) LOWER CALLEGUAS CREEK, CALIFORNIA.—

(1) STUDY.—The Secretary shall conduct a feasibility study for a flood control project on the lower Calleguas Creek, California. A purpose of the study shall be to determine the full benefits of increased agricultural production which are likely to result from the project.

(2) REPORT.—Not later than December 31, 1991, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $600,000 for fiscal years beginning after September 30, 1990. Such sums shall remain available until expended.

(c) SOUTHERN CALIFORNIA INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the Southern California region of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(d) SANTA MONICA BREAKWATER, CALIFORNIA.—The Secretary shall complete the reconnaissance investigation and feasibility study for the breakwater project, Santa Monica, California, not later than July 1, 1992, and shall ensure that reestablishment of past charter fishing vessel accommodation activities which existed in the area from the 1930's until prior to damage of the breakwater structure shall be counted the same as commercial benefits for purposes of section 119 of the 1970 River and Harbor Act.

(e) ATLANTA, GEORGIA.—

(1) STUDY REVIEW.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Atlanta Regional Commission, shall review the completed study and supporting documentation for the Metropolitan Atlanta Area Water Resources Management Study for the purpose of providing plans for the improvement of water quality of major streams in the Metropolitan Atlanta Region. The scope of the review shall include review of the effectiveness of existing treatment facilities and the need for additional or improved treatment of municipal and industrial wastewater, combined sewer overflows, and other significant point or nonpoint pollution sources.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under this subsection.

(f) THURMAN TO HAMBURG, IOWA.—The Secretary shall complete the feasibility phase of the study authorized by section 1152 of the Water Resources Development Act of 1986 (100 Stat. 4255), including completion of planning and specifications, not later than August 1, 1991, and commence construction of the project authorized by such section not later than October 1, 1991.

(g) ROCK CREEK, MARYLAND.—

(1) WATER QUALITY STUDY.—The Secretary shall conduct a study of methods of improving water quality of Rock Creek, Maryland.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(h) SAGINAW BAY, MICHIGAN.—

(1) EXTENSION OF DEADLINE FOR FEASIBILITY REPORT.—Section 711 of the Water Resources Development Act of 1986 (100 Stat. 4160) is amended by striking "1989" and inserting "1992".

(2) CONTINUATION OF FEASIBILITY STUDY AUTHORIZATION.—For purposes of section 710 of the Water Resources Development Act of 1986, the study authorized by section 711 of such Act shall be treated as being authorized on the date of the enactment of this Act.

(i) WATER SUPPLY STUDY, MINNESOTA AND NORTH DAKOTA.—The Secretary shall conduct a study, with the States of Minnesota and North Dakota, to determine and recommend alternative plans to augment flows in the Red River of the North, Minnesota and North Dakota. Such study shall include methods to supplement flows on such river for municipal, industrial, agricultural, and fish and wildlife purposes and recognize the need for continued flow into Canada. In conducting such study, the Secretary shall coordinate with the Bureau of Reclamation on actions being undertaken by the Bureau with respect to the Garrison Diversion Unit.

(j) HIGHFIELD WATER COMPANY, NEW JERSEY.—

(1) STUDY.—The Comptroller General shall conduct a study of the facts and circumstances concerning the claims of the Highfield Water Company, New Jersey, against the United States Army Corps of Engineers for the purpose of making recommendations for an appropriate settlement of such claims.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under this subsection.

(k) MANASQUAN RIVER, NEW JERSEY.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of implementing flood control measures on the Manasquan River to alleviate flooding in Freehold, Howell, and other effected townships in New Jersey.

(2) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(l) BUFFALO, NEW YORK.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the plan prepared by the city of Buffalo, New York, on flooding and associated water quality problems (including those associated with combined sewer overflows, sewer backups, and riverside outfalls) in the Buffalo, New York, metropolitan area.

(2) PURPOSES.—The purposes of the review and evaluation to be conducted under this subsection are to develop recommendations for Federal and State participation in solving the problems described in paragraph (1) and to identify flood control benefits of implementing the plan.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall transmit to Congress and the mayor of Buffalo, New York, a report on the results of the review and evaluation conducted under this subsection.

(m) LAKE ERIE TO OHIO RIVER CANAL, OHIO.—The study for the inland navigation project, Lake Erie to the Ohio River Canal, Ohio, authorized by resolution of the Committee on Public Works and Transportation of the House of Representatives, dated October 1, 1986, shall be considered to be a water resources study primarily designed for the purposes of navigation improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

(n) MILL CREEK, TENNESSEE.—

(1) FEASIBILITY STUDY.—The Secretary shall study the feasibility of nondam options to alleviate flooding along Mill Creek and Seven Mile Creek, Tennessee.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with a recommended plan for alleviating the flooding referred to in paragraph (1).

(o) NEW MADRID INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the region surrounding the New Madrid Fault (including the States of Tennessee, Missouri, Arkansas, Kentucky, Mississippi, Indiana, and Illinois) of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

SEC. 61. LAKE OF THE WOODS, MINNESOTA.

(a) INVESTIGATION.—The Secretary may undertake an investigation of the lands bordering on the Lake of the Woods, Minnesota, to determine if such lands and improvements thereto in the United States currently meet applicable requirements of international agreements concerning regulation of the levels of the Lake of the Woods.

(b) LAND ACQUISITION.—In addition, the Secretary may acquire lands and provide protective works and measures when necessary to satisfy the requirements referred to in subsection (a).

(c) REPORT.—The Secretary shall report to Congress within 1 year after the date of the enactment of this Act on the progress made in carrying out this section and the need for further legislation to resolve any outstanding claims for damages caused by the need for additional protective works and measures to satisfy the requirements referred to in subsection (a).

SEC. 62. PROJECT DEAUTHORIZATIONS.

(a) NOTIFICATION OF MEMBERS OF CONGRESS.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended by inserting after the first sentence the following new sentence: "Before submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located.".

(b) REPEAL OF OUTDATED DEAUTHORIZATION PROVISION.—Section 12 of the Water Resources Development Act of 1974 (33 U.S.C. 579) is repealed.

(c) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) GREENWICH HARBOR, CONNECTICUT.—The following portion of the channel at Greenwich Harbor, Connecticut, authorized by the Rivers and Harbors Appropriations Act of March 2, 1919 (40 Stat. 1276):

Beginning at a point on the limit line of the Federal Anchorage Area in Greenwich Harbor, such point having coordinates of N66,309.76 E358,059.81 and running thence northwesterly along the limit line of the Federal Anchorage Area N50°0104W, a distance of 621.62 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,709.18 E357,583.50; thence continuing along the existing Federal Anchorage Area Limit Line N39°5855E a distance of 200.00 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,862.43 E357,712.01; thence continuing along the existing Federal Anchorage Area Limit Line S50°0104E a distance of 140.00 feet to a point on the existing Federal Anchorage Area Limit Line having coordinates N66,772.47 E357,819.28; thence running into the existing Federal Anchorage Area S39°5855W a distance of 187.66 feet to a point having coordinates N66,628.75 E357,698.76; thence running in the existing Federal Anchorage Area S59°1032"E a distance of 376.47 feet to a point having coordinates N66,435.85 E358,022.05; thence running in the existing Federal Anchorage Area S16°4026"E a distance of 131.62 feet to the point and place of the beginning for a total area of 47,737 square feet.

(2) CONNEAUT HARBOR, OHIO.—The feature of the navigation project for Conneaut Harbor, Ohio, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176), which feature is a channel lying easterly of the access channel and adjacent to the municipal pier.

(3) BIG RIVER RESERVOIR, RHODE ISLAND.—The water supply project, Big River Reservoir, Providence, Rhode Island, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4144).

SEC. 63. HALF MOON BAY HARBOR.

(a) DESIGNATION.—The harbor commonly known as Half Moon Bay Harbor, located in El Granada, California, shall hereafter be known and designated as "Pillar Point Harbor".

(b) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to the harbor referred to in subsection (a) shall be deemed to be a reference to "Pillar Point Harbor".

AMENDMENT OFFERED BY MR. HAMMERSCHMIDT

Mr. HAMMERSCHMIDT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAMMERSCHMIDT: At the end of the bill, add the following new section:

SEC. 64. ANNUAL OBLIGATION CEILINGS.

Section 901 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended by adding after paragraph (5) the following new paragraphs:

"(6) For the fiscal year ending September 30, 1992, the sum of $1,800,000,000.

"(7) For the fiscal year ending September 30, 1993, the sum of $1,800,000,000.".

Conform the table of contents of the bill accordingly.

Mr. HAMMERSCHMIDT (during the reading). Madam 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 Arkansas?

There was no objection.

Mr. HAMMERSCHMIDT. Madam Chairman, my amendment is an attempt to address concerns that have been raised about the size of the bill. I certainly agree that the bill is too large. There is more here than will ever be funded through the appropriations process.

To ensure that this is the case, my amendment would extend the existing limitations on the corps authority to obligate funds for water project construction. These ceilings were established in the 1986 water resources bill and are set to expire at the end of fiscal year 1991. My amendment would extend the current limitation of $1.8 billion for an additional 2-year period.

While additional changes will be needed to the bill, this amendment will help allay fears about unreasonable cost increases during the current budgetary situation.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the gentleman's amendment. By limiting annual obligations of the corps, this amendment ensures that the bill is fiscally responsible.

I might add that the overall levels for fiscal year 1992 and fiscal year 1993 represent a spending freeze of current law.

Within the context of this freeze the projects included in this bill would be funded.

I commend the gentleman and urge adoption of the amendment.

Mr. STANGELAND. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong support of the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The amendment interjects more fiscal responsibility into our bill. It does this by imposing obligation ceilings on the corps construction spending over the next 2 years. The proposed limit—$1.8 billion—would, in effect, freeze the current obligations ceiling set to expire at the end of fiscal year 1991 and extend it for 2 more years.

I commend the ranking minority member of the committee for his leadership on this amendment. It should help make the bill more manageable and acceptable in these times of severe fiscal constraints.

Therefore, I urge all my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The amendment was agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. ANDERSON

Mr. ANDERSON. Madam Chairman, pursuant to the rule, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. ANDERSON: In section 4 of the bill, after subsection (n), insert the following new subsection:

(o) FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, INDIANA.—The Falls of the Ohio National Wildlife Conservation Area, Indiana, authorized by title II of Public Law 97-137, is modified to authorize the Secretary to design and construct an interpretive center for such area, at a total cost of $1,500,000, with an estimated first Federal cost of $750,000 and an estimated first non-Federal cost of $750,000.

Redesignate subsequent subsections of section 4 of the bill accordingly.

In section 4 of the bill, after subsection (s), insert the following new subsection:

(t) CROOKED AND INDIAN RIVERS, MICHIGAN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Crooked and Indian Rivers, Michigan, authorized by the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes", approved September 3, 1954 (68 Stat. 1248), is modified to authorize the Secretary to enter into agreements with the State of Michigan and other non-Federal interests in such State to make

operation and maintenance of such project a non-Federal responsibility.

(2) TERMS AND CONDITIONS.—The agreements referred to in paragraph (1) may—

(A) contain such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States; and

(B) require the Secretary to make payments to the State of Michigan to cover the costs of operation, maintenance, and repair of such project for lake level regulation and other flood control purposes, including payments made in advance of such costs being incurred by the State.

(3) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; Stat. 147), during any period in which a non-Federal interest is responsible for operation and maintenance of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with such project which are not covered by payments made by the Secretary under this subsection.

Redesignate subsequent subsections of section 4 of the bill accordingly.

In section 4 of the bill, after subsection (jj), insert the following new subsection:

(kk) WISCONSIN AND FOX RIVERS, WISCONSIN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Wisconsin and Fox Rivers, Wisconsin, authorized to be acquired pursuant to the Act entitled "An Act for the Improvement of Water Communication between the Mississippi River and Lake Michigan, by the Wisconsin and Fox Rivers", approved July 7, 1870 (16 Stat. 189), is modified to authorize the Secretary to enter into agreements with the State of Wisconsin and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation, maintenance, and repair of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with the project.

After section 12 of the bill, insert the following new section:

SEC. 13. WETLANDS.

(a) GOALS AND ACTION PLAN.—

(1) GOALS.—There is established, as part of the Corps of Engineers water resources development program, an interim goal of no overall net loss of the Nation's remaining wetlands base, as defined by acreage and function, and a long-term goal to increase the quality and quantity of the Nation's wetlands, as defined by acreage and function.

(2) USE OF AUTHORITIES.—The Secretary shall utilize all appropriate authorities, including those to restore and create wetlands, in meeting the interim and long-term goals.

(3) ACTION PLAN.—

(A) DEVELOPMENT.—The Secretary shall develop, in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies, a wetlands action plan to achieve the goals established by this subsection as soon as possible.

(B) CONTENTS.—The plan shall include and identify actions to be taken by the Secretary in achieving the goals and any new authorities which may be necessary to accelerate attainment of the goals.

(C) COMPLETION DEADLINE.—The Secretary shall complete the plan not later than 1 year after the date of enactment of this Act.

(b) RESTORATION AND CREATION.—

(1) RESTORATION OF WETLANDS.—The Secretary is authorized and directed to carry out demonstration projects to restore and create wetlands that will contribute to attainment of the goals established by subsection (a). Projects undertaken pursuant to this section are not intended to satisfy mitigation of past, ongoing, or future wetlands alternations under section 404 of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, but instead to develop technical information to provide greater assurances that wetlands restoration and creation projects succeed.

(2) PROJECT ELEMENTS.—Elements of projects conducted under this subsection shall include—

(A) defining wetland functions which are expected to be restored and maintained giving due consideration to site specific conditions;

(B) conducting research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(C) establishing and reporting design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report on these wetland functions;

(D) creating or restoring sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(E) securing a long-term commitment from a non-Federal interest for the maintenance of the wetlands following the conclusion of the research work.

(3) COORDINATION.—The Secretary shall coordinate with the Environmental Protection Agency, the Tennessee Valley Authority, the Department of the Interior, the Department of Commerce, the Department of Agriculture, States, and others in conducting projects under this subsection.

(4) REPORT.—The Secretary shall report every 2 years to Congress on projects conducted under this subsection.

(c) CONSTRUCTED WETLANDS FOR WASTEWATER TREATMENT.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized and directed to establish and carry out a program to evaluate and demonstrate (A) the use of constructed wetlands for wastewater treatment, and (B) methods by which such projects contribute (i) to meeting the objective of the Federal Water Pollution Control Act to restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and (ii) to attaining the goals established by subsection (a).

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary shall conduct, in geographically diverse regions of the Nation, research and pilot projects utilizing constructed wetlands with a total treatment capacity of not to exceed 200,000,000 gallons per day to determine the technical and economic feasibility of using constructed wetlands systems to treat wastewater from point and nonpoint sources.

(B) RURAL COMMUNITY EMPHASIS.—Emphasis shall be given to siting projects in small and rural communities either lacking wastewater treatment facilities or with substandard facilities.

(C) MUD CREEK.—Notwithstanding any other provision of law, the Secretary shall conduct a project under this subsection to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(3) INTERAGENCY WORKING GROUP.—

(A) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish in the Corps of Engineers an interagency working group on wetlands for wastewater treatment to coordinate, manage, and oversee all phases of the program under this subsection.

(B) MEMBERS.—The working group shall include members of the Corps of Engineers, the Environmental Protection Agency, the Tennessee Valley Authority, the Fish and Wildlife Service, and private individuals or organizations with a demonstrated interest in the use of constructed wetlands for wastewater treatment.

(C) REPORT.—Not later than 2 years after the date of the enactment of this Act, the working group shall transmit to Congress a report evaluating the use of constructed wetlands for treating various sources of wastewater, together with recommendations on methods by which constructed wetlands systems might be utilized to improve local and regional water quality and an analysis of the contributions such systems make to attainment of the goals established by subsection (a).

(d) NON-FEDERAL RESPONSIBILITIES.—For each project conducted under each of subsections (b) and (c), the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices, except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(e) MITIGATION BANK DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary is authorized to establish and implement a demonstration program for the purpose of determining the feasibility of mitigation banks as a means of contributing to the goals established by subsection (a) and of evaluating the feasibility of utilizing mitigation banks for satisfying compensatory mitigation obligations under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, or wetland mitigation requirements of other Federal laws.

(2) GOALS.—The goal of the program under this subsection shall be to establish a limited number of demonstration mitigation banks in districts of the Corps of Engineers for the purpose of evaluating the technical and scientific long-term feasibility of such banks as a means (A) of providing adequate compensation for wetlands alterations resulting from the Army Civil Works program or permitted under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899; and (B) of contributing to the attainment of the goals established by subsection (a). Federal and State land-owning agencies and private parties may contribute to such banks.

(3) PROGRAM COMPONENTS.—The program under this subsection shall include—

(A) mechanisms for making deposits into the mitigation bank;

(B) a means of accounting for deposited wetlands, including an assessment of the ecological value of such deposits;

(C) mechanisms for managing and maintaining the ecological values for credits assigned to the original deposit; and

(D) mechanisms for receipt of credit for deposits which can be applied to permit applications filed by the depositor under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899.

(4) FACTORS TO CONSIDER.—In establishing the program under this subsection, the Secretary shall consider—

(A) past experience with mitigation banks;

(B) the appropriate credit to be given for various types of wetlands, including existing wetlands, created wetlands, and restored wetlands;

(C) provisions for transfer of credits;

(D) the appropriate geographic scope of a mitigation bank;

(E) the technical feasibility of creating banks and the scientific likelihood that such banks will succeed;

(F) liability and long-term ownership;

(G) responsibilities for short- and long-term project monitoring; and

(H) whether or not the applicant has fully complied with the guidelines of section 404(b)(1) of the Federal Water Pollution Control Act.

(5) MITIGATION BANK DEFINED.—For purposes of this subsection, the term "mitigation bank" includes a system or process of accounting under which (before submitting an application for a permit under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899) an aplicant may deposit or withdraw units measuring wetlands restoration, enhancement, and creation efforts in order to satisfy mitigation or compensation requirements.

(6) REPORTING.—

(A) TO CHIEF OF ENGINEERS.—The district engineer for each district of the Corps of Engineers in which a mitigation bank is established under this subsection shall transmit annual reports to the Chief of Engineers describing credits made to, and withdrawn from, the bank and a summary of whether the bank is fulfilling the goals established in paragraph (2).

(B) TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report evaluating the use of mitigation banks in fulfilling the goals established by paragraph (2), together with recommendations on whether or not to continue use of mitigation banks as a means of meeting the goals established by subsection (a).

(f) TRAINING AND CERTIFICATION OF DELINEATORS.—

(1) IN GENERAL.—The Secretary is authorized to establish a program for the training and certification of individuals as wetlands delineators. As part of such program, the Secretary shall carry out demonstration projects in districts of the Corps of Engineers. The program shall include training and certification of delineators and procedures for expediting consideration and acceptance of delineations performed by certified delineators.

(2) REPORTS.—The Secretary shall transmit to Congress periodic reports concerning the status of the program and any recommendations on improving the content and implementation of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(g) WETLANDS DEFINED.—For the purposes of this section and section 12, the term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

After section 38 of the bill, insert the following new section:

SEC. 39. LAND CONVEYANCES.

(a) RIVERSIDE, CALIFORNIA.—If the holder and owner of a leasehold mineral and royalty interest in the existing Prado Flood Control Basin in Riverside, California, requests the Administrator of General Services to exchange such interest for excess Federal property, the Administrator shall acquire such interest by exchange of excess Federal property. Such acquisition must be completed not later than 270 days after the date of such request. The Administrator shall undertake an evaluation and appraisal of an interest to be acquired under this section.

(b) SNEADS, FLORIDA.—

(1) IN GENERAL.—The Secretary shall convey to the trustees of the Salem Wesleyan Church all right, title, and interest of the United States in and to the parcel of land described in paragraph (2).

(2) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) contains approximately 2.30 acres lying in section 12, township 4 north, range 8 west, Tallahassee meridan, Jackson County, Florida, and is more particularly described as follows:

Beginning at a point that is 294 feet west of the east line and 294 feet north of the south line of the northeast quarter of the northeast quarter of such section 12, and at a corner of a tract of land now or formerly owned by the Salem Wesleyan Church;

Thence south along a line parallel to the east line of such section a distance of approximately 269 feet to a point that is 25 feet north of the south line of the northeast quarter of the northeast quarter of such section;

Thence west along a line parallel to the south line of the northeast quarter of the northeast quarter of such section a distance of approximately 425 feet to the eastern right-of-way line of Florida State Road Numbered S-69A;

Thence northerly along the eastern right-of-way line of such State road a distance of approximately 200 feet to the boundary of such Salem Wesleyan Church tract; and

Thence northeasterly along the boundary of such Salem Wesleyan Church tract approximately 450 feet to the point of beginning.

(3) PAYMENT OF FAIR MARKET VALUE.—The conveyance authorized by this subsection shall be made upon payment to the United States of a sum equal to the fair market value of the land as determined by the Secretary.

(4) CONDITIONS AND RESTRICTIONS.—The conveyance under this subsection shall be subject to a reversionary interest in the United States if the lands conveyed are used for other than church purposes. The Secretary may require any additional terms, conditions, reservations, and restrictions in connection with the conveyance that the Secretary determines are necessary to protect the interests of the United States.

(5) SURVEY COSTS.—The cost of any surveys necessary as an incident to the conveyance authorized by this subsection shall be borne by the trustees of the Salem Wesleyan Church.

(6) DEADLINE.—Subject to compliance with this section, the Secretary shall convey the parcel of land described in paragraph (2) within 2 years after the date of the enactment of this Act.

(c) IRA D. MACLACHLAN AMERICAN LEGION POST, SAULT SAINTE MARIE, MICHIGAN.—

(1) IN GENERAL.—The Secretary shall convey to the Ira D. MacLachlan Post Numbered 3 of the American Legion the parcel of land described in the Act of June 5, 1936 (49 Stat. 1481), and the building located thereon for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan.

(2) TERMS AND CONDITIONS.—The transfer under paragraph (1) shall be subject to a reversionary interest in the United States if the land and building transferred are used for a purpose other than as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan. Such transfer shall also be subject to such other terms, conditions, regulations, and restrictions as the Secretary determines necessary to protect the interest of the United States.

(d) ABERDEEN, WASHINGTON.—

(1) IN GENERAL.—The Secretary may transfer to the city of Aberdeen, Washington, by quitclaim deed, all rights, interests, and title of the United States in the approximately 570.5 acres of land under the administrative jurisdiction of the Department of the Army acquired for the purpose of the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), together with any improvements thereon.

(2) CONDITIONS.—A transfer under this section shall be subject to the following conditions:

(A) The city shall operate, maintain, repair, replace, and rehabilitate the project in accordance with regulations prescribed by the Secretary which are consistent with the project's authorized purposes including fish and wildlife mitigation.

(B) The city shall hold and save the United States free from any claims or damages resulting from the operation, maintenance, repair, or rehabilitation of the project by the city or its contractors.

(C) If the city uses the land transferred under this subection for any purpose other than the project's authorized purposes or generation of hydropower or fails to comply with subparagraph (A) or (B), the Secretary shall notify the city of such use or failure. If the city does not correct such nonconforming use or failure during the 1-year period beginning on the date of such notification, the land transferred under this subsection shall revert to the United States.

(3) LIMITATION.—No transfer under this subsection may be made until the Secretary has determined that the city can operate, maintain, repair, replace, and rehabilitate the project.

(4) REPAYMENT OF CAPITAL COSTS.—Nothing in this subsection shall be construed to relieve the city of its obligations under the project contract to repay the capital costs of the project allocated to water supply. The Secretary may negotiate a cash settlement to allow the city to prepay the present value of the payments for capital costs due under the contract.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

After section 38 of the bill, insert the following new section:

SEC. 39. ALTERNATIVES TO MUD DUMP SITE FOR DISPOSAL OF DREDGED MATERIAL.

(a) REPORT.—Within 90 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Congress a final report on the feasibility of designating an alternative site to the Mud Dump Site at a distance not less than 20 miles from the shoreline.

(b) PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall submit to Congress a plan for the long-term management of dredged material from the New York/New Jersey Harbor region. The plan shall include—

(1) an identification of the source, quantities, and characteristics of material to be dredged;

(2) a discussion of potential alternative sites for disposal of dredged material, including the feasibility of altering the boundaries of the Mud Dump Site;

(3) measures to reduce the quantities of dredged material proposed for ocean disposal;

(4) measures to reduce the amount of contaminants in materials proposed to be dredged from the Harbor through source controls and decontamination technology;

(5) a program for monitoring the physical, chemical, and biological effects of dumping dredged material at the Mud Dump Site; and

(6) a study of the characteristics of the bottom sediments, including type and distribution.

(c) DEMONSTRATION PROJECT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall implement a demonstration project for disposing on an annual basis up to 10 percent of the material dredged from the New York/New Jersey Harbor region in an environmentally sound manner other than by ocean disposal. Environmentally sound alternatives may include capping of borrow pits, construction of a containment island, application for landfill cover, habitat restoration, and use of decontamination technology.

(d) DREDGED MATERIAL WHICH MAY BE DUMPED AT MUD DUMP SITE.—Notwithstanding section 103(d) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1413(d)), only dredged material that meets the criteria of section 102(a) of such Act (33 U.S.C. 1412(a)) may be dumped at the Mud Dump Site.

(e) MUD DUMP SITE DEFINED.—For purposes of this section, the term "Mud Dump Site" means the area located approximately 5¾ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees, 23 minutes, 48 seconds North, 73 degrees, 51 minutes, 28 seconds West; 40 degrees, 21 minutes, 48 seconds North, 73 degrees, 50 minutes, 00 seconds West; 40 degrees, 21 minutes, 48 seconds North; 73 degrees, 51 minutes, 28 seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1991, $500,000 to implement subsection (b) and $1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

(g) REPEAL.—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

In section 60 of the bill, after subsection (a), insert the following new subsection:

(b) SOUTH ATLANTIC CARGO TRAFFIC.—

(1) STUDY.—The Secretary, in conjunction with the Administrator of the Federal Maritime Administration of the Department of Transportation, shall conduct a study of the market for container ship traffic in the South Atlantic region of the United States from Port Everglades, Florida, to Norfolk, Virginia.

(2) PURPOSES.—The purposes of the study to be conducted under this subsection are as follows:

(A) Identifying major containerized cargo trade routes and commodity flows.

(B) Identifying inland transportation infrastructure needs.

(C) Projecting future traffic volumes.

(D) Forecasting future container vessel fleets.

(E) Developing origin-to-destination transportation costs.

(F) Developing differential trade route costs for origin-destination pairs.

(G) Forecasting future micro- and mini-bridging opportunities.

(H) Developing a computerized database of all traffic flows and costs.

(I) Forecasting future port infrastructure needs.

(3) REPORT.—Not later than 14 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,200,000.

Redesignate subsequent subsections of section 60 of the bill accordingly.

In section 60 of the bill, after subsection (d), insert the following new subsection:

(e) CALIFORNIA OIL SPILL RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and the Commandant of the Coast Guard, shall conduct a feasibility study in the California coastal region of the problems and alternative solutions, including Federal and non-Federal roles and responsibilities, of containment and restoration of coastal waters and lands (including natural wildlife, habitat restoration, commercial, and recreational activities) following a major oil spill.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

Redesignate subsequent subsections of section 60 of the bill accordingly.

After section 61 of the bill, insert the following new section:

SEC. 62. NEW YORK HARBOR, NEW YORK.

(a) REVIEW AND INVESTIGATION.—The Secretary, in conjunction with the Commandant of the United States Coast Guard and in consultation with appropriate Federal and State agencies and the Port Authority of New York and New Jersey, shall conduct a comprehensive review of existing reports on New York Harbor and a systems investigation of the system of channels and anchorages of the Port of New York and New Jersey (including areas and channels outside the Federal system). Such investigation shall include analysis of traffic design, shoaling, and hydraulics in order to determine the potential of streamlining the operation of such system and of reducing the potential for maritime accidents. The Secretary is further directed to construct feasible works within the Secretary's authority and to make recommendations to Congress with respect to works which are needed to improve the operation of such system and are outside the Secretary's authority.

(b) REPORTS.—

(1) INITIAL FINDINGS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress initial findings on the review and investigation conducted under subsection (a).

(2) FINAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a final report on such review and investigation.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 17, after line 3, insert the following new paragraph:

(4) JEFFERSON PARISH, LOUISIANA.—The project for hurricane protection, Jefferson Parish, Louisiana, at a total cost of $250,000,000, with an estimated first Federal cost of $166,500,000 and an estimated first non-Federal cost of $83,500,000.

Redesignate subsequent paragraphs of subsection (b) of section 3 of the bill accordingly.

Page 30, after line 14, insert the following new subsection:

(y) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood

control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1969, as revised in January 1990, at a total cost of $26,200,000, with an estimated first Federal cost of $16,090,000 and an estimated first non-Federal cost of $10,110,000.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 32, after line 6 insert the following new subsection:

(bb) WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project in accordance with the Post Authorization Change Notification Report, dated April 1990, at a total cost of $28,694,000, with an estimated first Federal cost of $12,338,910 and an estimated first non-Federal cost of $16,355,090.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 32, after line 13, insert the following new subsection:

(cc) HARSHA LAKE, OHIO.—

(1) PROJECT MODIFICATION.—The project for flood control, water supply, and recreation, Harsha Lake, Ohio, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to provide that any water supply storage assigned to the State of Ohio which is not used by such State for water supply purposes before October 1, 1991, shall be reassigned to the Clermont County Board of Commissioners.

(2) MAXIMUM AMOUNT.—The maximum amount of water supply storage which may be reassigned under paragraph (1) is an amount of storage sufficient to yield 20,000,000 gallons of water a day.

(3) TERMS AND CONDITIONS.—Water supply storage provided to the Clermont County Board of Commissioners pursuant to a reassignment under paragraph (1) shall be subject to the same terms and conditions as water supply storage provided to the State of Ohio, including prepayment based on original project investment costs.

(4) REIMBURSEMENT.—Upon a reassignment of water supply storage under paragraph (1), the Clermont County Board of Commissioners shall reimburse the State of Ohio for amounts previously paid by the State to the Secretary for costs which are attributable to water supply storage which has been so reassigned.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 64, line 2, before the period insert ", and shall carry out measures to protect and enhance water quality through implementation of best management practices in the upstream drainage basin".

Page 66, after line 17, insert the following new section:

SEC. 30. TENNESSEE RIVER, KNOXVILLE, TENNESSEE.

The Secretary may carry out a project for streambank protection along the Tennessee River in Knoxville, Tennessee.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 80, after line 10, insert the following new section:

SEC. 53. MAYSVILLE, KENTUCKY.

The Secretary is authorized to carry out planning, engineering, and design for construction of a bridge between Maysville, Kentucky, and the State of Ohio, at a total cost of $2,000,000.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 85, after line 6, insert the following new section:

SEC. 57. CAESAR'S CREEK LAKE, OHIO.

The Secretary shall amend the contract for use of storage space for water supply in Caesar's Creek Lake, Ohio, to relieve the non-Federal sponsor of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 85-500). The relief provided by the preceding sentence shall apply for 5 years after the date of the enactment of this Act or until the storage space is used, whichever first occurs, and shall apply in such proportion as the storage is used for water supply purposes.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 89, after line 11, insert the following new subsection:

(c) RANCHO PALOS VERDES, CALIFORNIA.—The Secretary shall—

(1) complete the study of the feasibility of constructing shoreline erosion mitigation measures along the Rancho Palos Verdes coastline and in the city of Rolling Hills, California, authorized by section 712 of the Water Resources Development Act of 1986 (100 Stat. 4160), and

(2) in connection with such study, investigate measures to conserve fish and wildlife (as specified in section 704 of the Water Resources Development Act of 1986), including measures to demonstrate the effectiveness of intertidal marine habitat.

Redesignate subsequent subsections of section 60 of the bill accordingly.

Page 92, after line 22, insert the following new subsection:

(j) UPPER MISSISSIPPI RIVER.—

(1) STUDY.—The Secretary shall conduct a study of the water quality of the Upper Mississippi River.

(2) CONSULTATION.—In conducting such study, the Secretary is authorized to consult with, and request the assistance of, the United States Geological Survey, the Fish and Wildlife Service, the Environmental Protection Agency, and affected States.

(3) REPORT.—The Secretary shall report the results of the study conducted under this subsection, together with findings and recommendations of the Secretary, to Congress on or before December 31, 1992.

(4) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $2,000,000 to carry out the study authorized by this subsection.

Redesignate the subsequent subsections of section 60 of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 64. ADDITION OF COLUMBIANA COUNTY, OHIO, TO APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont,".

Conform the table of contents of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 64. EXCHANGE RATE DEMONSTRATION PROJECT, LOCKWOOD'S FOLLY INLET, NORTH CAROLINA.

(a) IN GENERAL.—The Secretary shall conduct an exchange rate demonstration project for the eastern channel of Lockwood's Folly River Inlet, North Carolina, to improve water quality, at a total cost of $1,300,000, with an estimated first Federal cost of $9,750,000 and an estimated first non-Federal cost of $3,250,000.

(b) CONSULTATION REQUIREMENT.—In conducting the demonstration project under this section, the Secretary shall consult with appropriate Federal and State departments and agencies.

Conform the table of contents of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 64. RIO GRANDE AMERICAN CANAL EXTENSION.

(a) CONSTRUCTION OF EXTENSION.—Subject to subsection (e), the Secretary shall construct an extension of the American Canal, together with pumping plants, wasteways, measuring devices, and other facilities needed to connect such extension with existing irrigation systems. Such extension shall lie wholly in the United States and shall be approximately 13 miles in length, beginning at the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(b) OPERATION OF CANAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall operate the extension of the American Canal provided for in subsection (a).

(2) DELIVERY OF WATERS.—The Secretary shall enter into an agreement with El Paso County Water Improvement District Number 1 pursuant to which the Water Improvement District would be responsible for the operation of the American Canal with respect to the delivery of all waters, with the exception of those waters belonging to Mexico which, consistent with paragraph (3), the Secretary shall be responsible for delivering.

(3) UNITED STATES OBLIGATIONS UNDER 1906 AND 1933 CONVENTIONS.—In authorizing the agreement described in paragraph (2), this Act—

(A) does not in any way affect the jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, and

(B) does not in any way impede the ability of the United States Government to fulfill its obligations under the 1906 and 1933 Conventions.

(c) USE OF CANAL AS CONVEYANCE CHANNEL.—

(1) USE BY MEXICO.—The Secretary may enter into an agreement with Mexico which permits Mexico to use the American Canal as a conveyance channel. Any such agreement shall require Mexico to make payments to the United States for Mexico's use of the American Canal.

(2) USE BY NON-FEDERAL ENTITIES.—Upon obtaining the express approval of the Secretary, El Paso County Water Improvement District Number 1 may enter into agreements with other non-federal entities pursuant to which such entities may use the American Canal as a conveyance channel.

(d) MAINTENANCE OF EXTENSION.—The Secretary shall maintain the extension of the American Canal provided for in subsection (a).

(e) LOCAL CONTRIBUTIONS TO COSTS.—The extension of the American Canal provided for in subsection (a) may not be constructed unless the Secretary and El Paso County Water Improvement District Number 1 have entered into the following agreements:

(1) CONSTRUCTION COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will pay $5,000,000 as its share of the construction costs for the construction of the extension of the American Canal provided for in subsection (a).

(2) MAINTENANCE COST.—An agreement pursuant to which El Pasco County Water Improvement District Number 1 will contribute a cumulative amount of $50,000 each year to the United States Commissioner as its share of the costs for maintenance of the extension of the American Canal provided for in subsection (a). After the 7-year anniversary of the completion of the construction of that extension (and after the end of each 7-year interval since the last such renegotiation), the Secretary and the El Paso County Water Improvement District Number 1 may renegotiate the amount of the contribution of El Paso County Water Improvement District Number 1 pursuant to the agreement required by this paragraph in order to reflect any increase in Bureau of Labor Statistics Consumer Price Index-Urban Wage Earners and Clerical Workers (CPI-W)-1982-84-100 Index. In the event the funds contributed by the El Paso County Water Improvement District Number 1 pursuant to this paragraph are not utilized during any given year, the funds shall be carried over to the succeeding years in a contingency fund to be performed by the United States Section, International Boundary and Water Commission.

(f) REPEAL OF PREVIOUS CONSTRUCTION AUTHORIZATION.—Title IV of the Act entitled "An Act to authorize various Federal reclamation projects and programs, and for other purposes", approved September 28, 1976 (Public Law 94-423; 90 Stat. 1327), is repealed.

(g) STUDY OF SUBSIDENCE DAMAGE.—The Secretary—

(1) shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension provided for in subsection (a), and

(2) shall submit a report to the Congress detailing his findings not later than 1 year after the date of the enactment of this Act.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $42,000,000 to construct the extension of the American Canal provided for in subsection (a); and

(2) such sums as may be necessary to operate and maintain that extension and to conduct the study required by subsection (g).

(i) DEFINITIONS.—As used in this section—

(1) AMERICAN CANAL.—The term "American Canal" means the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961).

(2) UNITED STATES COMMISSIONER.—The term "United States Commissioner" means the United States Commissioner, International Boundary and Water Commission, United States and Mexico.

(3) SECRETARY.—The term "Secretary" means the Secretary of State, acting through the United States Commissioner.

Conform the table of contents of the bill accordingly.

After section 38 of the bill, insert the following new section:

SEC. 39. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

TRANSFER OF JURISDICTION.—Section 108(b) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking "After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings" and inserting "Not later than 30 days after the date of the enabtment of the Water Resources Development Act of 1990".

Mr. ANDERSON (during the reading). Madam Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Madam Chairman, the amendment offered en bloc contains a number of provisions to improve or modify H.R. 5314 as reported. It includes the authorization or modification of several projects which came to the committee's attention after the committee had completed its action. In addition, it contains several provisions which were in the bill as considered by the committee, but, pursuant to a unanimous consent request, were removed from the bill prior to the filing of the report. These items were considered by the Committee on Public Works and Transportation and have the approval of the committee.

Among the items included in the amendment is the establishment of a no net loss of wetlands goal for the Water Resources Development Program of the Corps of Engineers. The corps would be authorized to restore wetlands and to engage in a demonstration program for using wetlands for wastewater treatment. It also includes other provisions such as a study of New York Harbor and a review of its systems of channels and anchorages, deepening of Wilmington Harbor, NC, extension of the Upper Mississippi River Management Act and the extension of the Rio Grande American Canal for approximately 13 miles.

Madam Chairman, the committee en bloc amendment has the full support of the Committee on Public Works and Transportation and I urge my colleagues to adopt it.

□ 1620

Mr. HAMMERSCHMIDT. Madam Chairman, I rise in support of the en bloc amendment offered by the gentleman from California [Mr. ANDERSON], the distinguished chairman of the Committee on Public Works and Transportation.

The en bloc amendment includes a number of provisions which were brought to the committee's attention after our full committee markup. It also includes a few provisions touching upon the jurisdiction of other committees which were withdrawn from the reported bill in order to assure expedited consideration of the bill.

Let me assure Members that this unusual procedure was not used as a way of avoiding the jurisdiction of other committees but was a necessary step to quick action on this important bill. Throughout the process we have worked openly with the other committees which may have jurisdictional concerns. I understand we have incorporated suggestions or have entirely removed provisions which were objected to by other committees.

As an example, the bill as originally ordered reported by the Committee on Public Works and Transportation included language I had proposed which was deleted as a result of jurisdictional concerns by the Committee on Agriculture. My proposal would have authorized the corps to undertake a program to demonstrate measures to assist in restoring farmland devastated as a result of this spring's floods in the Southwest. However, the Agriculture Committee claimed jurisdiction over the provision and objected to the inclusion of the provision in our bill. Accordingly, the provision was removed and is not being restored through the committee amendment.

An amendment that would be restored, however, is one originally developed by the ranking member of our Water Resources Subcommittee, ARLAN STANGELAND. The provision establishes a new environmental mission for the Corps of Engineers and calls for an interim goal of no overall net loss of wetlands and a long-range goal increasing wetlands in connection with the corps' civil works mission. In working toward these goals, the corps would be authorized to explore wetlands restoration and creation opportunities and to undertake a new program to demonstrate the use of constructed wetlands for addressing wastewater treatment needs, particularly in small communities.

In connection with this new demonstration program the corps would be directed to construct an artificial wetland treatment facility to improve the quality of effluent from the existing treatment facility operated by the city of Fayetteville, AR. This emerging technology could allow the city's state-of-the-art plant to continue to operate as intended and would help to resolve problems encountered with the plant's discharge into the Illinois River basin.

Overall, the amendments improve the bill. While I cannot say I unequivocally support every one of the amendments, I do urge support of the entire package.

AMENDMENT OFFERED BY MR. EMERSON TO THE AMENDMENTS EN BLOC OFFERED BY MR. ANDERSON

Mr. EMERSON. Madam Chairman, I offer and amendment to the amendments en bloc offered by the gentleman from California [Mr. ANDERSON], which I understand have been accepted by both the majority and the minority.

The Clerk read as follows:

Amendment offered by Mr. EMERSON to the amendments en bloc offered by Mr. ANDERSON: In the matter proposed to be inserted as a new section 13 to the bill, relating to wetlands, strike subsection (g).

Mr. EMERSON. Madam Chairman, I rise to offer an amendment which would strike the definition of "wetlands" contained in the en bloc amendment to the Water Resources Development Act.

Quite simply, I do not believe that this Congress has yet had a complete, exhaustive and thorough discussion of just exactly what a wetland is. Until this Congress determines through extensive discussion just what kind of land constitutes a wetland—whether it is a land of marshes, decaying logs, cattails, and other naturally occurring hydroponic plants, or whether it is also to include some of the most fertile farmland in this Nation which has been cultivated for many years—I do not believe that we should set this matter in law.

Madam Chairman, I have worked extensively with the Public Works Water Resources Subcommittee on this amendment, and I believe that we can all agree to postpone this matter for future discussion.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, I thank my colleague for yielding.

Madam Chairman, we have looked at the amendment. Certainly the points he makes are very valid, and I support the amendment.

I also at this point in time want to say that I support very strongly the en bloc amendments of the chairman of the committee.

Mr. HAMMERSCHMIDT. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Madam Chairman, I commend the gentleman on his amendment to the en bloc amendments, and I strongly support it.

Madam Chairman, I rise in support of the gentleman's amendment. The issue of what constitutes a wetlands has been the subject of heated controversy among farmers, developers, regulators and environmentalists. No less than four Federal agencies have struggled for years to try and develop a definition that they can all agree to. Last year, they came to agreement among themselves. Unfortunately, their definition has run into extremely strong opposition from virtually everyone affected.

The President has appointed a special task force to look into this issue and they have initiated a series of public hearings on how wetlands should be defined and how they should be regulated. Given that this issue is in a state of flux, it does not make sense to act legislatively. We should let the hearing process continue before we lock any particular interpretation into place.

Let me commend the gentleman for his attention to this issue while at the same time recognizing the important work of the ranking member of our Water Resources Subcommittee, Mr. STANGELAND, on this issue.

Mr. EMERSON. Madam Chairman, I thank the gentleman from Arkansas and the gentleman from Minnesota for their comments. I wish to thank them and the distinguished chairmen of the full committee and the subcommittee for their cooperation in this matter.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from California [Mr. ANDERSON], chairman of the full committee.

Mr. ANDERSON. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I am pleased to accept the gentleman's amendment.

Mr. ALEXANDER. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from Arkansas.

Mr. ALEXANDER. Madam Chairman, I rise in support of the gentleman's amendment.

Mr. EMERSON. Madam Chairman, I thank the gentleman for his cooperation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON] to the amendments en bloc offered by the gentleman from California [Mr. ANDERSON].

The amendment to the amendments en bloc was agreed to.

Mr. LAGOMARSINO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act of 1990, and to commend my good friend and colleague, Chairman ANDERSON, along with the ranking member of the committee, Mr. HAMMERSCHMIDT, and the subcommittee chairman, Mr. NOWAK, and ranking member, Mr. STANGELAND, for bringing forth a fine bill addressing the critical infrastructure needs of our Nation.

I do not buy the argument that this bill is too costly. In my mind, and at least from my experience, each of the projects in my district are bonafide, legitimate projects which will save far more money in the long run than they cost. The breakwater project at Ventura Harbor, for example, will reduce the number of days on which the harbor is closed by bad weather and shoaling, as well as saving lives and property. The harbor is the headquarters of the Channel Islands National Park, and also houses oil platform service boats and oilspill cleanup equipment. All these tenants, which also include commercial fishing fleets, need year-round access at the port, the breakwater will also reduce the cost of annual Federal dredging at the harbor, saving the Federal Government money in the long run.

A similar case can be made for two other projects in my district which are included in the bill. One is a flood warning system for the Santa Clara River system, which will cost less than $1 million and has the potential to save many lives. This is a river which killed hundreds of people 60 years ago when a dam collapsed, and caused millions of dollars in damage 20 years ago when it went on a rampage. I do not think that qualifies as pork barrel. The other project is for flood control on part of that same system.

In conclusion, Madam Chairman, I do not share the belief that this bill represents wasteful spending. It is a good bill, authorizing needed projects, and I urge my colleagues to support it.

Mr. LIVINGSTON. Madam Chairman, I rise in support of the committee amendment to H.R. 5314, the water projects authorization bill for 1990.

i want to thank Chairman ANDERSON, Chairman NOWAK, ranking Republicans, HAMMERSCHMIDT and STANGELAND, and, especially, my Louisiana colleague, and a member of the Public Works and Transportation Committee, JIMMIE HAYES. Your leadership and support has once again been most beneficial to the safety and well being of thousands of Louisianians.

Madam Chairman, the committee amendment contains language that modifies an existing authorized project in the greater New Orleans area. The currently authorized west bank hurricane protection levee project in Jefferson Parish—Westwego to Harvey Canal, is modified to provide standard project hurricane protection for the areas of West Jefferson, Orleans, and Plaquemines Parishes that are east of the Harvey Canal.

Including areas east of the Harvey Canal under this authorization is in keeping with actions previously taken by the House and Senate Energy and Water Appropriations Committees to accelerate funding for design and engineering studies for this area. Subject to a final report by the Chief of Engineers, this modified authorization will be providing protection for thousands of residents and businesses east of the Harvey Canal.

The CHAIRMAN. The question is on the amendments en bloc, as amended, offered by the gentleman from California [Mr. ANDERSON].

The amendments en bloc, as amended, were agreed to.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: At the end of the bill, add the following new section:

SEC. 64. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary is directed to submit to the Congress for approval any proposed changes in the allocation of storage for the Raystown Lake project, Pennsylvania, which result from the on-going Raystown Lake Reallocation Study undertaken by the Baltimore District. Pending submission to and approval by the Congress of the results of that study, the Secretary may not reallocate storage at the project.

Mr. SHUSTER (during the reading). Madam 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 Pennsylvania?

There was no objection.

Mr. SHUSTER. Madam Chairman, I rise in strong support of my amendment to H.R. 5314, the Water Resources Development Act of 1990.

During the last several years, the Corps of Engineers' management of Federal multipurpose projects has become increasingly controversial. Under current authorization, the corps operates a number of water resources projects, including Raystown Lake, to achieve congressionally established purposes.

Now, in response to low water conditions and pressures from competing users of impounded water resources, the corps has upon occasion changed some project operations and as a result, altered the basic economic justification Congress relied in authorizing these projects. The corps has not sought congressional approval for these changes, but has utilized their discretion to reallocate water resources benefits administratively to respond to new public demand. This is exactly the situation that faces the Raystown Lake.

The corps has, in response to pressure from groups over 150 miles downstream, has begun a study to determine the feasibility of reallocating existing flood control storage and conservation storage at the lake to water supply capacity. This reallocation could result in a drop in the water level of the lake of 22 feet. Because of the possibility of such a change in the water level and the resultant loss of recreational capabilities, environmental damage and other factors, the local community is very opposed to this proposal.

Madam Chairman, my amendment will require the Corps of Engineers, at the conclusion of the Raystown Lake reallocations study, to seek the approval of Congress before they make any changes in the allocation of water storage at the Raystown Lake. This provision simply codifies what the corps has said will be the procedure they follow in this matter. The amendment would further prohibit the corps from engaging in any other changes in the allocation of water supply at the lake while the approval of the Raystown Lake reallocation study is pending before the Congress.

Madam Chairman, this amendment is necessary to insure that no changes in the allocation of water supply at the lake take place before the study is completed, and because of the very controversial nature of this project, that the corps seek Congress's approval before any changes.

Again, Madam Chairman, I rise in strong support of my amendment and ask for its favorable approval.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from California, the chairman of the full committee.

Mr. ANDERSON. Madam Chairman, I accept the gentleman's amendment.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, to my good friend and colleague, the gentleman from Pennsylvania [Mr. SHUSTER], a very, very senior member of the committee, absolutely, most definitely we support his amendment.

Mr. HAMMERSCHMIDT. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Madam Chairman, I am very familiar with the gentleman's amendment and the lake he seeks to protect. I strongly support his amendment. I congratulate him.

Mr. SHUSTER. Madam Chairman, I thank my friends on both sides of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

Mr. JONES of Georgia. Madam Chairman, I move to strike the last word.

Madam Chairman, I first want to commend the hard work of the chairman of the Public Works and Transportation Committee, Mr. ANDERSON, for bringing this bill to the floor today, as well as the chairman of the Water Resources Subcommittee, Mr. NOWAK, and the ranking minority members, Mr. HAMMERSCHMIDT and Mr. STANGELAND.

Madam Chairman, I would like to engage the gentleman from California, the chairman of the Public Works Committee, in a brief colloquy.

As the gentleman knows, I had requested that some language be included in the report of H.R. 5314 concerning the U.S. Army Corps of Engineers comprehensive study for the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River basins.

I am including a copy of the language in my remarks.

Madam Chairman, this language had been approved for inclusion in the committee report of H.R. 5314, but was inadvertently omitted. I would like the gentleman's assurances that he will work to include this language in the conference report on H.R. 5314 and that it is the intention of the Public Works Committee that the corps follow the language.

The committee urges that the U.S. Army Corps of Engineers, in its comprehensive studies for the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River basins, include the Atlanta Regional Commission and the Southeastern Power Administration, along with the three affected States, in its development of the study design and management of the comprehensive study.

The committee also requests that the corps, as part of its yearly budget request, report on the status of the comprehensive study. This status report should include, but not be confined to: First, estimated costs and funds spent; second, estimated completion date; third, if the estimated completion statement differs from the corps' original estimate of 1994, the corps should provide an explanation for the delay in the study; fourth, the corps' coordination and cooperation with the three States, including the Atlanta Regional Commission, and its plans for future involvement and coordination.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. JONES of Georgia. I am happy to yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, it was the intention of the committee that the language of the gentleman would be included in the House report of H.R. 5314.

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As the gentleman stated, it was inadvertently omitted. I would like to state for the RECORD that it is the intention of the committee to include this language in the committee report for H.R. 5314, and that the corps will follow this language.

I assure the gentleman that I will work to include the language in the conference report.

Mr. JONES of Georgia. Madam Chairman, I thank the gentleman for his remarks.

AMENDMENT OFFERED BY MR. ALEXANDER

Mr. ALEXANDER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALEXANDER: After section 12 of the bill, insert the following new section:

SEC. 13. AGRICULTURAL WETLANDS EXEMPTION.

Section 404 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1344), is amended by adding at the end the following new subsection:

"(u) AGRICULTURAL WETLANDS EXEMPTION.—

"(1) GENERAL RULE.—This section shall not apply to the discharge of dredged or fill material into any wetland—

"(A) which was used for agricultural production on any calendar date in the 24 months prior to the date of the enactment of this subsection; and

"(B) which was used for agricultural production for at least 1 year in the period between January 1, 1972, and the date of the enactment of this subsection;

so long as such land is used for agricultural production.

"(2) AGRICULTURAL PRODUCTION DEFINED.—For purposes of this subsection, the term 'agricultural production' shall include, but not be limited to, production of row crops; horticulture; vintniculture; silviculture; aquaculture; mariculture; grazing; haying; apiculture; hydroponics; production of tree fruits or nuts; raising of cattle, horses, poultry, swine, sheep, goats and other livestock of surface water for agricultural production; distribution of water for agricultural production; conserving uses required as a condition of enrollment in an acreage reduction program administered by the Secretary of Agriculture under the Agricultural Act of 1949 or any amendments thereto; all other activities identified in subsection (f)(1) of this section as of July 31, 1989; and the construction, expansion, improvement, maintenance, and operation of farm residences and facilities.".

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Mr. NOWAK (during the reading). Madam 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. NOWAK. Madam Chairman, I would like to raise a point of order against this amendment for violating clause 7 of rule XVI of the House.

The CHAIRMAN. The gentleman from New York [Mr. NOWAK] makes or reserves a point of order. Does the gentleman from Arkansas desire to be heard?

Mr. ALEXANDER. Madam Chairman, I take this time today to address a subject that is not addressed in this bill, realizing that the rule does not permit an offering of this amendment to the bill. However, I wish to draw attention to the fact that the Federal Water Pollution Control Act, enacted in 1972 and since amended, provides under section (f) of section 404 that normal farming practices are exempted from the need for section 404 permits issued by the Corps of Engineers.

Unfortunately, the manner in which Federal agencies are interpreting section 404 and in particular section 404(f) is confusing. It is inconsistent, and it is possibly in violation of the fifth amendment to the Constitution.

In order to remedy these problems and the negative impact on farmers of the Nation, I introduced a bill which is designated as H.R. 4133 and is pending before the Committee on Public Works and Transportation. It is the text of that bill which I have been joined today by the gentleman from Missouri [Mr. EMERSON], and the gentleman from Texas [Mr. LAUGHLIN], in proposing to offer as an amendment to H.R. 5314.

We do this to bring this serious matter to the attention of the Committee on Public Works and Transportation in hopes that we can get some resolution of the time in which the committee might consider the issues addressed by H.R. 4133 in the not-too-distant future.

Simple justice in the Nation's effort to protect wetlands requires fair play for farmers. The effort to preserve harmony between man and the environment is being ill-served by the unbalanced implementation of section 404 in connection with farmers.

Wetlands protection is important to us all. But, placing restrictions on use of land that has been farmed for generations does not mean "no net loss" of wetlands. It means a net gain of wetlands at the expense of unwilling, uncompensated landowners. I think that is wrong.

It is even more wrong if a farmer is prohibited from using that land in order to compensate for wetlands lost through private or public actions that have no direct bearing on or relationship to what the farmer is doing.

Wise wetlands management is of vital importance to the Nation and to the future of all Americans. So, the cost should be born by all Americans, not primarily by the Nation's farm families.

The amendment which we proposed to offer ensures that farmers are not forced to bear the majority of the cost of a national no net loss of wetlands policy.

Madam Chairman, I yield to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Madam Chairman, I have supported the gentleman's bill. I represent a large agricultural area, and as I travel not only in the district I represent, but in the Arkansas agricultural areas and agricultural areas in other States, I have found in visiting with our agriculture people that the requirements have varied not only from State to State but from district to district, even within some States on the requirement that farmers seek 404 permits.

There has been not only confusion, but in several instances a feeling of intimidation and harassment. For farmers who have farmed this land for years, and I might point out that we are not trying to exempt all the land that a farmer or the agricultural community may want to farm, we are only asking for an exemption of that which is already in production. We feel that we need better definitions so that those people in the agricultural field will know what is exempt, what is available to use in farming, and we feel that this is also in accordance with a no net loss wetlands goal of the President.

Therefore, I thank the gentleman from Arkansas [Mr. ALEXANDER] for his participation and his support on this very important issue.

Mr. ALEXANDER. Madam Chairman, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Madam Chairman, I thank the gentleman from Arkansas for his statement, for his effort here, and for what he is trying to accomplish, and join him in that effort.

If a point of order is sustained here, I look forward to working with the gentleman in pursuing appropriate legislation to achieve the goal that we seek to achieve through the amendment that the gentleman seeks to offer here today.

We, particularly from the lower Mississippi Valley, have the most vexing sorts of problems with the issue that the gentleman is seeking to address here. I plead with our colleagues who come from other regions of the country to understand the unique set of circumstances with which we are faced, and to help Members try to achieve what I think the gentleman from Arkansas is working for, a very responsible solution to this problem that causes Members so much trouble, causes our agricultural producers so much trouble.

I thank the gentleman from Arkansas [Mr. ALEXANDER] for yielding.

The CHAIRMAN. The Chairman has been treating this as a reservation of the gentleman from New York's point of order so that the amendment may be debated.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from New York insist on this point of order?

Mr. NOWAK. Madam Chairman, I do insist on my point of order. I would like to state, as we go through this, that this amendment is really a direct amendment to the Federal Water Pollution Control Act.

As Members know, we have discussed this issue over the last year, and it has been a vexing problem for many who have come before this committee. As we look forward to next year, we will have a rewrite of the

Clean Water Act, and we are going to again move into extensive hearings on this and other matters.

Certainly, the interest that has been shown by the gentleman for many years, and along with the gentleman from Missouri [Mr. EMERSON] as well as the gentleman from Arkansas [Mr. ALEXANDER] and others will certainly be recognized as we move into that hearing process, and we will welcome this amendment. However, I insist upon my point of order.

Mr. ALEXANDER. If the gentleman will defer to me, I think we can dispose of this matter quickly.

Am I to understand the gentleman from New York that hearings will be held on the Federal Water Pollution Control Act early next year, and that the issue we are attempting to address which is the exemption of established farmland, will have an opportunity to be heard, and that persons affected by the current administration of section 404 can expect that issue to be resolved sometime during the first half of 1991?

Mr. NOWAK. Madam Chairman, we will certainly handle that.

Mr. HAMMERSCHMIDT. Madam Chairman, I want to commend the gentleman from Arkansas for bringing this issue before the House. It is certainly an issue that I am also concerned about.

The corps' regulatory program has created major problems in agricultural communities around the country and especially in my home State of Arkansas. Farmers do not understand why they can't make minor operational changes to their on-going farming activities without having to go through a costly and time-consuming Federal regulatory process. Frankly, Madam Chairman, I don't understand why they should have to either.

Therefore, I certainly support the thrust of the gentleman's amendment and intend to work with him and with the other Members from our region to address this problem at the earliest possible opportunity. If we cannot do it here at this time, and I understand we will not be able to, then certainly we must address it early next year when we take up reauthorization of the Clean Water Act.

Mr. ALEXANDER. Madam Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. HOPKINS

Mr. HOPKINS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOPKINS: Page 26, after line 12, insert the following new subsection:

(q) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection for the Ohio River Basin, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to carry out a project for flood protection for South Frankfort, Kentucky, in accordance with plan R-1 of the Louisville District Commander's Re-evaluation Report, dated June 1990. The level of protection shall be no less than afforded North Frankfort, Kentucky. In addition, the Secretary shall execute a local cooperation agreement for the project for South Frankfort not later than October 1991.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Mr. HOPKINS (during the reading). Madam 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 Kentucky?

There was no objection.

Mr. HOPKINS. Madam Chairman, my amendment simply modifies existing congressional authorization of a flood protection project in the city of Frankfort, the State capital of Kentucky.

In the last 12 years, Frankfort has been devastated by three catastrophic floods costing American taxpayers $70 million in disaster relief. These enormous costs fail to calculate the emotional anguish and suffering of the hundreds of families displaced from their homes and the periodic and costly interruptions to State government, businesses, and schools.

City officials have agreed on a floodwall alignment which enjoys strong State and community support. This proposal is more expensive than the Corps' national economic development alignment. However, the city has offered to assume the difference in costs between the two proposals.

My amendment is necessary because it amends present authorization by enabling the corps to proceed with the locally preferred plan and ensures the continued progress of this essential project.

I appreciate the subcommittee's assistance in developing this necessary amendment and strongly urge its inclusion in H.R. 5314.

Chairman ANDERSON and ranking member HAMMERSCHMIDT may speak on my amendment.

Madam Chairman, I thank my colleagues, the distinguished chairman of the committee and the ranking minority member, for their support of this very important project.

□ 1640

Mr. NOWAK. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I have had the opportunity to review the gentleman's amendment. I think it is a workable amendment and we will certainly carry this process through into the conference. We are happy to accept it at this point in time.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

The gentleman's amendment would specify that the corps is to construct the flood protection project for Frankfort, KY in accordance with the locally preferred plan rather than the plan as recommended by the Corps of Engineers. This provision will not result in any increased Federal expenditures because the local governments will be responsible for paying any incremental cost increase. We are pleased to support the gentleman's amendment.

Mr. STANGELAND. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, we accept the amendment. We think it has merit. It certainly shows a willingness on the part of the local people to accept their obligations and responsibilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. HOPKINS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PALLONE: page 31, after line 18, insert the following new paragraph:

(4) PROHIBITION ON BURNING OF WOOD.—The New York Harbor collection and removal of drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), including construction described in paragraph (2) of this subsection, is further modified to provide that, after December 31, 1991, no material collected by the Secretary under the project may be disposed of by burning on ocean waters.

Mr. PALLONE. Madam Chairman, in 1988 the Environmental Protection Agency stopped the incineration of hazardous wastes in enclosed ships 140 miles offshore because the danger to public health and the environment was too great.

The gentleman from New Jersey [Mr. SAXTON] and I have offered an amendment to ban an even more environmentally barbaric practice, the burning of thousands of tons of contaminated wood in open barges just 17 miles off the beaches of New Jersey.

In 1968, the Army Corps of Engineers burned the first load of creosote soaked wood from the New York harbor pier at a temporary site in the Atlantic Ocean 17 miles east of Point Pleasant Beach, NJ. The corps still operates this temporary dumping ground more than 20 years later and it will continue to do so at the peril of the coastal environment and the health and safety of boaters and bathers, unless the House adopts our amendment today.

In written response to questioning at a Merchant Marine and Fisheries Committee hearing last February, the EPA stated that practicable alternatives to wood burning at sea will be implementable by December 31, 1991,

the very date on which our amendment would end the practice. The EPA went so far as to propose its own rule ending wood burning at the end of 1991.

Why then the need for this amendment? Because the lack of a statutory deadline is what made a 20-year dumping ground out of a temporary site in the first place.

During more than 20 years of offshore wood burning, countless partially burned timbers have fallen off barges, creating a navigation hazard. After each burn heavy, metal-laden ash is hosed into the ocean.

Now that the EPA itself has said that environmentally sound alternatives to wood burning could be in place by the deadline our amendment imposes, there is no reasonable justification for continuing offshore wood burning, a practice which already would be outlawed by the Clean Air Act taking place just 6 miles closer to shore within the U.S. 12-mile territorial zone.

Madam Chairman, today I have brought with me some photos which are here on the easel which I want to show to my colleagues to show how this large plume of smoke which is clearly visible from the shore, I guess that is the first one there if we could show it, it is clearly visible from the shore. The smoke blows on the shore. You can smell it when you are on the beaches.

In February of this year, charred timbers from the burning operation were strewn over a 30-mile stretch of shorefront, and over the years there have been numerous documented cases of large timbers from the wood burning barges causing collisions with private boats and injuring bathers.

From the second photograph you can see how close it does get on occasion to some of the recreational as well as commercial fisheries.

I think the photos speak for themselves. They speak volumes really. I do not think there can be any more persuasive statement to conclude why wood burning at sea should end.

Madam Chairman, I urge adoption of the amendment.

Mr. SAXTON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the amendment. I am pleased to join with the gentleman from New Jersey [Mr. PALLONE]. I rise in strong support of the amendment to H.R. 5314, the water projects authorization.

This amendment will require the Army Corps of Engineers to turn to environmentally sound land-based alternatives for the disposition of creosote treated wood by December 31, 1991.

Currently the corps burns this waste wood, often treated with toxic preservatives, on open barges, just like the ones you saw in the pictures, about 17 miles off New Jersey with no air quality controls.

The argument is no longer valid that purports that there are no reasonable alternatives. The burn barges constantly go off shore, pollute the air, and as the Congressman pointed out quite correctly, oftentimes provide for floating half-burned pieces of wood that wash up on the shores.

Environmentally sound land-based alternatives like bioremediation, cogeneration, and gasification currently exist and can be developed and implemented by December 31, 1991.

Indeed, the Environmental Protection Agency has announced its intent to end wood burning by the same date based on their belief that land-based alternatives can be implemented by that time.

So Madam Chairman, I urge my colleagues to join us in supporting this amendment to end ocean wood burning. This will also send a clear congressional directive to the EPA and the Army Corps of Engineers that this is a priority issue, to stop using the ocean as a waste bucket and start developing and implementing environmentally sound waste disposal alternatives.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

The gentleman's amendment would prohibit burning on the oceans wood material collected from the water or along the shore from the New York harbor drift and debris removal project. While burning these materials at sea may have seen considered by some as an acceptable alternative in the past, our concerns for the environment and for the protection of the oceans preclude continuation of this practice. Therefore, I am pleased to support the gentleman's effort to assure a safe and clean environment and we are pleased to support the gentleman's amendment.

Ms. MOLINARI. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the amendment offered by my colleagues from New Jersey, Congressmembers PALLONE and SAXTON. For far too long, our region has been devastated by environmental pollution—our air and our water lack any semblance of dignity and this has borne witness to beaches left empty during hot summer days and front page national stories detailing oil slicked birds and respiratory disease. How much more can our residents take? Messrs. PALLONE and SAXTON say—no more.

Open barge burning offshore of creosote soaked wood clearly is not the best technology available in this country and its effects on human and marine life cannot be tolerated. Nor is landfilling this toxic material the solution. Leachate compliance could never be achieved and in the New York-New Jersey area, our dump space is so precious. Landfilling would be a short short-term solution at best.

And we are not forcing an answer tomorrow. In fact, EPA sets this same date to end wood burning. The amendment before us only codifies their intent.

Let me conclude by stating that this issue does not affect one of my constituents. In fact, it may slow some cleanup of our harbor. We have for far too long stood divided by politics and region while our air, water, and health were betrayed. I urge my colleagues to support this amendment as we create a better future for everyone and every being.

□ 1650

Mr. STANGELAND. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I am not going to take sides, yes or no, on this amendment at this point in time. But I think the testimony you have just had is evidence of the fact that we do not have a good answer. Burning is not satisfactory.

As apparent from the pictures Congressman PALLONE showed to this body, the corps has not been sensitive to the problems of burning on the ocean with what happens with the air quality on the beaches.

On the other hand, the landfills, the dumps on the east coast are filling and filling rapidly. That is not a responsible solution either.

So then you say what are you going to do with this wood, where is it going to go? Well, I am not at all certain that we ought not have some kind of a study to require the corps and the EPA to come up with a better answer. You have got to get rid of the wood, we know that. You do not want that wood jamming up the harbors.

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Madam Chairman, I share the gentleman's concern because indeed removing these pilings and old barges from New York Harbor is critical in a different sense for environmental protection. They are causing us to have difficulty in using the harbor again for recreation. They have an important economic benefit, as well.

My support of this amendment comes because it is clear now there are alternatives. Companies now are requesting to take and to purchase this old wood to take it to their places where they will use it to generate power, where it is being chipped for other purposes.

Indeed several nations have requested the opportunity to use this wood for their own generation of power.

So as we eliminate the burning of this wood off our coast, we are finding the marketplace is generating real economic benefits.

That was important for my support of this amendment. The gentleman's point is very well taken. The marketplace is supplying the answers.

Mr. STANGELAND. I thank the gentleman for that contribution. It gives me some peace of mind as to this amendment, then. I certainly am not going to oppose it. I thought we might go to work in conference, but according to the gentleman from New Jersey [Mr. TORRICELLI], there is an alternative and that is what we are looking for. And I thank the gentleman.

Mr. PAYNE of New Jersey. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to express my strong support for the Pallone-Saxton amendment to end offshore woodburning. This amendment would prohibit the at-sea burning of contaminated wood collected during the Army Corps of Engineers' collection and removal of drift project.

Under current law, our Government allows the needless burning of thousands of tons of contaminated wood in open barges just 17 miles off the beaches of New Jersey. This terrible practice has been going on for 20 years, and it is time we put a stop to it.

The environmental consequences of this burning are obvious. The Environmental Protection Agency has already discontinued the burning of hazardous waste in enclosed ships 140 miles offshore because of the great danger to public health and the environment. EPA has also confirmed that environmentally sound alternatives to woodburning are readily available.

Madam Chairman, our oceans should not be a dumping ground for our garbage. The fact that offshore woodburning occurs just far enough out in the ocean to circumvent the Clean Air Act should not be tolerated. I urge my colleagues to take a strong stand against offshore woodburning and support the Pallone-Saxton amendment.

Mr. MANTON. Madam Chairman, I move to strike the requisite number of words and rise to express my strong opposition to the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

I do not believe the amendment is timely or necessary. I believe the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries, of which I am a member, should not have acquiesced in allowing this amendment to come to the floor at this time. It does a disservice to the regular legislative order and the careful review and formulation of sound environmental policy.

With the acceptance of the Pallone amendment, we are once again making an emotional and political quick fix for complex waste disposal problems with little, if any, regard for the overall environmental consequences of our actions. We have been down this road before, and I have expressed my concern previously about proceeding in such a shortsighted fashion when dealing with complicated and serious environmental concerns. I have personally sought to encourage the development of a comprehensive, long-range environmental solution for our Nation's coastal pollution problems, but my efforts have been ignored while politically seductive, though far less certain, proposals have been readily accepted.

Madam Chairman, over a number of years the Army Corps of Engineers, operating under a valid permit from the U.S. Environmental Protection Agency, has disposed of floatable wooden debris collected from the Port of New York/New Jersey and surrounding waterways by burning this material in barges located 17 nautical miles off the New Jersey coast. The material disposed of by ocean woodburning is collected as part of a joint Federal, State, and local program authorized by Congress to ensure navigational safety within the Port of New York/New Jersey and surrounding waters. Currently, ocean woodburning is considered to be the most environmentally safe and the most cost effective method of disposal of this debris.

While much confusion and many misstatements have surrounded the harbor collection and removal of drift project, I do not believe there has been established the environmental necessity to end ocean woodburning. The facts simply are not there. I believe Congress should wait to take any action on mandating the cessation of ocean woodburning and allow the EPA to make the scientific determination of whether and when this practice should be halted. The EPA has gone on record, after the completion of extensive testing, "that the environmental effects on the air and water associated with woodburning activities are negligible."

Also, the EPA has stated they will not designate a site for ocean woodburning after December 31, 1991, if practicable land-based alternatives have become available. Further, the Army Corps is proceeding with an ongoing study of alternative disposal options, which we should allow to be completed before mandating an end to this disposal practice. All too often, the Congress imposes its views with little regard to the facts on the very administrative agencies we have established to regulate a particular issue and which have the expertise to do so.

In brief, Madam Chairman, there is no basis that wooden debris is falling off of the barges used for ocean woodburning. The ash generated by the burn is not disposed of in the ocean. It is brought back to land for disposal in a secured landfill. While there well may be environmentally and economically sound alternatives to ocean woodburning, to date, none of these alternatives have been sufficiently demonstrated. To insist that ocean woodburning be brought to an end in little more than a year simply is unrealistic and may result in unforeseen environmental hardships if an unproven disposal method is used in its place.

Madam Chairman, I believe a 5-year period to phase out ocean woodburning, as envisioned by the EPA's own draft environmental impact statement, would be the best and most environmentally sound policy to pursue at this time. For the benefit of my colleagues, I am including a fact sheet on ocean woodburning prepared by the Port Authority of New York and New Jersey. I think it is important to set the record straight on the ocean woodburning issue.

Madam Chairman, I am opposed to Mr. PALLONE's amendment. I urge my colleagues not to support this amendment which is not based in fact but, rather, emotional appeal.

FACT SHEET—OCEAN WOODBURNING IN THE NEW YORK BIGHT

Authorization: Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532) authorizes the US EPA to establish a permit program for this action.

Current permittee: New York District, Corps of Engineers.

What is burned? Floating wooden debris such as tree stumps, large timbers, pilings, pallets, planks and pieces of submerged, wrecked, and abandoned boats and ships. Waterfront sources of wooden debris such as decking, planking, siding, heavy timbers and pilings from bulkheads, abandoned ferry slips and piers.

What is the Waterfront Cleanup Project? The Waterfront Cleanup Project, formally known as the New York Harbor Collection and Removal of Drift Project, is a Federal project intended to rid the Port of New York/New Jersey waters of sources of floating hazardous driftwood. In 1988, the Congress, at the urging of New York-New Jersey members, reauthorized the Project so it could be brought to conclusion.

Where is the collected debris burned? The existing Interim Site is approximately 17 nautical miles east of Point Pleasant, New Jersey, the closest point to land. EPA proposes that a new site 20 nautical miles east of Seaside Park, New Jersey the shoreline be used in the next year.

How much wooden debris has been burned? Between 1973 and 1988, approximately 405,000 tons of wooden debris has been burned. This is roughly 25,000 tons per year with a minimum of 6,200 tons in 1975 and a maximum of 54,533 tons in 1984.

When and how does burning take place? Anytime within a one-year permit period except between Memorial Day and Labor Day and as further restricted by the conditions of the permit. Numerous safeguards,

e.g., spaced stanchions, chain-linked fencing, load height limitations, floating continuous boom, trailing vessel to retrieve any fallen wood from the barge, etc. eliminate wooden debris from inadvertently re-entering and remaining in the water. Post-incineration ash is disposed of in a certified landfill.

What does ocean burning cost? The Corps of Engineers estimates $50 per ton. The local sponsors pay one third of that cost. Thus far, the cost of alternatives as elicited in disposal bids have greatly exceeded the ocean burning cost.

Why has wooden debris been burned at sea? Since the beginning of the Drift Removal Program, ocean burning has been the most cost effective and least environmentally offensive disposal practice available for the amount of material collected.

How much wooden debris remains? The Corps of Engineers estimates that 350,000 tons of wooden debris could be removed and disposed of from the Port of New York/New Jersey during the next 10 to 12 years.

What are the primary public concerns? The primary public concerns are:

Floating and submerged driftwood largely sourced in deteriorating water structures is a hazard to navigation and must be removed from the waterways;

Floating driftwood can be a hazard to fishing activities;

Incineration at sea affects air quality;

A smoke plume 17 miles away at sea is said to be sometimes visible from the shoreline (off-season);

Landbased disposal methods raise issues regarding the proximity of disposal to populations; and

The large volumes of wooden debris would tax diminishing landfill space.

Were alternative disposal methods previously studied? Yes, by the New York District, Corps of Engineers in a 1975 Environmental Impact Statement for the New York Harbor Collection and Removal of Drift Project. This study recommended burning at sea as the preferred disposal alternative. Since that time, the EPA has required that the Corps of Engineers solicit bids for upland disposal of timber debris for each cleanup contract in addition to soliciting bids for burning at sea. The EPA then compares bid results before advising the Corps as to which disposal method will be the basis for award.

Has EPA performed an EIS? The EPA released in 1989 a Draft Environmental Impact Statement (DEIS) recommending that a permanent burn site approximately 20 nautical miles east of Seaside Park, New Jersey be designated for a period of 5 years after which time an alternative methodology would have to be implemented and all ocean burning would stop. The DEIS generally discussed alternatives, concluding that 5 years would be sufficient time for the permittee to develop and implement an alternative. However, EPA's proposed rulemaking issued months later supersedes the DEIS recommendations by designating a site with a life to end on December 31, 1991. No clear and detailed explanation accompanied the reduced period recommendation.

Are disposal alternatives currently being studied? Yes. What appears to be a simple question of disposing of wood debris is complicated by the factors that include creosote and salt content of some of the wood, and the considerable volume of materials requiring disposal. The New York District, Corps of Engineers in 1989 undertook a small (approximately 200 tons) alternative demonstration project involving wood shredding and incineration. A consultant to the Corps of Engineers is presently studying the potential of short and long term alternatives. The consultant's report is expected during 1991, after which promising alternatives would need to be demonstrated and evaluated.

Mr. SAXTON. Madam Chairman, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. SAXTON. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I would like to take a moment to address a couple of subjects that my colleague from New York has brought up.

First, this is not a subject that has been reached, as if brought out of the sky here today. This is something that has been discussed before the Committee on Merchant Marine and Fisheries in a formal hearing.

I might say that that was done subsequent to the establishment of the current date which is being used by the EPA, which is a date set by the EPA keeping in mind that the technology which currently does exist which will be put in place to handle this problem.

The CHAIRMAN. The time of the gentleman from New York [Mr. MANTON] has expired.

(Upon request of Mr. SAXTON and by unanimous consent, Mr. MANTON was allowed to proceed for 3 additional minutes.)

□ 1700

Mr. SAXTON. Second, the matter of being cost effective, I cannot think of anything that would be more cost effective than to find a way to dispose of this wood, this creosote-coated wood, at a profit. The country of Pakistan is in the process of putting in place a cogeneration plant, and one of the things Pakistan has to do is find a source of creosote coated wood, and they have expressed a direct interest in purchasing this very wood, and so by December 31, 1991, we can accomplish two things. Somebody can make a profit, and at the same time we can stop burning offshore.

Mr. MANTON. Madam Chairman, would the gentleman from New Jersey [Mr. SAXTON] respond to a question? Is it necessary for us to legislate here, now, today, if in fact the EPA has already indicated that in little over a year they will come up with a plan providing the alternative methods that the gentleman says are available are available, and if they are, then we do not need to legislate.

Mr. SAXTON. Madam Chairman, what we are trying to do is put in law what the EPA says are its intentions, but they say, if there are alternatives, and I know the gentleman from New York [Mr. MANTON] is assuming in his presentation here that there are such alternatives, the only one I have heard of is selling it to Pakistan or some other country which I do not think is realistic.

We know there are technological alternatives. The will of the EPA to put two alternatives in place is what we are trying to ensure here today in a cost-effective way that is environmentally sound, and we believe firmly that, if we put this date, December 31, 1991, into the statute, that in fact the EPA will be required to use the effort and go forward to meet that date and that deadline.

Mr. MANTON. Are there any other alternatives other than selling them on the free market?

Mr. SAXTON. As a matter of fact, there are. The alternatives are certainly not as desirable as selling it at a profit.

I just yesterday had a firm in my office indicating that they have the technology available to chip and incinerate this wood in a cogeneration plant which they would establish somewhere in the northern part of New Jersey or in New York, so that is there. I do not think that is as desirable as selling the material for fuel to another country.

Mr. TORRICELLI. Madam Chairman, would the gentleman yield?

The CHAIRMAN. The time of the gentleman from New York [Mr. MANTON] has once again expired.

(By unanimous consent, Mr. MANTON was allowed to proceed for 1 additional minute.)

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Madam Chairman, as I indicated previously, I share some of the concerns of the gentleman. This driftwood in the harbor of New York is an economic problem. It is a difficulty in restoring recreational use of the harbor. I came to support the Pallone and Saxton amendment because I am convinced that, not only is there a single alternative in exporting this wood, but there are a variety of them. People are now contacting the Army Corps seeking bids to purchase, to get this wood, from Maine, to New Jersey, to New York, for use of cogeneration, for use of export.

Mr. MANTON. Madam Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from New York.

Mr. MANTON. Where would we collect this wood?

Mr. TORRICELLI. As we speak, the wood is being collected on Howlin Hook on port authority's own land and is being stored. Companies are able to purchase it and use it for other purposes.

The point here is that having EPA render this judgment in another year

raises the specter of a year hence, another plan, another study.

The CHAIRMAN. The time of the gentleman from New York [Mr. MANTON] has expired.

(By unanimous consent, Mr. MANTON was allowed to proceed for 30 additional seconds.)

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Madam Chairman, we do not need another study. The real economic consequences for them of this on the shore of New Jersey are happening now. We cannot ask citizens to stand on beaches and watch burning barges, to walk along beaches, to wade into the water and see burnt debris.

The real consequences are now. There are alternatives, and this is ultimately not the EPA's responsibility. That responsibility should rest with us. We see alternatives, we should meet it, and we should stop it now.

Mr. MANTON. The fact is we have charged these agencies with supervising the environment, and they have testified that the environmental impact is neglible.

Mr. TORRICELLI. But it exists.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota.

SEC. 64. MISSOURI RIVER MAIN STEM SYSTEM OF DAMS.

(a) MODIFICATION OF COMPREHENSIVE PLAN.—The general comprehensive plan for flood control and other purposes in the Missouri River Basin, approved by the Act of June 28, 1938 (53 Stat. 1218), is modified to require the Secretary after January 1, 1992, to operate the Missouri River main stem system of dams in accordance with a master manual and an annual operating plan which has been approved by the Missouri River Basin Governing Council established by this section.

(b) AVAILABILTY OF MASTER MANUALS AND OPERATING PLANS.—In order to provide for review by the Council of each master manual and annual operating plan referred to in subsection (a) and to provide an opportunity for interested persons to submit comment to the Council with respect to such manual or operating plan, the Secretary shall transmit on a timely basis such manual or operating plan to the Council and other interested persons.

(c) ESTABLISHMENT OF COUNCIL.—There is established in the Corps of Engineers the Missouri River Basin Governing Council (hereinafter in this section referred to as the "Council").

(d) DUTIES.—

(1) IN GENERAL.—The Council shall review each master manual and annual operating plan sumbitted to the Council by the Secretary under this section for operation of the Missouri River main stem system of dams in order to ensure that such manual or operating plan is consistent with the authorized purposes of such system of dams. Upon completion of each such review, the Council shall approve or require amendments to such manual or operating plan.

(2) PUBLIC COMMENT.—Before approving or requiring amendments to a master manual or annual operating plan under this subsection, the Council shall provide an opportunity for Federal and State departments and agencies, the Western Area Power Administration, environmental organizations, industry representatives, and other interested persons to submit comments to the Council with respect to such master manual or operating plan.

(e) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall consist of 10 members as follows:

(A) The Secretary (or the Secretary's delegate).

(B) One member who is a Native American appointed by the Secretary to represent the interests of Native Americans.

(C) Eight members appointed by the Secretary in accordance with paragraph (2).

(2) MEMBERS TO BE APPOINTED FROM STATE NOMINATIONS.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Governor of each Missouri Basin State may submit to the Secretary the name of a nominee from such State to serve as a member of the Council, together with such information about the nominee as the Secretary may require.

(B) APPOINTMENT OF NOMINEES.—The Secretary shall appoint to the Council 1 member from each Missouri Basin State from nominations submitted under this paragraph, except that the Secretary may refuse to appoint a nominee for any reason.

(C) REFUSAL TO APPOINT NOMINEES.—If the Secretary refuses to appoint a nominee, the Secretary shall provide the Governor who submitted the name of such nominee notice of the refusal. The Secretary shall provide such notice not later than the 60th day after the date of receipt of the name of such nominee. The Governor may thereafter make successive nominations to the Council until the Secretary appoints a nominee from such State to the Council. Each such nomination shall be made by the Governor not later than the 45th day after the date of receipt of such notice.

(D) FAILURE TO MAKE NOMINATIONS.—In the event that the Governor of a Missouri Basin State fails to make a nomination under this paragraph within the time specified for such nomination, the Secretary shall select and appoint an individual from such State to serve as a member of the Council.

(3) QUALIFICATIONS.—Members of the Council shall be appointed from among individuals who are qualified to serve on the Council by virtue of their training and experience.

(4) TERMS.—Members shall be appointed to the Council for a term of 4 years.

(5) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(6) COMPENSATION.—Members of the Council shall receive no pay on account of their service on the Council, but while away from their homes or places of business in the performance of their duties on the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(7) QUORUM.—Seven members of the Council shall constitute a quorum but a lesser number may hold hearings.

(8) VOTING.—Decisions of the Council shall be made according to the vote of 7 members of the Council.

(9) CHAIRPERSON.—The Chairperson of the Council shall be elected by the members. The term of office of the Chairperson shall be 4 years.

(10) MEETINGS.—The Council shall meet at least twice each year at the call of the Chairperson.

(f) POWERS.—

(1) HEARINGS.—The Council may, for the purposes of carrying out its duties under this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) OBTAINING INFORMATION.—Except as otherwise provided by law, the Council may secure directly from any Federal department or agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Council, the head of a department or agency shall furnish such information to the Council.

(3) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide the Council on a reimbursable basis such administrative support services as the Council may request. In addition, upon the request of the Council, the Administrator shall provide the Council with such access and use of Federal facilities as is necessary to enable it to carry out its duties under this section.

(g) TERMINATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Council.

(h) DEFINITION OF MISSOURI BASIN STATES.—For the purposes of this section, the term "Missouri Basin States" means the States of Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

Conform the table of contents of the bill accordingly.

Mr. DORGAN of North Dakota (during the reading). Madam 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 North Dakota?

There was no objection.

Mr. DORGAN of North Dakota. Madam Chairman, I am offering this amendment today that would address the management of the Missouri River Basin and the mainstream dams around the Missouri River. We have had serious problems in recent years with the Corps of Engineers. I know the Corps of Engineers undoubtedly has some fans in this body and that Corps of Engineers has done some good work in this country.

However, Madam Chairman, I have got to tell my colleagues that dealing with the Corps of Engineers is a lot like dealing with the old Romainian Regime from time to time. They shake their head, they murmur, they nod, they express all kinds of expressons, but then nothing ever happens. One never gets a sense that they heard a thing that was said.

We have had a problem up in our part of the country. In the Missouri River Basin we have had a very serious drought in which there has been less reinfall, less runoff from the mountains, and the large lake behind Garrison Dam in North Dakota has been depleted by 40 percent and the water level is down 30 feet.

The Corps of Engineers has been releasing water through the upper basin dams even during a drought that exceeded what we consider to be appropriate releases during a drought. This has created a very serious problem for us. The corps is subsidizing according to their own plan, a downstream navigation interest, somewhere around a $14 million navigation interest, at the expense of $60 or $70 million of recreation industry upstream. This has created friction between the downstream and upstream States.

In fact, we have seen the States in court contesting each other. That does not make sense. Why should the downstream and upstream States be in Federal court suing each other over the management of the dams in the Missouri River Basin? It makes no sense.

In my amendment, I proposed that we establish a council in which the States in the Missouri River Basin give advice to the corps on how to operate the water flows in the Missouri River and approve the operating plans for all the dams on the river.

Madam Chairman, some say, "Well, we don't want any council giving anybody any advice." Well, the fact is in the most recent lawsuit, that was filed by the upstream States, the Corps of Engineers went to Federal court and said they are not covered by the courts. They are not subject to judicial review. Well, whose review are they subject to? Madam Chairman, it seems to me somebody ought to be able to review the Corps of Engineers. I say,

> When you have a significant drought going on, the corps is releasing exceedingly more water than they should under their management plan, but they tell us they are not, and when we discover later that they are, somebody ought to be able to review that because it causes economic damage to someone's interests.

Madam Chairman, some of us are just sick and tired of dealing with the Corps of Engineers. If they are not going to deal with us honestly we should set up a mechanism to resolve these conflicts with the States involved. Let us give the States a voice in how the Missouri River Basin is managed. That is what my amendment proposes. There are models of how this works. There were frictions and difficulties in the Columbia River Basin, and an organization, the NPPC, was put together to resolve conflicts over water interests.

It seems to me that those in the downstream States and those in the upstream States of the Missouri River Basin ought to work together as well. We want to work together, but we cannot work together if the Corps of Engineers in some autocratic ways says, "Well, we have a manual someplace, and we're going to follow that manual." But nobody outside of the corps gets input in it. Then we discover later that the manual did not quite say what the corps said it did, and that the releases were really more than they told us earlier.

We are just tired of that, and we want this to change. The reason I bring this issue to the floor, and the reason I have talked to the chairman and others about it, is that we are not going to allow this to continue happening to us with the Corps of Engineers. We want to change the way the Missouri River Basin is managed by the Corps of Engineers.

Madam Chairman, how can we accomplish that? The development and establishment of the council, as I am proposing is one way to do that. I know there is some opposition to my amendment on the floor today. The gentleman from Iowa [Mr. LIGHTFOOT], my friend, and others, while they might feel that we need to work together, do not exactly feel this type of council is the right approach.

□ 1710

However, the 1944 Flood Control Act that established the series of dams on the Missouri River, assured that the upstream and the downstream State interests would be balanced. This is not the case under the current management. We find now afterward that the management of the river itself is being done in a detrimental way to the interests of the upstream States, and we are simply not going to sit back and allow that to continue to happen without coming to the floor of this House and without going to the courts, without taking some approach to try to change it.

Madam Chairman, that is what my amendment attempts to do.

AMENDMENT OFFERED BY MR. LIGHTFOOT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. LIGHTFOOT. Madam Chairman, I offer an amendment as a substitute for the amendment.

The CLERK read as follows:

Amendment offered by Mr. LIGHTFOOT as a substitute for the amendment offered by Mr. DORGAN of North Dakota: At the end of the bill, add the following new section:

SEC. 64. MISSOURI RIVER MAIN STEM SYSTEM OF DAMS.

(a) MODIFICATION OF COMPREHENSIVE PLAN.—The general comprehensive plan for flood control and other purposes in the Missouri River Basin, approved by the Act of June 28, 1938 (53 Stat. 1218), is modified to require the Secretary, after January 1, 1992, to operate the Missouri River main stem system of dams in accordance with a master manual and an annual operating plan.

(b) AVAILABILITY OF MASTER MANUALS AND OPERATING PLANS.—In order to provide for review by the Council of each master manual and annual operating plan referred to in subsection (a) and to provide an opportunity for interested persons to submit comments to the Council with respect to such manual or operating plan, the Secretary shall transmit on a timely basis such manual or operating plan to the Council and other interested persons.

(c) ESTABLISHMENT OF COUNCIL.—There is established in the Corps of Engineers the Missouri River Basin Governing Council (hereinafter in this section referred to as the "Council").

(d) DUTIES.—

(1) IN GENERAL.—The Council shall review each master manual and annual operating plan submitted to the Council by the Secretary under this section for operation of the Missouri River main stem system of dams in order to ensure that such manual or operating plan is consistent with the authorized purposes of such system of dams. Upon completion of each such review, the Council may recommend to the Secretary amendments to such manual or operating plan.

(2) PUBLIC COMMENT.—Before making recommendations concerning amendments to a master manual or annual operating plan under this subsection, the Council shall provide an opportunity for Federal and State departments and agencies, the Western Area Power Association, environmental organizations, industry representatives, and other interested persons to submit comments to the Council with respect to such master manual or operating plan.

(e) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall consist of 12 members as follows:

(A) The Secretary (or the Secretary's delegate).

(B) One member who is a Native American appointed by the Secretary to represent the interests of Native Americans.

(C) One member who is appointed by the Secretary to represent the interest of the transportation and utilities industries of the region.

(D) Nine members appointed by the Secretary in accordance with paragraph (2).

(2) MEMBERS TO BE APPOINTED FROM STATE NOMINATIONS.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Governor of each Missouri Basin State may submit to the Secretary the name of a nominee from such State to serve as a member of the Council, together with such information about the nominee as the Secretary may require.

(B) APPOINTMENT OF NOMINEES.—The Secretary shall appoint to the Council 1 member from each Missouri Basin State from nominations submitted under this paragraph, except that the Secretary may refuse to appoint a nominee for any reason.

(C) REFUSAL TO APPOINT NOMINEES.—If the Secretary refuses to appoint a nominee, the Secretary shall provide the Governor who submitted the name of such nominee notice

of the refusal. The Secretary shall provide such notice not later than the 60th day after the date of receipt of the name of such nominee. The Governor may thereafter make successive nominations to the Council until the Secretary appoints a nominee from such State to the Council. Each such nomination shall be made by the Governor not later than the 45th day after the date of receipt of such notice.

(D) FAILURE TO MAKE NOMINATIONS.—In the event that the Governor of a Missouri Basin State fails to make a nomination under this paragraph within the time specified for such nomination, the Secretary shall select and appoint an individual from such State to serve as a member of the Council.

(3) QUALIFICATIONS.—Members of the Council shall be appointed from among individuals who are qualified to serve on the Council by virtue of their training and experience.

(4) TERMS.—Members shall be appointed to the Council for a term of 4 years.

(5) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(6) COMPENSATION.—Members of the Council shall receive no pay on account of their service on the Council, but while away from their homes or places of business in the performance of their duties on the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(7) QUORUM.—Seven members of the Council shall constitute a quorum but a lesser number may hold hearings.

(8) VOTING.—Decisions of the Council shall be made according to the vote of 7 members of the Council.

(9) CHAIRPERSON.—The Chairperson of the Council shall be elected by the members. The term of office of the Chairperson shall be 4 years.

(10) MEETINGS.—The Council shall meet at least twice each year at the call of the Chairperson.

(f) POWERS.—

(1) HEARINGS.—The Council may, for the purposes of carrying out its duties under this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) OBTAINING INFORMATION.—Except as otherwise provided by law, the Council may secure directly from any Federal department or agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Council, the head of a department or agency shall furnish such information to the Council.

(3) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide the Council on a reimbursable basis such administrative support services as the Council may request. In addition, upon the request of the Council, the Administrator shall provide the Council with such access and use of Federal facilities as is necessary to enable it to carry out its duties under this section.

(g) TERMINATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act, relating to the termination of advisory committees, shall not apply to the Council.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to preempt or otherwise restrict the authority of any member of the Council to seek judicial review of a master manual or an annual operating plan for the Missouri River main stem system of dams.

(i) DEFINITION OF MISSOURI BASIN STATES.—For the purposes of this section, the term "Missouri Basin States" means the States of Iowa, Kansas, Missouri, Montana, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

Conform the table of contents of the bill accordingly.

Mr. LIGHTFOOT (during the reading). Madam 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 Iowa?

There was no objection.

Mr. LIGHTFOOT. Madam Chairman, as you know, my colleague's amendment would establish a governing council for the Missouri River basin dams whose members would be appointed by the Secretary of the Army. The governing council would have the authority to approve the operating plans of the Missouri River projects.

My amendment would change the governing council's role to an advisory position. My colleague's amendment gives veto power over a governmental agency to a private nongovernmental entity. The Dorgan amendment is unique in that it applies only to the Missouri River basin reservoir system. The Army Corps of Engineers is empowered by the Federal Government to regulate all inland waterway systems. To deviate from this established policy would set a precedent creating a lack of confidence in the ability of the corps to manage our waterways.

Several advisory groups have been established in the past to make recommendations on water projects, and have been quite successful. An example of this is the inner waterways users board, organized in 1986. However, this body was merely advisory.

I further object to this amendment because it would pit upper Missouri River States against lower Missouri River States. Based on historical issues, the vote in the council as structured would be biased toward the upper basin. It would also seem likely the tribal representative would likely favor upper basin interests since the majority of the tribes are located in those areas.

To ensure all affected parties are well represented, my amendment adds the State of Minnesota to the council because of its interest in hydropower activities. In addition, one member would be appointed by the Secretary to represent the interest of the transportation and utilities industries of the region.

My amendment would also strike language giving the council the veto authority in reviewing each master manual and operating plan to ensure the plans are consistent with the authorized purposes and current benefits of the projects. The beneficiaries of the project operations will be considered in proportion to their current economic benefit. The addition of the consideration of "current economic benefit" is a way to leverage more service to reservoir recreation uses at the expense of downstream recreation and economic concerns. Current analysis shows lower basin recreation interests lose. Upper basin recreation use is much better documented.

The Dorgan amendment could also block the right of affected parties to seek judicial review to protect their concerns. My amendment would ensure the right of any member of the council to seek judicial review of a master manual or an annual operating plan for the Missouri River main stem system of dams.

I can appreciate the interest and concern expressed by our bordering northern States with respect to adequate reservoir levels for recreational and tourism usage. However, I have strong concerns with the lower basin States' drinking water supply and continued adequate water supply, particularly during drought periods, and their ability to provide cost efficient power for my constituents and transportation for agriculture purposes. Several powerplants located on the Missouri River rely on the availability of adequate water resources. Obviously a minimum flow is needed for power plant cooling.

The amendment by my colleague could lead to downstream wildlife damage, higher utility rates or shortages of power, and a possibility of a halt of grain transportation on the Missouri River.

Madam Chairman, I urge the support of my colleagues for my substitute.

Mr. SLATTERY. Madam Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Kansas.

Mr. SLATTERY. Madam Chairman, I thank my friend, the gentleman from Iowa, for yielding.

Madam Chairman, I would just observe that I can really associate myself with the remarks the gentleman made about the complexity of managing the Missouri River. The fact of the matter is that we have given the Corps of Engineers an almost impossible task. Let us face it, the recreational interests of the upstream folks are in direct conflict ofttimes with the transportation needs of the downstream folks. The same is true ofttimes with the ques-

tion of the hydroelectric concerns versus the flood control concerns. So we have really placed in the hands of the Army Corps of Engineers an almost impossible task.

So I would urge my friend, the gentleman from Iowa [Mr. LIGHTFOOT], and also my friend, the gentleman from North Dakota [Mr. DORGAN], to pull their amendments at this time. One of the concerns I have with the amendment offered by the gentleman from North Dakota is the fact that he is suggesting that we set up this council that would empower the governors basically, through this council, to control the Missouri River by a 7-to-3 vote, and if there is anything that might be worse than what we have now, it is a situation where, when decisions needed to be made, we would have to go to this council and have this council make a decision, with the realization that three votes on the council could shut everything down. I can see that really being worse than what we have now.

So I would urge my friend, the gentleman from North Dakota, to withdraw his amendment, and I would hope that in the event he did that, the gentleman from Iowa would withdraw his amendment, and hopefully we can send the message we need to send to the corps to be as responsive as possible. Then we can come back next year and do whatever needs to be done and make the law more explicit in the places where it needs to be explicit.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. LIGHTFOOT] has expired.

(On request of Mr. COLEMAN of Missouri, and by unanimous consent, Mr. LIGHTFOOT was allowed to proceed for 3 additional minutes.)

Mr. COLEMAN of Missouri. Madam Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Madam Chairman, over a century ago, Mark Twain is reported to have said "whiskey is only for drinkin' but water is for fightin' over." History bears out the truth of the second half of this observation since, frankly, the amendment proposed by the gentleman from North Dakota is a blatant grab for water belonging to every State in the Missouri River basin. And because there is nothing less than Missouri's economic survival at stake, we are ready to fight over it.

There is a long history of disagreement among the Missouri River basin States over the operation of the Missouri River basin dams and the release policies of the Army Corps of Engineers. Many of those disagreements trace back to the Flood Control Act of 1944, which set the groundwork for determining how to manage the Missouri River and placed flood control and navigation at the top of the list of water management goals.

The most recent conflict occurred when the governors of three basin States—North Dakota, South Dakota, and Montana—filed suit against the Corps of Engineers over the releases from one of the dams. Most simply put, those three States argued that, by releasing more water from the reservoir than they wanted, the corps was taking their water. That suit was resolved when the Eighth U.S. Circuit Court of Appeals ruled that the Corps of Engineers, in determining water release levels, was doing exactly what Congress ordered it to do with the 1944 act—ensuring flood control and commercial navigation to the region downstream.

Madam Chairman, the amendment offered by the gentleman from North Dakota serves to heighten this conflict through the establishment of a council to govern the operation of Missouri River dams by once again pitting upper Missouri River States against their downstream neighbors, and would take the conflict one step further by giving the council veto power over the corps' management plan. The Dorgan amendment would seriously threaten the dependability of navigation on the Missouri River by weighting recreation interests over grain transportation, ultility rates to consumers, and wildlife damage. And it proposes to preempt the current negotiating process, and seems to offer the upper tier of States a back-door approach to reversing the appellate court decision.

However, I rise in support of Mr. LIGHTFOOT's amendment, because it will correct the problems associated with the gentleman from North Dakota's language. It will retain the Council as a forum for discussion and advice on corps policies affecting the basin States, and provide for a master manual and an annual operating plan for the operation of the Missouri River main stem system of dams. It will preserve the right of affected parties to seek judicial review to protect their interests and concerns, and will ensure representation on the council by the basin States, native Americans, and the Federal Government, and will expand council membership to the utility and transportation industries, allowing waterway users and utility rate payers a voice in basin policy as well.

How important is Missouri River water? According to water experts, you can begin with the water that irrigates the corn that is fed to a steer, and find that a single Kansas City steak may account for as much as 3,500 gallons of water. The water that goes into producing a 1,000 pound steer would float a naval destroyer; to grow a bushel of wheat you need 14,935 gallons; to produce a ton of steel, you need 60,000 gallons of water; and it takes 120 gallons of water just to put an egg on the breakfast table.

Madam Chairman, the droughts that have ravaged our region over the past several years have only served to reinforce for us the importance of this precious resource. Some 70 percent of Missourians are dependent on the Missouri River for drinking water—Mark Twain's observation notwithstanding—and our farmers depend on it for irrigation and for shipping their grain. Water policy is a matter of vital concern in Missouri, and in every other State in the basin. Mr. LIGHTFOOT is offering us, through his language, the opportunity to reaffirm the goals of the 1944 Flood Control Act and, at the same time, ensure that the interests of the basin States, native Americans, river-dependent enterprises, and the Federal Government, are respresented. I urge my colleagues to vote for the substitute amendment.

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Mr. LIGHTFOOT. Madam Chairman, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding.

I want to associate myself with the remarks of my neighbor, the gentleman from Iowa [Mr. LIGHTFOOT].

The CHAIRMAN. The time of the gentleman from Iowa [Mr. LIGHTFOOT] has expired.

(At the request of Mr. BEREUTER and by unanimous consent, Mr. LIGHTFOOT was allowed to proceed for 2 additional minutes.)

Mr. LIGHTFOOT. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Madam Chairman, this Member rises in support of the Lightfoot substitute to the Dorgan amendment.

Madam Chairman, I want to associate myself with the remarks of the gentleman from Iowa [Mr. LIGHTFOOT]. I support the substitute that he is offering. The gentleman had and I have had our own experience in trying to work with our constituents across the two sides of the Missouri River, between Iowa and Nebraska, and the difficulty in managing this water resource has been noted very accurately by the gentleman.

Madam Chairman, we have wanted some changes from the Corps of Engineers in the management of this great river, and we have only received part of them. I can understand, I think, to a substantial extent the frustrations of the gentleman from North Dakota [Mr. DORGAN] who offers this amendment. I believe that it would exacerbate the relationship between the Missouri River States at this point, and that the advisory nature of what the gentleman from Iowa [Mr. LIGHTFOOT] is offering is a better approach.

Madam Chairman, I ask Members to support the Lightfoot amendment, full well understanding the difficulties that the gentleman from North Dakota [Mr. DORGAN] has experienced in protecting his own constituents.

The Dorgan amendment would establish a governing council to oversee water resource allocation involving the Missouri River. I do understand some of the frustration of the distinguished gentleman from North Dakota. This amendment was not developed with the cooperation, or even input from the States affected by this amendment. Forcing such a governing council on the entities involved in very controversial and contentious issues involving water allocation will do little to resolve the conflict now experienced by the affected States.

This member supports the Lightfoot substitute because it would create an advisory council that would work in cooperation with Corps of Engineers to manage the water resources of the Missouri. In this way a cooperative spirit would be developed to help resolve many contentious issues that now pit upstream States against downstream States.

Another entity, such as that established by the Dorgan amendment, that will sustain and exacerbate conflict among the States of the Missouri, is I regret to say, not, despite good intentions, constructive. This Member urges his colleagues to support the Lightfoot amendment, an opportunity to establish a constructive framework for better managing the water resources of the Missouri River.

Madam Chairman, relatedly this Member is in strong opposition to the original amendment offered by the gentleman from North Dakota [Mr. DORGAN], that would have significant impact on water resource decisions involving the Missouri River. There is no question of the importance of this issue and this Member regrets that his opposition to this amendment must be so strong. It was not developed in any spirit of cooperation between the States with direct interest in the Missouri. The Governors of all affected States were not consulted to gain their cooperation in developing this amendment, an amendment that would establish a decisionmaking framework to manage one of the most important natural resources of these States and could serve to overturn recent court rulings that have supported action taken by the Corps of Engineers. The plan would appear to favor the rights of upstream States at the expense of downstream States. This Member would emphasize that a plan which was not even initiated in a spirit of cooperation between vitally interested parties is not sensible, is ill-timed and is doomed for failure.

The highly complex nature of allocating Missouri River water to a large number of oftentimes competing uses including irrigation, recreation, environment, power generation and navigation requires a rational, equitable and most importantly, workable process to complete this activity. The Missouri River States have seen many failed attempts to manage the river in recent history, including the Missouri River Basin Interagency Committee, the Missouri Basin Commission and we are now in the second or third reincarnation of the Missouri Basin States Association. None of these institutions has provided a satisfactory system to manage the river. This amendment would simply add another failed body to the heap while continuing to create conflict between the affected States. To provide a long term solution to this problem, this Member would suggest that the current Missouri Basin States Association, in cooperation with the Corps of Engineers, complete a three year institutional study of this problem. The purpose of this study would be to develop a new institutional arrangement to oversee water resource decisions on the Missouri River.

Nebraska is a unique State in this controversy as it views the Missouri in a number of ways a due to its variable and competing uses of the river. With the existence of Lewis and Clark Reservoir we have a strong interest in developing a balanced approach that would provide for the maximum utilization of this structure to provide for recreational opportunities, further environmental goals and provide for power generation. Further downstream, the river is utilized by domestic and municipal interests and to provide cooling for electric power generation. Maintaining the river below the Gavins Point Dam as a viable navigable waterway, as habitat for endangered species and as a recreation source is also of major concern.

Madam Chairman, the Gentleman from North Dakota is I regret to say, inappropriately attempting to address a very important concern. A clear solution to resolve the difficulties of managing the water resources of the Missouri is not yet evident. This Member would urge his colleagues to vote against this amendment and allow opportunity to support a long term planning effort to develop a workable process to manage the waters of the Missouri.

Mr. DORGAN of North Dakota. Madam Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Madam Chairman, let me respond momentarily to the gentleman from Missouri who spoke earlier. My intention is not to divide upstream versus downstream States. That already exists. It has been in court already. My intention is to try to bring together in a council an opportunity for the upstream and downstream States to work together, to give advice, and to approve the operating plan of the Corps of Engineers.

Madam Chairman, the point I have made is the corps is responsible to no one at this point. They have said to the courts, we are not even responsible to you. They are not even responsible to the judicial system. If not, then who on Earth do they answer to?

Madam Chairman, we are flat sick and tired of the way the corps has managed the Missouri River basin. We want it to change. How? In our interests solely? No, we understand it cannot be that way. We would like it to change in the interests of the States involved in the Missouri River basin, and that includes the upstream States and the downstream States. But it ought to be us, not them, the States, not the Corps of Engineers, that determine our economic future in the Missouri River basin.

Mr. EMERSON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the Dorgan amendment and in support of the Lightfoot substitute. Mr. DORGAN seeks to establish a council to govern the operation of the Mississippi River basin dams. I must oppose any measure which would hamper the navigation and impede the flows of the Mississippi River. My congressional district has more miles of Mississippi River shoreline than any other congressional district, so I have as much passion about our river as the gentleman from North Dakota has about his. The dependability of navigation as well as the reliability of critically necessary water flows from the Missouri to the Mississippi are absolutely vital to maintaining the Mississippi River as an economically valuable natural resource so critical to transportation for agriculture, energy and other essential products.

The Missouri River provides close to 60 percent of the water in the Mississippi River at St. Louis. There is a very serious and complex issue at stake here, and one that rightly deserves further discussion. However, I do not believe that we can adequately take into account all facets of this issue in the short time we have to discuss this amendment here today. I would certainly be willing to work with the gentleman and the committee on this issue at length in the committee process so that we can thoroughly take into account the views from all sides and the effects on down stream communities as well as upstream communities.

Mr. NOWAK. Madam Chairman, I move to strike the requisite number of words.

Mr. JENKINS. Madam Chairman, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from Georgia.

Mr. JENKINS. Madam Chairman, I thank the gentleman for yielding. I need to rise in support of the amendment of the gentleman from North Dakota [Mr. DORGAN] simply becasue it is very similar to a situation that we have. I think this will prove to be an amendment that may or may not survive the floor, but will stimulate some discussion and talk by the committee, so we can deal with this issue.

Madam Chairman, I simply want to say that I have three TVA lakes and five Corps of Engineer lakes, the most heavily used in the United States. Twenty million people visit one of my lakes, Lake Lanier, each year. Eighteen million people visit Lake Hartwell. The economic interest there is just as important from a recreational standpoint as transportation and navigation downstream.

Madam Chairman, I hope that as we look at this amendment of the gentleman from North Dakota [Mr. DORGAN], the committee would begin to look at other corridors that have similar problems.

Madam Chairman, I include a letter from General Bunker dated September 1988 and an appendix dated the same date.

DEPARTMENT OF THE ARMY,
Atlanta, GA, September 23, 1988.

Memorandum for: Commander, Mobile District; Commander, Savannah District.

Subject: Reservoir Project Purposes.

1. The enclosed chart, entitled "Project Purposes for Corps Projects in SEPA's Georgia-Alabama System", represents the position of the South Atlantic Division with respect to the authorized purposes of each of the 10 projects listed. This chart is appended to the Operating Procedure furnished by Major General Edgar to the Southeastern Power Administration on May 2, 1988.

2. All purposes listed on this chart are legally authorized project purposes. That certain purposes originated with project authorization does not give them inherently greater priority in our decision-making than purposes added by other authorities. The Corps of Engineers is vested with substantial discretion in the management of its reservoir projects; and with this authority comes a duty to promote the public benefits envisioned by Congress to the greatest extent feasible. Accordingly, we should manage our reservoirs for all purposes, prioritizing them as necessary in light of attendant needs and circumstances.

R.M. BUNKER,
Major General, USA, Commanding.

APPENDIX A—PROJECT PURPOSES FOR CORPS PROJECTS IN SEPA'S GEORGIA-ALABAMA SYSTEM

Project	Authorizing document	Purposes when authorized	Other purposes added and authority	Notes
Millers Ferry	HD 77-414 (RHA 1945)	NAV, POW, FC	REC (FCA 1944 & PL 89-72)	Not operated for FC.
Robert F. Henry (Jones Bluff)	HD 77-414 (RHA 1945)	NAV, POW, FC	REC (FCA 1944 & PL 89-72)	Not operated for FC.
Carters	HD 77-414 (RHA 1945)	NAV, POW, FC	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624).	
Allatoona	HD 76-674 (FCA 1941)	NAV, POW, FC	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624), WS (PL 85-500).	
Walter F. George	House Res. 5/19/53	NAV, POW	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624).	
West Point	HD 87-570 (FCA 1962)	NAV, POW, FC F&WL, REC		WS contract under consideration.
Buford	HD 80-300 (RHA 1946)	NAV, POW, FC WQ, WS	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624).	
J. Strom Thurmond	HD 78-657 (FCA 1944)	NAV, POW, FC	REC (PL 99-662), WS (PL 85-500), F&WL (PL 99-662).	
Hartwell	HD 78-657 (FCA 1950)	NAV, POW, FC	REC (FCA 1944 & PL 89-72), WS (PL 85-500), F&WL (PL 85-624).	
Richard B. Russell	SD 89-52 (FCA 1966)	POW, FC, REC, F&WL	F&WL Mitigation (PL 99-662)	Several W.S. contracts under consideration.

Mr. NOWAK. Madam Chairman, reclaiming my time, let me state a few things. We have allowed this debate to go on. I think it has been a healthy debate. There has been considerable time spent by the subcommittee on this particular area of our country and the problems in the Missouri Valley.

I want to mention to Members that there are several hundreds of these types of situations which could be embroiled in the same kind of controversy as we move forward. It is coming about because you have a situation where these dams and reservoirs were built 30, 40, 50, as long as 70 years ago. What has transpired in the meantime, the original purposes that were set, of course, was a series of land usage that has changed.

We have had droughts in some areas; we have had floods in other areas; we have had massive movement from urban population to suburbia. You have had a terrific change in that kind of climate, and it is affecting, of course, now the different uses that have come into existence.

Madam Chairman, what we have done in section 16 of the bill was try to accommodate the request of everybody. That has called for a review of the water control manuals all over the country. The corps will have to report back to us within a specified period of time, and will have to go through a very open public procedure, so that everybody and all interests, whether it is navigation, whether it is flood control, whether it is hydropower, will have an opportunity to present their case in the review of those manuals.

Madam Chairman, this will take some period of time, but you will have your review, and afterward we can reexamine all of the projects that are out there and hopefully give each Member that opportunity to participate as well. So the corps will be forced to go through a procedure which some have complained has not been open enough. But again, I think when you look at the different kinds of uses that land is now put to, you will see the reason for some of those changes.

We have taken care of it in section 16, at least as well as we can, without a very intensive review by the corps. I would like to ask both the gentleman from Iowa [Mr. LIGHTFOOT] and the gentleman from North Dakota [Mr. DORGAN] to withdraw their amendments, as they go in two different directions, and the others that have already discussed this matter with me have agreed to withdraw, so that we can bring this before us as we have hearings over this next year investigating the whole ramifications of these projects.

Mrs. SMITH of Nebraska. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to support the gentleman from Iowa.

The gentleman's proposal is a good one—to provide that any State council established to oversee the operating plans for dams along the Missouri River be advisory only—not having the power to override U.S. Army Corps of Engineers operating plans for these dams.

While the gentleman from North Dakota [Mr. DORGAN] and I often see eye-to-eye on water issues, I urge him to accept our Iowa colleague's substitute amendment making such a council advisory only.

The Dorgan amendment would require the Corps of Engineers to win approval of at least 7 of 10 members of a new State-dominated governing council before the corps' master manual and annual operating plans could be implemented at the Missouri River dams.

While I fully embrace State water rights as the concept best for my State and district, Mr. DORGAN's amendment goes too far because it creates still another governmental layer for the corps' water managers to fight their

way through if they are to act in timely fashion to mitigate impacts of drought, flood, and other contingencies.

The Nebraska position is that the corps already consults fully with certain States on its operating plans for the Missouri River dams. Therefore, a statutory council with veto powers really is not needed.

Governor Orr indicates Nebraska would rather not codify and set in concrete the necessity for formal consultations between the corps and State representatives—let alone delegate veto power to the proposed new council.

Mr. DORGAN's amendment would provide for a representative from each State of the corps' Missouri River Division. I am talking about the States of Nebraska, Kansas, Iowa, Wyoming, Missouri, Montana, North Dakota, and South Dakota.

Additionally, he proposes the council include a representative of the native American tribes of the region and the Secretary of the Army or his designee.

The Lightfoot amendment accepts that basic structure, but makes the council's deliberations and conclusions advisory only.

The Lightfoot substitute amendment also provides another important safeguard. It also preserves existing rights of affected States to seek judicial review of any corps operating plan.

This is the best course in the name of States' water rights, maximum flexibility, operational efficiency, and maintenance of good Federal and State relations.

With all due repsect to the gentleman from North Dakota, I think it is best to avoid inventing new governmental bodies, conferring significant powers to it, and, in effect, creating another layer of bureaucracy.

As far as I know, we have no strong proof that the corps is failing to heed or be sensitive to the needs of the States affected by operations of the Missouri River dams.

It is true that the interests of upstream States sometimes conflict with those of downstream States. People back home get madder about water issues than they do about almost anything else.

Management of these dams has become an issue as a result of the continuing years of drought that have caused lower runoff, threatening water shortages in the mainstem reservoirs, and limited water flows in the region.

It is true that Montana, North Dakota, and South Dakota filed a lawsuit against the corps over releases of water in one of the Missouri River dams.

The court rules. Rains fell. More rain may fall.

I say the present system works. I say the Federal courts are an appropriate place to resolve conflicts.

If we must have a State-based council for the corps to consult with, and if consultations are to be required, then the council's conclusions and decisions should be advisory—not binding on the corps.

I say, "if it ain't broke, don't fix it!"

□ 1730

Mr. MARLENEE. Madam Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Montana.

Mr. MARLENEE. Madam Chairman, I would like to say to the gentlewoman from Nebraska that we in Montana have advised and advised and advised the corps until we are blue in the face, and we are getting sick and tired of advising them, the Corps of Engineers, that they are destroying our fisheries that we have spent thousands and thousands of dollars in State funds and sportsman funds establishing.

They have got the siphon pump stuck into that reservoir, and they are sucking it out and drawing it down until you cannot get close to the water, and that is what we are upset about. We have advised them. We have talked to them. We have pleaded with them and all to no avail.

Mrs. MEYERS of Kansas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Lightfoot substitute, which would change the status of the council established by the Dorgan amendment from governing to consultative.

While the gentleman from North Dakota is to be commended for attempting to resolve the seemingly intractable differences between the States in the upper and lower basins of the Missouri River, I believe his solution would only lead to a stalemate, and so is not much of a solution at all.

The Dorgan amendment would turn the operations of the Missouri River basin from the Corps of Engineers to a governing council. This would not improve upon the current situation in which the courts are regularly called upon to resolve disputes between the upper and lower basin States. In fact, it would make the situation worse.

Why? Under the amendment, the 10-member governing council would be composed of representatives of each of the eight States in the Missouri River division, a representative of native American tribes, and a representative of the Secretary of the Interior.

It would take seven votes to approve the operating plans of the Missouri River projects—which means that any four members of the council could veto the plans.

Madam Chairman, there are four upper basin States and four lower basin States. Since the upper basin and lower basin States obviously differ geographically, their water needs also differ greatly.

Under the Dorgan amendment, then, we would have a stalemate in which the four representatives of the upper basin States—or the four representatives of the lower basin States—would be certain to veto the other's operating plans.

While it may not be an ideal situation having the courts resolve the differences between the upper and lower basin States, at least decisions are made. Under the Dorgan amendment, I don't see how anything ever would be accomplished.

That is why I support Mr. Lightfoot's substitute, which would make the council advisory. The substitute would ensure that the views of the States and native Americans—as well as utility and transportation interests—are heard by the corps. And it would guarantee that the courts, if needed, could continue to intervene in disputes.

Madam Chairman, I understand that many of my colleagues from States that are not in the Missouri Basin may not have a great deal of interest in this subject. I assure you, though, that for Kansans who depend on the Missouri River for navigation, drinking water, cooling water for powerplants, and any number of other important uses, this is a crucial issue.

Vote for the Lightfoot substitute, which is the only rational, workable solution before us.

Mr. GRANDY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Lightfoot amendment and in opposition to the Dorgan amendment. I think it is probably clear to all Members that we are going to pull both amendments, and I think that probably having heard the distinguished subcommittee chairman make that recommendation, it is one we can all support.

My problem I think, Madam Chairman, is the difference in the two amendments basically goes to the fact that one is a governing council, and the Lightfoot amendment proposes only an advisory council. I think it is probably true, and I think we can all commend Mr. DORGAN for bringing this to our attention, that at some point there will be some kind of a body that will either advise or possibly do more than that in terms of determining the water flow of the upper and lower Missouri River. However, the problem at this time is that if this is to be a truly Democratic body, then all of the States should be consulted, and in the preparation of this amendment that was not the case unfortunately.

The office of the Governor of Iowa has notified members of the Iowa dele-

gation that they have not at this point participated in the creation of this council and are reluctant to support any amendment to the bill before us which would create a council in which they have not had at least a certain amount of lead time to discuss how that council should be composed. For example, I can tell Members that those of us in the downstate area would probably, if a council was to be created, prefer, if there is to be a representative from each State and a representative from the Native American tribes in the region, perhaps a representative from the transportation and utility industry which would be more representative of downstate interests, belong on the panel as well. These are items that will be discussed later if indeed we do as the subcommittee chairman suggests and have hearings, discuss this, and perhaps arrive at a compromise which all of the States can support. But at this point they do not.

Now it probably makes little difference to many Members that the corps opposes this and said so in a letter to the gentleman from North Dakota [Mr. DORGAN]. But they do say that they do support this idea in concept. I quote from the letter:

> However, we indicated that the authority of such a group would be advisory in nature rather than binding on management decisions.

Those management decisions, Madam Chairman, will always be in dispute. There will always be a certain difference of opinion between recreational and environmental interests and transportation and utility interests between upstate and downstate.

So I am going to support my friend from Iowa who I think tries to do what the gentleman from North Dakota, Mr. DORGAN intended to do, which is find a middle ground that all of us can support. But obviously I think that option will not be left to any of us because both of these will be withdrawn.

So Madam Chairman, I rise in support of the Lightfoot amendment.

Mr. JOHNSON of South Dakota. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Madam Chairman, I thank the gentleman from Iowa for yielding. I simply want to take a moment to express my strong support for the efforts of the gentleman from North Dakota.

I think the points of the gentleman from Iowa are well taken. Nonetheless, it seems to me that we need to put greater teeth into the accountability that is needed from the Corps of Engineers. We have gone for years and years with advice and yet, too often the priorities for the contemporary needs of the Missouri River have not been accommodated by the Corps of Engineers.

□ 1740

So I want to thank the gentleman from North Dakota for his leadership on this and raising the visibility of what I think is a critical concern for economic development purposes all up and down the Missouri River.

Mr. GRANDY. Madam Chairman, I do want to make this point. There is no dispute that this is a contribution to the debate in the upstate-downstate controversy. The problem is, in the creation of this amendment, the downstate regions were not consulted, and we would have preferred to have been consulted in an amendment that would put us supposedly in charge of the Missouri River.

I do not think that when we finally get to a decision on this that there will be support to let the Corps completely rule. As a matter of fact, when the corps won the court case this last spring there was obviously the need to create another avenue, and the gentleman from North Dakota [Mr. DORGAN] chose a legislative one.

We may find ourselves in agreement upstate and downstate ultimately. My point is only in saying that the timing is inappropriate at this point.

The Governor opposes this. The Governor of Iowa opposes this, the Governor of Nebraska, members of the delegations are forced to pit themselves against each other, and that is not productive.

What the gentleman from South Dakota says is true. There may be a tendency to advise and consent to death on this thing. There is already a Missouri State's association with some advisory ability. There may be a need to put some teeth into a governing council.

But I do not think at this time it is appropriate specifically when the Governors of the downstates are asking not to adopt this language.

I support the Lightfoot amendment.

Mr. DORGAN of North Dakota. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, let me say that this has been an interesting discussion and debate.

I was especially interested to hear my friend, the gentleman from Georgia [Mr. JENKINS] describe identical problems to the problems that I described in the Missouri River Basin and the management of the river, identical problems.

It does not surprise me that folks downstream do not want to change anything, but, what the heck, they are getting all the water and all the benefit. I understand that. If that were not the case, I would not be here today.

But one of my friends talked about downstream navigation. Do you know that the Corps of Engineers in its plan is supporting a $14 million navigation barge traffic downstream at the expense of a $70 million recreation industry upstream? Now, what kind of math is that? Destroy a $70 million industry upstream to support something worth $14 million downstream. That is their numbers, not mine. That is the corps numbers.

So we talked to the corps. Do they listen? I do not know. I do not even know if they hear. They do not respond. People say, "Let us give them advice." My friend, the gentleman from Iowa [Mr. LIGHTFOOT] wants a council that gives them advice. God knows they have had plenty of advice. They just do not take the advice. That is the problem. If they took some advice, we would not be here.

As for the Federal court, the district court upheld the suit brought by the upstream States. The circuit court overturned it, but it said that the issue was moot. The water was gone.

This issue will be before us again in the courts or in the legislative body, and I intend to work with my friend, the gentleman from Georgia [Mr. JENKINS], and others, Representatives from Montana, South Dakota, and others. We need to solve this problem.

It is clear to me that we probably cannot legislate this solution at the time on the floor given these circumstances. It is also clear to me that the substitute offered by the gentleman from Iowa [Mr. LIGHTFOOT] would probably prevail today. It seems to me that if the chairman is willing to tell us that we will take this to hearings, then if the gentleman from Iowa [Mr. LIGHTFOOT] would concur, I would withdraw the amendment, but only if we are going to do hearings on this, not because I am willing to avoid the question. We cannot avoid this question. We must address this issue.

If, in fact, we have the guarantee of hearings, then I would ask that we withdraw this which would take, as I understand it, my amendment and also the substitution offered by the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Madam Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Iowa.

Mr. LIGHTFOOT. I thank the gentleman once again. He very eloquently has pointed out the problems.

The upstream recreation figures that the gentleman gave allow us downstream folks that come up to fish in the gentleman's country and spend the money. If we do not get the water for our electric plants and so on, it hurts our economy as well. I think it really underscores the whole problem that the gentleman and I are trying to resolve here.

If the gentleman is willing to pull his amendment, I would certainly pull mine based upon what our chairman, the gentleman from New York [Mr. NOWAK], had to say. He is a delightful man to work with. His word is as good as gold, and his reassurances that he will look into this and put some pressure on the corps and get their attention certainly would make me feel a lot better.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I thank the gentleman for his confidence.

We will proceed, as we previously discussed, with hearings, and we can see how intense and extensive this debate became without notification. Once we have a full-blown hearing, we will have an awful lot of interest, and I would look upon at least initially to all of the Members who would be affected in this area, as we will probably throughout the rest of the country, and we will have mandated in the law, if we pass this bill, a review process to start, but that does negate the fact that we need hearings.

I would be happy to accommodate as our schedule permits.

Mr. MARLENEE. Madam Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. Madam Chairman, I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Madam Chairman, I appreciate the gentleman's yielding.

I am not certain that we should pull the Dorgan amendment, or that we should agree to a unanimous-consent request.

Without the Dorgan amendment, it appears that this legislation would reinforce the status quo, and the status quo is that the Corps of Engineers is operating the river on concepts and precepts that totally favor the downstream States for irrigation, for transportation, and for other water needs.

The CHAIRMAN. The time of the gentleman from North Dakota [Mr. DORGAN] has expired.

(At the request of Mr. MARLENEE, Mr. DORGAN of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. MARLENEE. Madam Chairman, if the gentleman will yield further, on the other hand, would it not be a shame that if we got into a dogfight here on the floor of the House that those States and agriculture that are so dependent on those barge rates on that river, those downstream States that we hear from in here, that if we got into a dogfight and they lost those cheap rates, then all of agriculture would be the losers. Now, we benefit in Montana, too, from some of those cheap rates that they have, but what galls us and what gives us the problem, and that is what the Dorgan amendment addresses, is the fact that you are sucking out our water for your cheap rates on your grain that competes with our grain that costs us a lot more to transport in the northern tier.

We have some objection to that, but we are not going to be dogs in the manger about that. We want the Corps of Engineers to give us the consideration for our fisheries and our recreation on those original reservoirs on the upper end.

I would hope that the chairman, the subcommittee chairman, would have the hearings, would address this issue, and that some kind of a plan would be devised to take into account our concerns and our problems.

Mr. DORGAN of North Dakota. It is clear that today those of us upstream who are concerned about this do not have the votes to do what we want to do to mandate a reasonable will on the management of that river on the Corps of Engineers, but let me say that we will be back, and we will be back with friends from the South and other parts of the country. The corps has not heard the last from us.

I will, if the chairman preserves our right to a hearing, ask unanimous consent that we withdraw the amendment which will take the substitute with it and tell the Chamber that we will be back soon on this issue, because we insist it be resolved.

Madam Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

AMENDMENTS OFFERED BY MR. HAYES OF LOUISIANA

Mr. HAYES of Louisiana. Madam Chairman, I offer three amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HAYES of Louisiana: After section 12 of the bill, insert the following new sections:

SEC. 13. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within 45 days after the date of the enactment of this Act, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member responsible for carrying out such project.

(3) TRANSMITTAL OF LIST.—No later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to Congress as part of the President's annual budget submission. Annual transmittals of the list to Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from a wetlands fund established to carry out this Act.

(4) LIST CONTENTS.—

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a 5-year period commencing on the date the project is placed on the list.

(C) POST-PLAN.—Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within 3 years from the date of the enactment of this Act.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore, and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B);

(D) a listing of such coastal wetlands restoration project, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.—Upon completion of the restoration plan, the Secretary shall submit the plan to Congress. The restoration plan shall become effective 90 days after the date of its submission to Congress.

(7) PLAN EVALUATION.—Not less than 3 years after the completion and submission of the restoration plan required by this subsection and at least every 3 years thereafter, the Task force shall provide a report to Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting, and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) CONSISTENCY.—In implementing, maintaining, modifying, or rehabilitating navigation, flood control, or irrigation projects, other than emergency actions, under other authorities, the Secretary shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(e) FUNDING OF WETLANDS RESTORATION PROJECTS.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section.

(f) COST-SHARING.—

(1) FEDERAL SHARE.—Amounts made available from the Wetlands Fund to carry out coastal wetlands restoration projects under this Act shall provide 75 percent of the cost of such projects.

(2) FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.—Notwithstanding the previous paragraph, if the State develops a coastal wetlands conservation plan pursuant to section 14 of this Act, and such conservation plan is approved pursuant to such section, amounts made available from the Wetlands Fund for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to section 14 of this Act, amounts made available from the Wetlends Fund for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project; except that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary and Administrator and the State has been given 90 days from such notice or hearing to take corrective action.

(3) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) EXISTING COST-SHARING AGREEMENTS.—Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 14. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) DEVELOPMENT OF CONSERVATION PLAN.—

(1) IN GENERAL.—The Secretary and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.—

(A) IN GENERAL.—Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary and the Administrator shall promptly enter into an agreement (hereinafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) TERMS.—The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereinafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than 3 years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(A) the Administrator shall, with the funds made available in accordance with section 16 of this Act, make grants during the development of the conservation plan to assist the designated State agency in developing such plan; and

(B) the Secretary and the Administrator shall provide technical assistance to the State to assist it in the development of the Plan.

(b) CONSERVATION PLAN GOAL.—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 13 of this Act.

(c) ELEMENTS OF CONSERVATION PLAN.—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 13 of this Act;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners

of wetlands to continue to maintain those lands as wetlands.

(d) APPROVAL OF CONSERVATION PLAN.—

(1) IN GENERAL.—If the Governor submits a conservation plan to the Secretary and the Administrator for their approval, the Secretary and the Administrator shall, within 180 days following receipt of such plan, approve or disapprove it.

(2) APPROVAL CRITERIA.—The Secretary and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the Plan was developed in accordance with the terms of the agreement set forth in subsection (a) of this section.

(e) MODIFICATION OF CONSERVATION PLAN.—

(1) NONCOMPLIANCE.—If the Secretary and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.—If the Governor submits a modified conservation plan to the Secretary and the Administrator for their reconsideration, the Secretary and Administrator shall have 90 days to determine whether the modifications are sufficient to bring the plan into compliance with the requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.—If the Secretary and the Administrator fail to approve or disapprove the conservation plan, as modified, within the 90-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such 90-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.—A conservation plan approved under this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.—

(1) INITIAL REPORT TO CONGRESS.—Within 180 days after entering into the agreement required under subsection (a) of this section, the Secretary and the Administrator shall report to Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including an accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORTS TO CONGRESS.—24 months after the initial 180-day period set forth in paragraph (1), and at the end of each 24-month period thereafter, the Secretary and the Administrator shall report to Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 15. NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) MATCHING GRANTS.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.—Subject to the cost-sharing requirements of this section, the Secretary may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Secretary shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas, and open spaces.

(c) CONDITIONS.—The Secretary may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.—

(1) FEDERAL SHARE.—Grants to coastal States of matching moneys by the Secretary for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects; except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) FORM OF STATE SHARE.—The matching moneys required of a costal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(e) PARTIAL PAYMENTS.—

(1) IN GENERAL.—The Secretary may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) AGREEMENT.—The Secretary may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

SEC. 16. AUTHORIZED USES OF A WETLANDS FUND.

(a) IN GENERAL.—The amounts appropriated or credited to a wetlands fund established to carry out this section and sections 13, 14, 15, and 17 of this Act shall be available, as provided in appropriation Acts, to carry out such sections through fiscal year 1999.

(b) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount deposited during a fiscal year in a wetland fund established to carry out this section and sections 13, 14, 15, and 17 of this Act, 10 percent, not to exceed $10,000,000, shall be available, and shall remain available, to the Secretary, for purposes of making grants—

(1) to any coastal State to carry out coastal wetlands conservation projects in accordance with section 15; and

(2) in the amount of $2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) NORTH AMERICAN WETLANDS CONSERVATION.—Of the total amount deposited during a fiscal year in a wetlands fund established to carry out this section and sections 13, 14, 15, and 17 of this Act, 15 percent, not to exceed $15,000,000, shall be available, and shall remain available, to the Secretary of the Interior for allocation under section 8 of the North American Wetlands Conservation Act (16 U.S.C. 4407).

SEC. 17. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) FEASIBILITY STUDY.—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

(c) DEFINITIONS.—As used in this section and sections 13, 14, 15, and 16, the following definitions apply:

(1) ADMINISTRATOR.—"Administrator" means the Administrator of the Environmental Protection Agency.

(2) DEVELOPMENT ACTIVITIES.—"Development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters.

(3) STATE.—"State" means the State of Louisiana.

(4) COASTAL STATE.—"Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(5) COASTAL WETLANDS RESTORATION PROJECT.—"Coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physi-

cal, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this section and sections 13 through 16 of this Act or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects. The primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits.

(6) COASTAL WETLANDS CONSERVATION PROJECT.—"Coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality, and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon.

(7) GOVERNOR.—"Governor" means the Governor of Louisiana.

(8) TASK FORCE.—"Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of Agriculture, and the Secretary of Commerce.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 70, line 9, strike "Calcasieu" and insert "Cameron".

Page 67, after line 15, insert the following new paragraph:

(5) LOUISIANA STATE PENITENTIARY LEVEE, LOUISIANA.—The project for flood control, Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

Redesignate subsequent paragraphs of section 30(a) of the bill accordingly.

Mr. HAYES of Louisiana (during the reading). Madam Chairman, I ask unanimous consernt that the amendment be considered as read and printed in the RECORD.

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. HAYES] that the amendments be considered en bloc?

There was no objection.

Mr. HAYES of Louisiana. Madam Chairman, I will not take the full length of time.

Two of these amendments are technical in nature, involving the use of the word "Cameron" rather than "Calcasieu" Parish. The second involves a levee project that is already authorized, but expiring next year. The third is in the area of wetlands, so vital to my State, and vital to the Nation.

I believe it is an amendment agreed upon by the Members across the aisle in recognition of the speech that was made at Lake Michigan by President Bush when he talked about an important wetlands statement and policy for our Nation.

□ 1750

That was part of the campaign. Now it is part of the legislation. It is an ongoing effort, and I appreciate the efforts of those Members across the aisle.

I do understand, however, the committee that would have jurisdiction had this been original legislation, has some amending language to offer. I want to thank the gentleman and his staff for working with other Members, and I believe we are in a position to accept that.

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

AMENDMENT OFFERED BY MR. STUDDS TO THE AMENDMENTS OFFERED BY MR. HAYES OF LOUISIANA

Mr. STUDDS. Madam Chairman, I offer amendments to the amendments.

The Clerk read as follows:

Amendments offered by Mr. STUDDS to the amendments offered by Mr. HAYES of Louisiana:

The amendment offered by Mr. Hayes is amended at:

Page 1, line 8, by adding "to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations," after "Louisiana";

Page 2, line 6, by striking "responsible for carrying out such project." and inserting "that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 17 of this Act.";

Page 3, line 11, by inserting "and the responsibilities of each other participating Task Force member" after "project";

Page 4, line 13, by inserting "the long-term conservation of" after "enhancing";

Page 5, line 7, by inserting "State of Louisiana's Coastal Wetlands Conservation and Restoration" after "prepared by the";

Page 5, line 17, by inserting "and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations" after "subparagraph (B)";

Page 7, by striking lines 17 through 22 and inserting

"(d) CONSISTENCY.—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control, or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

"(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972."

Page 8, line 4, by inserting "The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced, or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations," after "section";

Page 8, line 18, by inserting ", the Director" after "Secretary";

Page 9, line 2, by inserting ", the Director" after "Secretary";

Section 14 by striking "the Secretary and the Administrator" and inserting "the Secretary, the Director, and the Administrator" each place that it appears;

Page 11, strike lines 6 through 10 and insert:

"(A) the Administrator shall, in consultation with the Director, make grants to assist the designated State agency in developing a conservation plan with the funds made available in accordance with section 16 of this Act. Such grants shall not exceed 75 per centum of the cost of developing the plan; and"; section 15 by striking "Secretary" and inserting "Director" each place that it appears;

Page 18, strike section 16 and insert in lieu thereof the following:

"SEC. 16. AUTHORIZATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated up to $115,400,000 for each fiscal year through 1999 to carry out sections 13, 14, and 15 of this Act.

"(b) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.—Of the total amount authorized under subsection (a) during a given fiscal year, 65 per centum, not to exceed $75,000,000, shall be available to carry out sections 13 and 14 and shall remain available until expended.

"(c) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount authorized under subsection (a) during a given fiscal year, 35 per centum, not to exceed $40,400,000, shall be available to carry out section 15 and shall remain available until expended."; and

Page 19, by inserting "(3) Director.—'Director' means the Director of the United States Fish and Wildlife Service." after paragraph (2) and redesignating subsequent paragraphs accordingly.

Mr. STUDDS (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Ther was no objection.

Mr. STUDDS. Madam Chairman, I have an amendment to the gentleman's amendment that I am offering on behalf of myself, Congressman HERTEL of the Oceanography Subcommittee, and the Merchant Marine and Fisheries Committee.

The Hayes amendment builds upon several earlier bills on coastal wetlands that are now pending before the Merchant Marine Committee which—as its sponsor has described—would establish a major new program for coastal wetlands in Louisiana and nationwide.

The primary purpose of this amendment, is to make several incremental changes to the Hayes proposal, to clarify the traditional responsibilities of the U.S. Fish and Wildlife Service and the EPA, in our efforts to protect and restore wetlands, and the fish and wildlife that so greatly depend on them.

It is critical that these agencies participate fully when it comes to planning and carrying out the wetland restoration projects called for in the legislation. The reason is simple: they're the people who know wetlands, know fish and wildlife, and know how to do it right.

Further, my amendment makes it clear that the types of projects that should be given priority are those that will last over time—that is, those with conservation easements or other binding commitments to make sure that whatever good is accomplished, will be maintained over the long term. What we don't need are huge expenditures for restoration projects on private property without commitments that those improvements will not disapprear as soon as the job is done.

My amendment also proposes what, I must confess as a New Englander, seems to be a slightly more equitable funding allocation between Louisiana and the program nationwide. The Hayes amendment—no doubt understandable if you're from Louisiana—channels 75 percent of the total authorization to Louisiana only. Meanwhile, the rest of the country would get 10 percent.

This amendment would propose a 65-35 split, still recognizing the special problems confronting the bayous, but providing a somewhat better balance. In short, yes, Louisiana is special, but not 75 percent special.

Finally, the amendment replaces what is an open-ended authorization for the program—which, according to the experts, could cost over $2 billion—with a $115.4 million annual authorization. Not exactly a starvation budget, I might note.

Madam Chairman, my amendment is strongly supported by environmental and conservation groups, including the National Wildlife Federation. I believe that the changes contained in my amendment not only improve the proposal as a whole, but also make it eminently more conferenceable with the Senate, as it restores a number of provisions that are central to the Senate's legislation. I have worked on this amendment with its principal sponsors—Representatives HAYES and TAUZIN—and I believe it is also acceptable to them. I urge its support.

Mr. NOWAK. Madam Chairman, I rise in support of the amendments.

Madam Chairman, both amendments have been looked at, and we urge support of the House for both.

Mr. STANGELAND. Madam Chairman, if the gentleman will yield, we have looked at the amendments on this side of the aisle, and think the amendments contribute to the bill. I urge Members to accept the amendments.

Mr. LIVINGSTON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to thank all the Members who had anything to do with this. It is a very important amendment that affects Louisiana very positively.

Madam Chairman, I rise in strong support of the amendment by my colleague from Louisiana which would actually begin coastal wetlands preservation and restoration projects.

This amendment would incorporate most of the provisions of S. 1731, already passed by our colleague JOHN BREAUX in the Senate.

It incorporates many of the same concepts and mechanisms of legislation I have introduced since 1987 to combat coastal wetlands loss in Louisiana.

This amendment requires the Secretary of Army (the corps) to submit within 1 year a priority list of coastal wetlands restoration and preservation projects in Louisiana to be funded by authorized amounts provided in this amendment.

The list must only include those projects that can be substantially completed within 5 years.

It also prioritizes listing and funding for coastal wetlands projects throughout the entire country, including the Great Lakes States.

This legislation is critical because 80 percent of our Nation's coastal wetlands losses are in Louisiana; 40 percent of all our Nation's coastal wetlands are in Louisiana.

These wetlands support over 30 percent of our Nation's fisheries, shell fisheries harvest and 40 percent of our Nation's fur harvest.

Our coastal wetlands provide wintering habitat for two-thirds of the 6 million ducks and geese in the Mississippi flyway.

But, we are losing almost 60 square miles per year of these coastal wetlands.

If we don't change anything, if we don't pass legislation like this amendment before us, Louisiana will lose 2.4 million acres of coastal wetlands by 2040—an area 1⅓ times greater in size then the State of Rhode Island.

Nationwide we will continue to lose 450,000 acres a year—an area 12 times the size of the District of Columbia.

Madam Chairman, the amendment by the gentleman from Louisiana must be passed.

Mr. TAUZIN. Madam Chairman, I move to stike the requisite number of words.

Madam Chairman, I rise today in support of an amendment which addresses an issue of immediate and imminent concern, not only to Louisiana, but to this country as a whole. The goal of this amendment is to stem the incredible and inexcusable loss of vast areas of wetlands along our coast. These wetlands, the vast majority of which lie along the Louisiana coastline, are a national treasure which will be lost to us if action is not taken within the very near future.

This is an issue which I have actively championed since I served in the Louisiana House of Representatives in the 1970's. During my tenure as the chairman of the Louisiana House Natural Resources Committee I held hearings to bring attention to the loss of our coastal marshlands due to the encroachment of the Gulf of Mexico. The situation since that time has grown worse. I urge you to take action on this bill as quickly as possible. The loss of these marshlands cannot be allowed to continue unabated.

I am sure that the value of these wetlands to our Nation is well known to all of you. Our wetlands yield some of the most productive fisheries resources in this country. They serve as a barrier to storm surges and hurricane protection for some three million people living in the coastal areas of Louisiana. These wetlands contribute to the cleansing and cleaning of our waters. They are a bountiful habitat for waterfowl and wildlife of every sort. Without these wetlands, we as a country will be much poorer.

The causes of Louisiana wetlands losses are complex and are deeply rooted in Louisiana's history. South Louisiana is relatively new land, placed there by the Mississippi River which for thousands of years regularly flooded leaving behind rich soils. During the early part of this century, Louisianians were the victims of several devastating floods which took the lives and property of many of our citizens. During the twenties and thirties, the Corps of Engineers began a vast system of levees and drainage projects without which life along the Mississippi River would not be as we know it today. These levees and drainage projects allow over three million people to live and work in south Louisiana without the fear of losing their lives and property to floods. However, one of the consequences of this activity is that the Mississippi River and its tributaries no longer rebuild and replenish our wetlands.

Compounding this loss of rebuilding and renourishment, has been the failure to properly manage the development and use of these resources. We have seen the construction of a vast network of canals without regard for the impact these canals have on our marshes. We as a State have begun to address that issue and there is a new and laudable effort by industry and in particular the oil and gas industry to cooperate with our State government to address this problem.

There are other causes of wetlands loss, including the damage caused by other natural forces such as hurricanes and wave action.

Whatever the cause, our State is now looking for solutions and we believe that the solutions are available. No other State in the Nation has made the effort Louisiana has made to study and to develop methods of addressing wetlands protection and wetlands replenishment. However, it has become increasingly apparent that the problem is not one which can or should be resolved by Louisiana alone. Our State has made an enormous contribution to the energy needs of this country as a whole. As we watch a middle eastern dictator attempt to turn off the world's oil supplies and as we watch other states obtain moratoriums on production of oil and gas off their shores, it is appropriate to reexamine the role that our state has played and will continue to play in supplying this country with natural gas and oil. However, there must be a recognition that the development of these resources has had an impact on our environment. That impact must be minimized, but our people want to continue to make their contribution to our national security and independence through the development of our resources. We believe, in return, the country as a whole must recognize that our environment, and in particular the loss of our wetlands is a national problem which must be addressed by the Federal Government through a commitment of both manpower and funding.

The people of Louisiana have demonstrated their commitment to wetlands protection. Over the last ten years our state has set up and funded a wetlands protection program within our Louisiana Department of Natural Resources. This program now aggressively regulates the uses of our coastal marshes. Our people have also established a wetlands conservation and restoration trust fund which is managed by a wetlands conservation and restoration authority. This state authority has established wetlands policies and has set priorites for wetlands protection projects to be funded by the state trust fund. All of these actions have clearly shown that we as State will commit our State resources to protecting our wetlands.

This legislation is a first step in the right direction for the Federal Government. It recognizes our responsibility as a country to stop the erosion of our coastal wetlands and hopefully to begin to recover what has already been lost. I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. STUDDS] to the amendments offered by the gentleman from Louisiana [Mr. HAYES].

The amendments to the amendments were agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana [Mr. HAYES], as amended.

The amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. EMERSON

Mr. EMERSON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERSON: Page 44, strike lines 2 through 10 and insert the following:

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1)(A) any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 100-year flood plain after July 1, 1991; or

(B) in the case of a county substantially located within the 100-year flood plain, any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 10-year flood plain after July 1, 1991; and

(2) any structure becomes located in the 100-year flood plain or the 10-year flood plain, as the case may be, by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COUNTIES SUBSTANTIALLY LOCATED WITHIN 100-YEAR FLOOD PLAIN.—For the purposes of subsection (a), a county is substantially located within the 100-year flood plain—

(1) if the county is comprised of lands of which 50 percent or more are located in the 100-year flood plain; and

(2) if the Secretary determines that application of the requirement contained in subsection (a)(1)(A) with respect to the county would unreasonably restrain continued economic development or unreasonably limit the availability of needed flood control measures.

Page 44, line 11, strike "(b)" and insert "(c)".

Page 44, line 15, strike "reconstructed" and insert "improved".

Page 44, line 16, after "flood plain" insert "or the 10-year flood plain, as the case may be,".

Page 44, line 20, strike "(c)" and insert "(d)".

Page 44, line 24, strike "reconstructed" and insert "improved".

Page 44, line 24, after "constriction," insert "10-year flood plain,".

Page 45, line 1, strike "(d)" and insert "(e)".

Mr. EMERSON (during the reading). Madam 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 Missouri?

There was no objection.

Mr. EMERSON. Madam Chairman, I yield to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Madam Chairman, I rise in support of the authorization. I congratulate the distinguished chairman of the subcommitee and the distinguished ranking member. I urge all Members to support this authorization.

Mr. EMERSON. The amendment I offer provides clarifying language to section 13 of the water resources bill which deals with flood plain management. This amendment would clarify the Secretary of the Army would have authority to waive new requirements for the benefit cost justification used in consideration of new flood control projects in cases where a county is entirely located in a 100-year flood plain or where a structure is necessary for conducting a water dependent activity.

This amendment is vitally important to all of the communities in the Lower Mississippi Valley in that all of these counties, which number more than 200 counties, are located in a 100-year flood plain. If the Secretary is not given authority to waive the new requirements of the flood plain management section in extenuating circumstances, this Congress will ensure that no more new flood control projects are ever built along the Mississippi River.

I do not believe that it is the intent of this Congress to put a halt to the construction of new flood control projects, especially in areas of this country that suffer from severe flooding problems such as the Lower Mississippi Valley region. These counties are unable to control the ravages of the Mississippi River, which drains more than 40 percent of the water in the country, and the flooding which occurs year after year without control of this powerful natural resource has in turn stifled economic growth. The matter before us now is whether we will control our natural resources, or whether they will control us.

I would like to thank the public works water resources committee leadership, and expecially Mr. STANGELAND and his staff, who have worked very diligently with me on this matter to accommodate these concerns and I believe this amendment is agreeable to both sides.

Mr. STANGELAND. Madam Chairman, I rise in support of the amendment.

This is an amendment to section 13 of the bill that was an amendment that I placed on in committee. It is quite restrictive in flood plain development. We have a problem with people building in flood plains and attempting to protect against flood damage after having built in flood plains.

Realistically, there are some areas in this country that are all flood plains. It was not our intent to preclude any kind of construction or development in an area that was totally a flood plain such as the lower Mississippi, such as areas of Louisiana, and I think this

amendment goes a long way to correct that problem.

I caution my colleagues that we have to show some concern about any advanced development in some flood plains because of the cost incurred to prevent floods and to clean up afterward.

Mr. ANDERSON. Madam Chairman, I move to strike the last word. This amendment would modify the provision in the bill related to the restriction on Corps of Engineers' participation in flood control projects where construction is occurring within the 100-year flood plain. This amendment recognizes that certain areas of the country lie almost entirely within the 100-year flood plain. This is particularly true in areas of the northeastern and south-central United States. The amendment would offer some flexibility to the provision while retaining the overall goal of not actively encouraging additional development within flood plains. We would be happy to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. 46. BUY AMERICAN.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall not expend, after the date of the enactment of this Act, any funds appropriated to carry out this Act for any project, unless materials and products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that materials and products referred to in subsection (a) are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of material and products produced in the United States in a project will increase the cost of such project by more than 25 percent.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, I have a Buy American amendment that is current law in the highway bill and has been standard Buy American language in the public works programs in project legislation.

I am offering it here today to the water resources bill, and I would hope the committee will find favor with the amendment. I would just like to say that with the cost on the taxpayers' drain today, I think some of those taxpayers' dollars should be targeted for American business and industry, and the American workers. This is consistent with past practice.

Madam Chairman, I yield to the chairman, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Madam Chairman, I am pleased to accept the gentleman's amendment.

Mr. TRAFICANT. Madam Chairman, I yield to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Madam Chairman, we have looked at the amendment. It does conform to other Buy American amendments. I think we can work any problem at all that shows up as we go through this process. We will be happy to accept the amendment.

□ 1800

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I am pleased to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, we have gone through the amendment. I have to compliment the gentleman from Ohio [Mr. TRAFICANT]. It is probably one of the most finely crafted Buy America amendments that he has presented. I give him my compliments and we are certainly happy to accept it.

Mr. TRAFICANT. Madam Chairman, I appreciate that.

Madam Chairman, I want to thank the committee, Chairman ANDERSON, Vice Chairman HAMMERSCHMIDT, Water Resources Subcommittee Chairman NOWAK, and Vice Chairman STANGELAND.

I appreciate it very much. I am glad you have accepted it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. BOGGS

Mrs. BOGGS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOGGS: Page 26, strike line 13 and insert the following:

(q) LAKE PONCHARTRAIN, LOUISIANA.—

(1) FEDERAL RESPONSIBILITY.—The project

Realign lines 14 through 19 on page 26 accordingly.

Page 26, line 18, strike "subsection" and insert "paragraph".

Page 26, after line 19, insert the following new paragraph:

(2) RAISING OF LEVEES.—The project referred to in paragraph (1) is further modified to direct the Secretary to raise the levees along the entire lengths of the London Avenue Canal and the Orleans Avenue Canal in New Orleans, Louisiana, to grades sufficient to provide flood protection against a 300-year hurricane.

Mrs. BOGGS (during the reading). Madam 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 gentlewoman from Louisiana?

There was no objection.

Mrs. BOGGS. Madam Chairman, the Corps of Engineers currently has under construction an important project to provide much needed hurricane protection to the people of the New Orleans area. The Lake Pontchartrain hurricane protection project was one of the responses developed by the city from the type of devastation we experienced from Hurricane Betsy in 1965.

As part of this project, the corps has recommended the construction of gated structures at the lake end of two of the canals that provide the main outfall drainage for the city of New Orleans. The structures are designed to automatically close if a hurricane-driven storm surge enters Lake Pontchartrain.

The local sponsors of the project are concerned that this approach would impair the city's ability to pump flood waters from a hurricane out of the city and into the lake through the outfall canals. The potential effect of such a situation could be further flooding in the city from rains that normally accompany hurricanes.

Local officials with responsibility for hurricane protection and flood control have recommended an alternative approach which involves raising the existing levees and floodwalls along the two outfall canals. This approach would provide adequate hurricane protection while permitting accumulated rainwater to be pumped out of the city.

Because of the manner in which the current plan was designed, the corps needs additional legislative direction from Congress in order to provide this alternative method of protection. Unfortunately, I only recently learned of this problem so I was unable to call it to the committee's attention earlier.

Madam Chairman, I appreciate the cooperation and indulgence of the majority and minority members of the committee, and especially the gentleman from California, the gentleman from Minnesota, the gentleman from New York, the gentleman from Arkansas, and the members of the committee staff, and I urge the adoption of the amendment.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mrs. BOGGS. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, we have looked at the gentlewoman's amendment. We think it makes eminent good sense and are more than happy to accept it on this side.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mrs. BOGGS. I yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, this amendment will authorize the corps to construct the locally preferred alternative for hurricane protection at Lake Pontchartrain at New Orleans, LA. The amendment will assure the ability of New Orleans to pump water out of low-lying areas of the city during hurricane events and provides the same protection alternative as afforded to other areas of New Orleans. We would be pleased to accept the Congresswoman's amendment.

Mr. LIVINGSTON. Madam Chairman, will the gentleman yield?

Mrs. BOGGS. I yield to my colleague, the gentleman from Louisiana.

Mr. LIVINGSTON. Madam Chairman, I rise in support of the amendment by the gentlewoman from Louisiana [Mrs. BOGGS], providing clarification of an existing authorized project in the greater New Orleans area.

This modification to an existing authorization would allow the Corps of Engineers to enlarge existing levees along the Orleans and London Avenue canals in New Orleans to provide protection from a standard project hurricane. This is critical because present corps plans only call for adequate protection around the mouths of these canals; plans which could result in backflooding along the banks running the lengths of both canals. Without this clarification to an existing authorization we would be threatening 56,000 residents with serious flooding.

Madam Chairman, I rise in strong support of this amendment and thank my former colleagues on the Public Works and Transportation Committee for their help and support.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Louisiana [Mrs. BOGGS].

The amendment was agreed to.

Mr. SHAW. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to compliment the ranking Republican member, the gentleman from Minnesota [Mr. STANGELAND]; the chairman of the subcommittee, the gentleman from New York [Mr. NOWAK]; the chairman of the full committee, the gentleman from California [Mr. ANDERSON]; and the ranking member of the full committee, the gentleman from Indiana [Mr. HAMMERSCHMIDT] for including in this bill a very important provision which does finally put to rest and drive the final nail into the coffin of the Cross Florida Barge Canal.

Back in 1986 in a very heated debate here on the floor we were successful in deauthorizing a portion of that environmental disaster. This bill puts the final nail in the coffin by deauthorizing the entire project and converts what was an environmental disaster into a project that will eventually become a park for all the people of the United States and the people in Florida to enjoy.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: At the end of the bill, add the following new section:

SEC. 64. CONVEYANCE OF OAKLAND INNER HARBOR TIDAL CANAL PROPERTY TO CITIES OF OAKLAND AND ALAMEDA, CALIFORNIA.

The Secretary may convey, by quit claim deed, the title of the United States in all or portions of the approximately 86 acres of uplands, tidelands, and submerged lands, commonly referred to as the Oakland Inner Harbor Tidal Canal, California, as follows:

(1) To the city of Oakland, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Oakland.

(2) To the city of Alameda, the United States title to all or portions of that part of the Oakland Inner Habor Tidal Canal which are located within the boundaries of the city of Alameda.

The Secretary may reserve and retain from any such conveyance a right-of-way for the operation and maintenance of the authorized Federal channel in the Oakland Inner Harbor Tidal Canal.

Conform the table of contents of the bill accordingly.

Mr. DELLUMS (during the reading). Madam 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 California?

There was no objection.

Mr. DELLUMS. Madam Chairman, the amendment that I offer is technical in nature. The language was worked out in cooperation with members of the staff.

The purpose of the amendment is to provide statutory authority for purposes of conveying certain properties of the Oakland Inner Harbor Tidal Channel to the cities of Oakland and Alameda, CA.

This amendment, Madam Chairman, accomplishes the minor land transfer for which authority is sought and supported by the Corps of Engineers. The purpose of the transfer is to allow for local maintenance of the affected tidal channel and to clear up overlapping claims by adjoining landowners.

I know of no objection to this amendment.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague, the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, as I understand it, this land more than likely would be transferred at market value, is that correct?

Mr. DELLUMS. That would be on terms to be worked out between the Corps of Engineers and the port authority, that is correct.

Mr. STANGELAND. With that understanding, Madam Chairman, we certainly support the gentleman's amendment.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. DELLUMS. I am happy to yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, the gentleman's amendment would authorize the transfer of certain lands under the jurisdiction of the Corps of Engineers in the Oakland Harbor area from the Corps of Engineers to local interests to allow for development of that property beyond the scope of the Federal Water Resources Development Program. We are pleased to support the gentleman's amendment.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I also rise in support of the gentleman's work to modify the original request to a very acceptable form. With their concurrence, I am sure the corps will work out a satisfactory arrangement.

Mr. DELLUMS. Madam Chairman, I thank my distinguished colleague. I especially thank the members of the committee who helped us work out acceptable language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DELLUMS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: At the end of the bill, add the following new section:

SEC. 64. CONVEYANCE OF LAND LOCATED NEAR LEWISVILLE DAM AND GARZA-LITTLE ELM RESERVOIR, DENTON COUNTY, TEXAS.

(a) AUTHORIZATION OF CONVEYANCE.—

(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the Secretary shall convey all right, title, and interest of the United States in any property described in subsection (d) to the person named in subsection (c) (or his or her heirs and assigns) from whom the United States acquired such right, title, and interest in connection with the Lewisville Dam and Garza-Little Elm Reservoir projects in Denton County, Texas.

(2) TIME LIMIT.—Each conveyance under paragraph (1) shall be made within 90 days after the date of receipt of payment under subsection (b) is made within 60 days of the date of the enactment of this Act.

(3) APPLICABILITY.—The requirement of paragraph (1) shall apply with respect to a property for which payment under subsection (b) is made within 60 days of the date of the enactment of this Act.

(b) PRICE TO BE PAID BEFORE CONVEYANCE.—No conveyance shall be made under authority of this section until the person to whom such conveyance will be made pays to the United States the fair market value of the right, title, and interest to be conveyed, or $2,000 per acre of property conveyed, whichever is less.

(c) ELIGIBLE BUYERS.—The persons to whom conveyances may be made under authority of this section are the following: Stella Faye Anderson, Archer Lee Curtis, Arden Foil Curtis, William Rylie Curtis, Fred C. Emery, Max Hahn, Jr., Nolen Hasten, Rosella Higgins, Marguerite Higgins, Shirley Dean Johnson, Curtis N. McDaniel, Gilbert Newton MacDaniel, John Edward McWhorter, Noble Alfred Talley, and Zennia Marie Warnick.

(d) PROPERTY TO BE CONVEYED.—

(1) IN GENERAL.—The property that may be conveyed under authority of this section consists of those tracts of land located near the Lewisville Dam and the Garza-Little Elm Reservoir in Denton County, Texas, which are designated by the following tract numbers of Army Corps of Engineers Project M2-2-0003: B134, B136, B143, B144, B145, B146, B148, B149, B150, B151, B152, B153, B154, B155, B156, B157, B158, B159, B162, B163, B164, B165, B166, B167, B177, B178, B179, B193, B194.

(2) EXCLUDED PORTIONS.—The property referred to in paragraph (1) does not include portions of tracts listed in paragraph (1) to the extent that such portions are within 200 feet of the spillway of the Lewisville Dam.

Conform the table of contents of the bill accordingly.

Mr. ARMEY (during the reading). Madam 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 Texas?

There was no objection.

□ 1810

Mr. ARMEY. Madam Chairman, this amendment will provide for the conveyance of 1,578 acres of land in my district from the Army Corps of Engineers to the property's original owners. This land was acquired by the Army between 1949 and 1952 in connection with the construction of the Lewisville Dam in Denton County, TX. The land has remained unused, however, and the original owners asked me to help return it to them.

Madam Chairman, this is a relatively straightforward amendment. I urge my colleagues to accept it.

A PROPOSAL TO RECONVEY LAND AT THE LEWISVILLE DAM IN TEXAS

Between 1949 and 1952, in the process of acquiring land for the Lewisville Dam in Denton County, Texas, the Army Corps of Engineers bought some 1,578 acres just downstream from the spillway.

At the time, Corps policy was to acquire fee simple title to all land required for reservoir projects. In 1953 the policy was revised, and flowage easements, rather than title, were acquired wherever feasible. Following the change of policy, Congress authorized reconveyance of land at the project which was not required for public purpose. Former owners were given preference in reconveyance. The Corps at that time held that the 1,578 acres below the spillway were essential for project purposes and, therefore, would be reconveyed.

The land remained unused and in 1974 the original owners asked their Congressman for help. Legislation was introduced to reconvey these lands. The Secretary of the Army opposed the legislation and the reconveyance, stating that "the land have been allocated for ancillary use as a game refuge area, an off-road vehicle recreational area, and an aesthetic recreation area."

None of this development took place, and in 1985 the original owners again came to Congress seeking the return of their land. The Crops reviewed a draft bill at that time, and wrote that the land was not excess since it was required "in connection with hydrological safety features." No mention was made of the recreational development cited in the 1974 report. (Copies of both these letters are attached.) At the time the original owners held a series of discussions with the Corps in Forth Worth, offering a development plan which complied fully with Corps policy and met every stated objection, but to no avail.

Six more years have passed, and the land still is unused. It is overgrown and undeveloped. The original owners are still asking that their land be returned in exchange for a reasonable price. The price of undeveloped farmland in the area has been suggested as reasonable, since that is what this land was when it was taken.

The Corps is concerned about potential flooding, and the original owners share that concern, and have offered to work with the Corps of Engineers to limit the use of land which might flood to purposes, such as parkland, acceptable to the Corps. It is significant to note that this land did not flood during the disastrous flooding in North Texas last spring. Some of the land was isolated during that flooding, but the original owners stated in 1983 their willingness to build a $1,000,000 bridge to replace a low-water crossing and solve this problem.

I myself have shared with the corps some concern with respect to flooding on this land. However, this spring we observed the worst flood in the history of the dam, certainly the worst of my experience.

The land was undamaged by the flood. The property owners understand they need to be prepared for that possibility, as remote as it is.

I might say that I too, although I generally find myself very supportive of the Corps of Engineers, I do understand that they have in my district a rather tightfisted land man who does not like to give up land and still, nevertheless, I believe that this would be a better use of the land in the interest of the whole area.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have looked at the gentleman's amendment here on this side. If there is a potential problem, with the understanding that we can take further review of this prior to our conference committee and work it out in conference, we certainly will accept the gentleman's amendment.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from New York.

Mr. NOWAK. I thank the gentleman for yielding.

Madam Chairman, we have also looked at this amendment and would support the amendment at this point in time and look forward to any further negotiation with the gentleman as we move forward with a conference.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The amendment was agreed to.

Mr. STANGELAND. Madam Chairman, I move to strike the last word.

Madam Chairman, I understand it is the intent and desire of the House to rise at 7 o'clock. We have a number of noncontroversial amendments that we want to dispose of as rapidly as we can because we have one issue that remains which is controversial.

I would urge Members to just present their amendments which we have looked at and try to expedite it so that we can complete this bill by 7 o'clock.

AMENDMENT OFFERED BY MR. SISISKY

Mr. SISISKY. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SISISKY: Page 35, after line 2, insert the following new subsection:

(hh) SOUTHERN BRANCH OF THE ELIZABETH RIVER, NORFOLK HARBOR, VIRGINIA.—The project for navigation, Southern Branch of the Elizabeth River, Norfolk Harbor, Virginia, authorized by the Water Resources Development Act of 1976 (90 Stat. 2917), is modified to provide that the City of Chesapeake shall not be required to make payments after the date of the enactment of this Act under the cost-sharing agreement which the City entered into with the United States with respect to such project.

Redesignate subsequent subsections of section (4) of the bill accordingly.

Mr. SISISKY (during the reading). Madam 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 Virginia?

There was no objection.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. SISISKY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have consulted with the gentleman from Virginia [Mr. SISISKY] and find the amendment acceptable, and we do accept it on this side of the aisle.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. SISISKY. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, we have also looked at this amendment and feel at this point in time we can accept it. We know that we perhaps need some further refinements as we move forward, but we would be happy to accept the gentleman's amendment because of his patience with us.

Mr. SISISKY. Madam Chairman, I rise today to offer an amendment to correct a situation which concerns me deeply. I am referring to an outdated and unfair arrangement between the city of Chesapeake, VA, and the Federal Government which calls for the city to pay an inordinate amount for the dredging of the southern branch of the Elizabeth River. Madam Chairman, this arrangement is peculiar in nature, totally unfair to the the city of Chesapeake, and should be corrected.

Over a decade ago, the city of Chesapeake and the U.S. Army Corps of Engineers entered into this unusual agreement which unfairly burdens Chesapeake with a significant proportion of the costs for this dredging—about $160,000 a year in payments to the corps. And although the city has sought to modify this imperfect arrangement, the corps continues to require excessive annual payments from Chesapeake.

After discussing this matter in great detail with the city of Chesapeake and the Chesapeake Port Authority, I am concerned that corps officials extracted what seems to be a singular agreement from the city—an agreement which the corps has not imposed upon other localities.

Therefore, because of the unusual circumstances surrounding this situation, I offer this amendment to obtain fair treatment for the city of Chesapeake. Clearly, this is a matter of fairness and I hope all of my colleagues will join me in correcting this inequitable situation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. SISISKY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPMAN: Section 4 is amended following subsection (gg) by adding a new subsection (hh) as follows:

(hh) COOPER LAKE AND CHANNELS, TEXAS.—The project for mitigation of fish and wildlife resource losses, Cooper Lake and Channels, Texas authorized by section 601 of the Water Resources Development Act of 1986 (100 Stat. 4145), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Notification Report dated April 1990, at a total cost of $22,500,000 with an estimated first Federal cost of $12,400,000 and an estimated first non-Federal cost of $10,100,000.

Reletter remaining subsections accordingly.

Mr. CHAPMAN (during the reading). Madam 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 Texas?

There was no objection.

Mr. CHAPMAN. Madam Chairman, this is a postauthorization change report amendment that is technical in nature. It brings into conformance with the request of the Corps of Engineers a mitigation of fish and wildlife resource law.

We have cleared it with both sides.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have looked at the gentleman's amendment. We find it acceptable to the legislation and commend the gentleman for his amendment.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman for yielding.

Madam Chairman, we have examined this amendment. We are pleased to support it and thank the gentleman for his efforts.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. STANGELAND

Mr. STANGELAND. Madam Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STANGELAND: Page 46, line 12, strike "management" and insert "research".

Page 44, line 20, strike "The" and insert "Not later than 6 months after the date on which a report is transmitted to Congress under subsection (b), the".

Page 45, line 2, strike "shall" and insert "shall not".

Page 45, line 3, strike "not".

Page 45, line 4, strike "on or before July 1, 1995" and insert "before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) but not later than July 1, 1993".

Mr. STANGELAND (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota for consideration of the amendments en bloc?

There was no objection.

Mr. STANGELAND. Madam Chairman, the first amendment is simple. It modifies a provision in the committee-reported bill relating to flood plain management and the corps' benefit cost ratio. It ensures that the provision's effective date is sooner than later. The bill has an outside date of July 1, 1995. My amendment moves that up 2 years to July 1, 1993. It also ties the provision's effective date to the issuance of regulations and imposes a 6-month time limit on when the Secretary is to issue the regulations.

This amendment makes good sense. It sends a strong signal that the Federal Government should not encourage or subsidize unwise flood plain development.

Environmental groups and the corps support the concepts and requirements in the provision.

I urge my colleagues to support the amendment.

Madam Chairman, the second amendment at the desk.

The amendment simply revises section 15, relating to reservoir technical advisory committees, to conform to the original intent in drafting the provision. It does this by substituting the term "management" with the term "research."

Persuasive testimony of the National Wildlife Federation prompted me to include a similar provision in my bill, H.R. 5370, and then include it in the corps bill during full committee markup. All along, the intent was to establish technical committees with research, academic oriented membership, to supplement the information available to the corps—not to dictate management decisions to the corps.

My amendment does this and nothing more. It is noncontroversial and worthy of my colleagues' support.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. STANGELAND. I yield to the chairman, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. I thank the gentleman for yielding.

Madam Chairman, we have examined these amendments. We are pleased to support them, and we thank the gentleman for his amendments.

Mr. EMERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I have strong reservations on the amendment offered by the gentleman from Minnesota which would change the effective date of section 13(d) from 1995 to 1993.

Madam Chairman, I have strong reservations to the amendment offered by the gentleman from Minnesota which would change the effective date of section 13(d) from 1995 to 1993, and wish to explain my reservations. Understand, first, that the lower Mississippi Valley is unique. It contains some of the most valuable farmlands in the world and contributes greatly to the agricultural productivity of this country.

This section alone has very serious implications for my congressional district and for the entire lower Mississippi Valley as well as other parts of this Nation that suffer from serious and constant flooding. The changes in the cost benefit formula used by the Army Corps of Engineers in determining the worthiness of flood control projects as this section does, already has grave and critical implications for much of this Nation. To move that effective date forward is regrettable.

We will need what little time we have with the current effective date of July 1, 1995, to move quickly and get our flood control priorities together and we have no assurances that we will be able to obtain much needed additional flood control projects even when this section is fully implemented. Moving the effective date up by 2 years has no real function except to make it easier to shut down much needed flood control projects in this country much sooner.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 5314, the water projects authorization bill, which sounds the long overdue death knell for the Cross-Florida Barge Canal.

This project was an environmental disaster and financial boondoggle from the day in 1942 when it was first authorized by Congress. In addition to leaving a scar across the entire width of our State, the barge-canal threatened to do irreparable damage to Florida's aquifer, jeopardizing our water supply. It also would have destroyed the Oklawaha River, one of Florida's last natural rivers.

After fighting this environmental nightmare for more than 30 years, I am pleased that we have come to this day when the Florida congressional delegation is united in its support of a provision of this bill to once and for all deauthorize the canal.

Twenty-nine years ago, I rose on the floor of the Florida State Senate to offer an amendment to strike funding for this project from the State budget. As a freshman legislator, the political forces of Florida came down upon me from both parties. Although my amendment that day failed, the issue was raised and throughout the next three decades, support for my efforts grew to the point where today all sectors of the State stand united behind this provision—a provision now regarded as noncontroversial.

Questioning funding for the Cross-Florida Barge Canal was far from noncontroversial in 1970 when I was first elected to the House. In fact, for many years, I was the lone member of our State's congressional delegation who opposed this project. Even before being sworn into office after my election to the House in 1970, I discussed my opposition to this project with President Nixon, and it was at my request that on January 19, 1971, the President suspended all further construction.

Following this directive by the President, I testified before the Appropriations Committee year after year to ensure that no funds were made available to allow for construction to resume. These efforts kept opposition alive throughout the State until it became politically popular for many others to publicly oppose this project. Former Florida Governor Haydon Burns, a longtime proponent of the project, fondly recalled those early days when I questioned the wisdom of the canal. In testimony 10 years ago before the Florida cabinet, opposing a pending resolution Federal funding of the project, Governor Burns could not understand the mounting opposition to the project saying, "When I was Governor, there was only one person in the whole State who opposed the barge canal. That was State Senator Bill Young."

After fighting alone and being in a small minority against this project for so many years, I am pleased that the day has arrived when the entire Florida delegation now supports this legislation to put to an end this chapter in our State's history. It has taken a long time, but today we move to legislatively deauthorize the Cross-Florida Barge Canal, put an end to any possible construction, and return to the State the lands previously purchased to provide a right of way for the canal. It is most appropriate that in taking this action we are turning what would have been an environmental tragedy into an environmental gain for our State as these lands will be restored as a greenway corridor for recreation and conservation purposes.

There were a great many lessons learned during the half century in which this project has been debated in the Congress and throughout our State of Florida. The most important of which may have been that in taking into consideration the economic costs and benefits of public works projects, we must also carefully evaluate their impact on our environment and natural resources. Fifty years ago, when the Congress first considered the project, this was not the case.

President Nixon, in his 1971 order suspending construction of the Cross-Florida Barge Canal, expressed his great concern that "the project could endanger the unique wildlife of the area and destroy this region of unusual and unique natural beauty." He also said that his action would "prevent a past mistake from causing permanent damage."

With this legislation, Mr. Chairman, the Congress comes full circle by turning an environmental disaster into a tremendous environmental gain for the people and State of Florida.

The CHAIRMAN. Is there further discussion of the amendments?

If not, the question is on the amendments offered by the gentleman from Minnesota [Mr. STANGELAND].

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Madam Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HALL of Texas: Page 35, after line 2, insert the following new subsection:

(hh) DENISON, TEXAS.—The Act entitled "An Act to authorize the utilization of a limited amount of storage space in Lake Texoma for the purpose of water supply for the city of Denison, Texas", approved August 14, 1953 (67 Stat. 583), is amended by striking "in an amount not to exceed 13,000 acre-feet annually".

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 69, after line 15, insert the following new paragraph:

(11) EAST FORK OF TRINITY RIVER, TEXAS.—The project for flood protection on the East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).

Page 69, line 16, strike "(11)" and insert "(12)".

Mr. HALL of Texas (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HALL of Texas. Madam Chairman, briefly, the first amendment would simply continue the authorization for a flood control protection project in the East Fork of the Trinity River in Dallas and Rockwell Counties of Texas. This project is the final section of a larger project originally authorized in 1962. Before flooding in 1989, the project was dormant for lack of local sponsors. We now have some interest in it.

In addition, the second amendment would bring in the water storage contract allocation in line with the permitted yield. It would make no change in the current operations of our Dennison Dam. I understand that the amendment is agreeable.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have reviewed the amendment. We have no objection and support the amendments on this side of the aisle.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas [Mr. HALL].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. TORRICELLI

Mr. TORRICELLI. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TORRICELLI: At the end of section 3(a)(18)(A)(ii) of the bill, insert the following: "As such, the main diversion tunnel shall be extended approximately six and one-half miles to outlet in Newark Bay, the nine levee systems in Bergen, east Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded from the project, and no dikes or levees shall be constructed or necessitated along the Passaic River in Bergen County in connection with the project. With the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded nine levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, shall be prohibited. The Secretary shall certify to the House of Representatives Committee on Public Works that no detrimental flood impact, as a result of the project, shall accrue in Bergen County.".

Mr. TORRICELLI (during the reading). Madam Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. TORRICELLI. Madam Chairman, contained in this legislation is an important provision to construct a tunnel to relieve the flooding in the reaches of the northern Passaic River in New Jersey. It is an extensive, indeed a massive, project. It is necessitated by the fact that in the years following the last war, massive suburban growth took place in what was a natural flood plain, tens of thousands of homes and businesses. The inevitable happened in the years that followed: flooding. Indeed, in recent years, not only has millions of dollars' worth of property been lost but many lives have been lost as well.

□ 1820

Madam Chairman, contained in this legislation is a provision to relieve this terrible abuse of land, property, and loss of life. The difficulty has been that under the corps' original plan, the flooding problem would be transferred from the northern Passaic River to the southern Passaic River. Under the committee's leadership, subcommittee's leadership, with the help of the minority, the plan has been changed to transfer instead the tunnel from the northern Passaic River directly to Newark Bay. The importance of this is that without this change envisioned by my colleague, the gentleman from New Jersey [Mr. ROE] from an adjoining district of Passaic County we would have done no more than to transfer the flooding problem from Passaic County to Bergen County. That is being avoided.

The amendment that I have before us today, Madam Chairman, is simply this: That as the tunnel is extended to Newark Bay, the dikes and the levees that would have been necessitated in Bergen County along the Passaic River are not eliminated. They need not be built, and, indeed, under this amendment they cannot be built.

In addition, valuable park lands that would have been seized along the Passaic River, had we not changed the route of the tunnel, no longer will be seized and taken. In other words, the Army Corps of Engineers have been given a valuable choice: Build this tunnel if it is necessary to save lives and property, but they may not take park lands, build levees, or build dikes, and what is more, they will certify that the flood dangers in the lower Passaic River will not be changed or increased to any degree because of this construction.

In other words, to the Army Corps of Engineers this says, "Build this tunnel right, necessitate no taking and no construction of levees, or you will not build it at all." The tunnel that results will not be built on, under, around or in any way change the property, the lives or the flood dangers necessitated in Bergen County or any area in the lower Passaic River. I believe this amendment is necessary to make this clear to the residents so that the coalition which has been formed in support of this change can be held together.

In doing so, Madam Chairman, I am indebted to the chairman of the committee, the gentleman from California [Mr. ANDERSON], subcommittee chairmen, of course to the minority who have worked together to make this possible, and I appreciate it very, very much. It is extremely important to our residents. I also want to thank the gentleman from New Jersey [Mr. ROE], a member of the committee whose assistance has been invaluable in making this possible.

Mr. ROE. Madam Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from New Jersey.

Mr. ROE. Madam Chairman, I want to thank the gentleman from New Jersey [Mr. TORRICELLI] from the county of Bergen, which is contiguous to my county of Passaic, for his amendment. The amendment will add and, in fact, improve the overall programming. But I want to add a couple of codicils.

Madam Chairman, we have been working on this program for 35 years to finally come to this point as an enormous step forward in the State of New Jersey and to achieve what we want to achieve, and the corps and everybody in the country has classified the Passaic River Basin as the most hazardous, the most dangerous, situation in any river basin whatsoever. Dozens of people have lost their lives over the past 36 years, and we have had billions of dollars' worth of damage.

So, I want to thank the committee myself on behalf of the gentleman from New Jersey [Mr. TORRICELLI] and the others from New Jersey for the great cooperation we have received from the gentleman from California [Mr. ANDERSON], and the gentleman from Minnesota, and the gentleman from New York in bringing this project to this particular level, and this amendment really will enhance the program as we have planned it, and I certainly totally support the gentleman from New Jersey.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, we have looked at the amendment and certainly think it enhances the legislation. I understand the problem in Passaic County and the whole problem up in New Jersey. We have had extensive hearings on this matter, and we accept the amendment.

Mr. TORRICELLI. Madam Chairman, I thank the gentleman from Minnesota [Mr. STANGELAND] for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. TORRICELLI].

The amendment was agreed to.

Mr. EMERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise to engage in a brief colloquy with the chairman of the committee, the gentleman from California [Mr. ANDERSON] and the ranking minority member, the gentleman from Minnesota [Mr. STANGELAND] concerning clarification of section 15 of the Water Resources Development Act.

Madam Chairman, it is my understanding that section 15(c) of H.R. 5314 authorizes the Secretary of the Army to manage existing dam and reservoir project of the Corps of Engineers for recreation and fish and wildlife purposes to the extent such management does not impair any other authorized project. Is it the understanding of both gentlemen that where

navigation is an authorized project purpose, such purpose would include low-flow augmentation for down stream navigation?

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, I thank the gentleman from Missouri [Mr. EMERSON], and the answer is yes. The committee intends that low-flow augmentation for down stream navigation requirements would be part of any management plan where navigation was a project purpose.

Mr. EMERSON. Madam Chairman, I thank the gentleman from California [Mr. ANDERSON], the chairman.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, I thank the gentleman from Missouri [Mr. EMERSON] for yielding.

I concur. Mr. EMERSON is correct. Section 15(c) would definitely include low-flow augmentation for navigational purposes where navigation is an authorized project purpose.

Mr. EMERSON. Madam Chairman, I thank the gentleman from Minnesota [Mr. STANGELAND], and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. PICKETT

Mr. PICKETT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKETT: Strike section 43 of the bill, relating to Albemarle Sound-Roanoke River Basin, North Carolina.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Mr. PICKETT (during the reading). Madam 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 Virginia?

There was no objection.

Mr. PICKETT. Madam Chairman and Members, my amendment would strike section 43 of the Water Resources Development Act which provides that no construction may be carried out with respect to the permits granted by the Corps of Engineers for the construction of a pipeline from Virginia Beach to Lake Gaston in Virginia. The adoption of my amendment is critically important to the public health and economic future of some 1 million people in southeastern Virginia. The Lake Gaston pipeline is vital to the future of this area. The water system serves the cities of Norfolk and Virginia Beach and does not have a sufficient supply of water to meet present demands on the system during periods of drought. As early as 1977, it was necessary to curtail water usage due to an extended dry period.

Madam Chairman, the Lake Gaston water supply project is a long-range solution to the water shortages that have plagued the city of Virginia Beach for years. The project is designed to provide up to 60 million gallons of water per day. The essential components are two pumping stations and about 85 miles of pipes. The pipeline will be placed underground from the intake site on Lake Gaston in Virginia to the discharge point in Virginia, and I might tell the Members that there are no Federal dollars involved. The over $200 million required for this project are going to be paid from local funds of the city of Virginia Beach.

In December 1984, the Corps of Engineers released the results of a 9-year water supply study for Hampton Roads. That study evaluated 51 water supply alternatives and determined that Lake Gaston was the best source taking into account all relevant factors.

The issue of a water supply for Virginia Beach has been thoroughly studied at the Federal, at the State, at the regional and local government level, and all these studies have come to the same conclusion, that Lake Gaston is the best alternative of all considered to provide a public water supply for the city of Virginia Beach.

Because of mitigation action that will be taken, there will be no measurable impact on Lake Gaston resulting from this water withdrawal project which has been approved by the Corps of Engineers.

Permits for the project were issued in 1984, and the city of Virginia Beach has spent over $20 million in designing the project, acquiring the right of way and defending numerous lawsuits challenging various aspects of the project including the validity of the Corps of Engineers permit.

On February 2, 1990, Judge W. Earl Britt of the U.S. District Court for the Eastern District of North Carolina issued a 28-page opinion supporting his decision which affirmed in every respect the action taken by the Corps of Engineers in issuing a permit to the city of Virginia Beach for this construction.

□ 1830

I would like to refer to his opinion. He says on remand, the corps shall, as part of its National Environmental Policy Act review, make an independent assessment of the effects of the proposed project on striped bass to determine whether the preparation of an environmental impact statement is required or whether any mitigation measures are necessary.

The court got this answer: The supplemental environmental assessment filed by the corps analyzes all of the materials collected, and concludes that the withdrawal by Virginia Beach of this water from Lake Gaston will have no impact—no impact, let alone a significant impact—on the spawning of striped bass in the Roanoke River.

Madam Chairman, southeastern Virginia has the largest military complex in the world. The early 1980s water shortage threatened military preparedness in Hampton Roads, and this threat continues today. The construction of large municipal water supply projects has become very difficult because of the extensive regulatory and legal hurdles which they must overcome. This process, however, ensures that only the best and most environmentally sound projects will survive.

I cannot give too much emphasis to the fact that in the case of this Virginia Beach water project, all levels of government, Federal, State, regional, and local, have studied this problem for over 10 years, making a decision to move ahead with the pipeline from Lake Gaston to Virginia Beach.

For 7 long years the city has been trying to move forward to completion. Over $20 million has already been spent, and construction has commenced. I do not believe that Congress has any business meddling with a specific municipal water project that has met all regulatory requirements and survived a challenge in a U.S. district court.

Madam Chairman, in conclusion, I urge the Members to support this vitally needed amendment.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to ask the gentleman from Virginia [Mr. PICKETT], does your amendment strike out the language we voted in earlier for the gentleman from North Carolina [Mr. VALENTINE] and the gentleman from Virginia [Mr. PAYNE] earlier? They put these in earlier, and now you are striking it out?

Mr. PICKETT. Madam Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Virginia.

Mr. PICKETT. Madam Chairman, I am striking out the language that would stop this vitally needed water project. I stated earlier that I do not believe that there were any public committee hearings on this. I do not think there was any public debate on it. It was a provision put in the bill without any notice to my jurisdiction.

Mr. ANDERSON. Reclaiming my time, it does strike out the language that we put in earlier for the gentleman from North Carolina [Mr. VALENTINE] and the gentleman from Virginia [Mr. PAYNE]. Frankly, I was hoping

when we got through here, maybe we could get this back into committee and discuss it. It seems kind of odd it would strike out something we just voted in a while ago.

Mr. PICKETT. Madam Chairman, if the gentleman would yield further, I would answer and say this is a vitally needed project.

Mr. VALENTINE. Madam Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment offered by my colleague from Virginia [Mr. PICKETT] and in support of the bill as reported by the Public Works and Transportation Committee.

We can all understand the reasons behind the proposed amendment. It is not unusual for a city or region's growth to outstrip its local resources, including its water supply. So the area looks to someone else's water.

In this case, the city of Virginia Beach would like to undertake a massive, interbasin transfer of water to meet its own local water requirements. To accomplish this it proposes a pipeline to withdraw 60 million gallons of water per day from Lake Gaston.

The proposed pipeline, however, could be an environmental and ecological disaster. No one can be absolutely sure because the U.S. Army Corps of Engineers and local officials have resisted all efforts to assess the potential damage to the regional ecology that could result from the project.

Both the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have recommended that construction of this pipeline await completion of an environmental impact statement. These recommendations have been ignored.

The Congress has also spoken on this subject. In 1988, we passed Public Law 100-589, which provided for a $1 million, 3-year study of the declining Roanoke River-Albermarle Sound striped bass population, including the impact of the proposed water diversion from Lake Gaston.

This study is due to be completed in November 1991. But the pipeline project has proceeded as if the U.S. Congress does not exist.

What will the study show? Preliminary findings suggest that the water diversion pipeline may inflict irreparable damage on the Atlantic striped bass population.

Whatever the study concludes, pipeline proponents appear to favor rendering it meaningless by moving ahead with construction before the results are available.

Section 43 of the bill as it presently exists would simply require that a study mandated by the Congress be completed, evaluated, and considered before we allow permanent damage to the environment.

Now is not the time to renege on our commitment to the environment. I urge rejection of the pending amendment.

Madam Chairman, let us not further undermine public perception of the Congress. Two years ago we mobilized the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the North Carolina Division of Marine Fisheries, the North Carolina Wildlife Resources Commission, and the Virginia Department of Natural Resources to spend $1 million of the taxpayers' money to conduct an environmental investigation.

What message do we send to the public if we now decide to allow construction of the very project these agencies are studying before the investigation is completed? We are being asked to permit the money to be spent at the same time we ensure that it will be wasted. Why not see the results before we embark on a course that cannot be undone?

We have nothing to gain by passing this amendment—and we may have much to lose. I hope you will join me in opposing this proposal.

Mr. BATEMAN. Madam Chairman, I rise in favor of the amendment.

Madam Chairman, I rise in support of the amendment of the gentleman from Virginia [Mr. PICKETT]. I do so with some awareness of this project from many years back, having served as a member of a commission by appointment of the Governor of the Commonwealth of Virginia to study the water supply needs and problems of southeastern Virginia.

□ 1840

That commission followed all of the studies that were conducted, and as the gentleman from Virginia Beach [Mr. PICKETT] has mentioned, there were 51 alternatives that were suggested. This project represents the alternative selected after years of study, very thoughtful, indepth study.

For the House to interpose its will at a point some 15 years later, and after all of the study, after all of the Federal agencies have granted permits authorizing this project to go forward, and after the city of Virginia Beach has expended over $20 million of its funds for a 100-percent locally funded project, and for a project which has withstood the test of those who oppose it in the Federal courts in an opinion by the Federal court which at great length details the nature of the study and its satisfaction with the conclusion of the Corps of Engineers that permits should have been granted, that the striped bass problem did not dictate a full environmental impact statement based upon an analysis of all of the available data that was analyzed and studied by the Corps of Engineers, and found not to be an impediment to going forward with the project, for us at this later date, with no hearings having been held on the merits of this project, and with all that is at stake for a million or more people in southeastern Virginia, it really represents a very poor precedent and great unfairness for the House to now include in its bill provisions which would bring this project to a halt.

Mr. JONES of North Carolina. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I oppose the amendment to strike section 43.

Public Law 100-589, as signed into law in 1988, requires a study of the effects of a water diversion pipeline at Lake Gaston in North Carolina and Virginia. This diversion could have a large negative effect on the striped bass populations of the Roanoke River and Albemarle Sound. This study is well under way but will not be completed for at least another year.

If construction of the project begins before the results of the study are available to the Congress, and before the full environmental impact of the project can be evaluated, it would thwart congressional intent for the study and potentially result in permanent damage to a natural resource of great value.

Section 43 simply provides that no construction may be carried out on the project until the study mandated by Public Law 100-589 is completed and reviewed.

Section 43 is very important to my district, and I ask your support to defeat this amendment to delete it.

Mr. PAYNE of Virginia. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment to strike the provisions regarding the Albemarle Sound-Roanoke River basin in North Carolina. I represent most of the Virginia side of what is known as Lake Gaston.

The Atlantic Striped Bass Conservation Act amendments were implemented in 1988. In this law, a 3-year, $1 million study was commissioned to determine the effects of the withdrawal of 60 million gallons of water a day would have on the striped bass population. The striped bass use the Roanoke River for their spawning.

This study is not expected to be completed until November 1991. However, Virginia Beach is proceeding with its plans to construct the pipeline to carry water from the Roanoke River Basin to Virginia Beach. The city has authorized the issuance of bonds, although none has been issued to date since this matter is presently in litigation, based upon the fact the Fish and Wildlife Service and National

Marine Fisheries Service both recommended waiting until completion of a study to make a determination about the appropriateness of this pipeline.

The purpose of the provision in the bill is to delay the construction of the pipeline pending the completion of the striped bass study. If we allow the pipeline to be constructed prior to learning the results of this study, we will have wasted $1 million and have a meaningless study that has wasted both time and money.

Another aspect that I must mention in this whole process is the negative impact that this pipeline will have on economically deprived areas. This pipeline project will be taking important natural resources from an area that has not experienced a wealth of economic development and transporting these resources to another region to further its economic growth.

I urge my colleagues to vote against this amendment.

Mr. BALLENGER. Madam Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

We are all talking about various and sundry studies. But there was a study that came out in the Charlotte Observer over this last weekend, and I would like to explain what it does to the people in eastern North Carolina.

As has been said, the Roanoke River feeds Lake Gaston down into the Albermarle Sound of North Carolina. A study just released by the natural resources department of North Carolina has advised people in eastern North Carolina not to eat the fish from this river, the Roanoke River, because of high dioxin levels caused by a paper mill on that river.

Stop and think a minute, if we pull 60 million gallons of water out of this lake going to Virginia Beach, what it does to the flow of the water in that river on the lower side. If the water is taken from the lake it will reduce the flow of the river and increase the concentration of dioxin and further threaten the lives of people living in eastern North Carolina.

Mr. SISISKY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of the amendment offered by the gentleman from Virginia [Mr. PICKETT]. As you may know, section 43 of the water resorces development bill which we are debating this evening is a direct attack on an important water project in southeast Virginia.

This project, the Lake Gaston pipeline, is an extremely important project to the people of the city of Virginia Beach and the surrounding communities. The city, after extensive research into maintaining a ready supply of drinking water, determined that a pipeline from nearby Lake Gaston would be the best and most environmentally sound way to guarantee the people of southeast Virginia drinking water in the year 2000.

It is crucial for my colleagues to know that this is by no means a new issue. Virginia Beach has been trying for some time to construct this vital link to Lake Gaston. The city has acquired the necessary Army Corps of Engineers permits, conducted all the required surveys, and met environmental standards. As a matter of fact—and perhaps most importantly—the city has gone to court and won its right to transport water through a pipeline to the families of eastern tidewater.

Now, because of this unfortunate clause in the Water Resources Development Act, the city of Virginia Beach and neighboring communities face the possibility of an indefinite delay in this project—a delay that will be disastrous to the area. The Lake Gaston pipeline project is absolutely essential to the health, safety, and well-being of the entire southeast section of Virginia. If this harmful language is not struck from the water resources bill, it will have a devastating effect on an area so vital to the national security interests of our Nation.

Shortages have been commonplace. The city of Chesapeake in my congressional district has even had to resort on several occasions to using nonpotable saltwater forcing its citizens to stand in line at schools and fire stations to fill jugs with drinking water.

Madam Chairman, Virginia Beach has spent $20 million and almost a decade on this project. The city has passed every regulatory and legal hurdle. To delay this project further would be costly, unnecessary, and injurious to the people of southeast Virginia. I request that my colleagues recognize the importance of this project and vote—as Congress has done in the past—to allow the Lake Gaston pipeline to proceed as planned.

Madam Chairman, I ask the Members to please support the Pickett amendment.

□ 1850

Mr. BILBRAY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I yield to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Madam Chairman, I am not going to belabor this point, but I would want all of our Members to know that this issue has been the subject of litigation in a Federal district court.

The Federal district court has upheld the action of the Corps of Engineers in its entirety, and I want to read the Members just one part of this opinion.

The court says that,

> Plaintiffs contend that the Corps erred by not accepting the recommendations of the four expert agencies most directly concerned with striped bass, Fish and Wildlife Service, National Marine Fisheries, and so on, all of whom expressed the view that a full environmental impact study should be conducted. As noted in this court's prior opinion, Corps regulations require consultation with these agencies and accord great weight to their views. But with good reason, however, nothing in the regulations, the statutes, or the cases interpreting either requires the Corps to follow the views of such agencies. The final decision remains, as it must, with the Corps, and in this case the Corps has found in favor of the city of Virginia Beach.

I would go on and say that the court states:

> Dire consequences, particularly in the river flow, are forecast by North Carolina in the event of a severe drought. Whether that forecast or the Corps' forecast that the project will have no impact on the river flow,

The corps says no impact—

> remains an open question. The court is not an expert on that subject; neither is North Carolina. The corps is, and it is to the corps that the Congress has entrusted the final decision. The court's sole function is to review the corps' decision under the standards set out. Having done so, the court is convinced that the decision insofar as it deals with striped bass is not arbitrary and capricious.

Mr. ROE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I yield to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Madam Chairman, I thank the gentleman for yielding.

I will not take all the time. I just want to make a couple of statements maybe in conclusion.

Let me say to my colleagues that the lawsuit which our good friend, the gentleman from Virginia [Mr. PICKETT], talks about is still pending in court. The lawsuit is not over. It is on appeal. So I do not think the lawsuit should be used, because at some intermediate stage a ruling has occurred against our position. That is the first thing.

The second thing is that I suggest to the Members that this is an issue that involves the protection of the environment, but if it is to be considered by anybody as just a fight between the State of North Carolina and the State of Virginia, let me tell the Members this, that the State, the county, the city of Virginia Beach elected not to solve its water problems, not to take what time and money was necessary to clean up the polluted James River. They saw a pristine supply of water 80 miles away in North Carolina in Gaston Lake, and they sought to get it, and that is what this is about.

We resisted, and we resisted by every means available to us. It will be, if they succeed, the first interbasin transfer of water east of the Mississippi, and look out, because the population centers will be able to run their snouts out into these rural pristine areas and suck up the water that the Lord put there.

I ask my colleagues to stand by this committee. This was not lightly done. Vote down this amendment.

Mr. PICKETT. Madam Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the gentleman from Virginia.

Mr. PICKETT. Madam Chairman, the gentleman says that this was not lightly done. Would the gentleman tell this body whether any public hearing was held on this issue before it was put in this bill?

Mr. VALENTINE. Madam Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the gentleman from North Carolina.

Mr. VALENTINE. Madam Chairman, on this question, I say to my friend, that public hearings have been held in North Carolina.

Mr. PICKETT. If the gentleman will yield further, have public hearings been held on this specific section of the bill?

Mr. VALENTINE. I do not recall that any public hearings were held, but all the Members were acquainted with it.

Mr. PICKETT. I would tell the gentleman that nobody in my jurisdiction was ever apprised of the fact that this language was being proposed or considered. Nobody conceived that a $200 million project already commenced would be meddled with by the Congress and told to stop.

Mr. VALENTINE. Well, let me say to the gentleman that I am amazed at the audacity of the State of Virginia to spend taxpayers' money before the litigation says you can build it.

Mr. PICKETT. The judge said we could built it. That is what he said.

Mr. VALENTINE. No; no. Before the Environmental Protection Agency says it will not desecrate the environment? I am amazed you would spend a dime before those decisions have been made.

Mr. PICKETT. Does the gentleman realize that the Environmental Protection Agency has concurred in this decision?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. PICKETT].

The amendment was rejected.

AMENDMENTS OFFERED BY MR. STANGELAND

Mr. STANGELAND. Madam Chairman, I offer technical amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STANGELAND: Page 14, line 20, "$544,604,000" and insert "$727,364,000".

Page 14 line 21, strike "$309,313,000" and insert "$403,359,500".

Page 14, line 22, strike "$235,291,000" and insert "$324,004,500".

Page 4, line 24, strike "$7,260,000" and insert "$11,100,000".

Page 4, line 25, strike "$5,440,000" and insert "$8,300,000".

Page 5, line 1, strike "$1,820,000" and insert "$2,800,000".

Page 6, line 8, strike "$65,700,000" and insert "$67,100,000".

Page 6, line 9, strike "$41,920,000" and insert "$42,810,000".

Page 6, line 10, strike "$23,780,000" and insert "$24,290,000".

Page 6, line 25, strike "$16,300,000" and insert "$35,618,400".

Page 7, line 1, strike "$12,100,000" and insert "$26,493,000".

Page 7, line 2, strike "$4,200,000" and insert "$9,125,400".

Page 7, line 19, strike "$7,280,000" and insert "$9,296,000".

Page 7, line 20, strike "$4,560,000" and insert "$6,754,000".

Page 7, line 21, strike "$2,720,000" and insert "$2,542,000".

Page 8, line 2, strike "$7,489,100" and insert "$13,148,400".

Page 8, line 3, strike "$5,037,500" and insert "$8,791,700".

Page 8, line 4, strike "$2,451,600" and insert "$4,356,700".

Page 14, line 6, strike "$56,990,000" and insert "$58,968,000".

Page 14, line 7, strike "$34,780,000" and insert "$35,900,000".

Page 14, line 8, strike "$22,210,000" and insert "$23,068,000".

Page 15, line 5, strike "$4,620,000" and insert "$8,503,000".

Page 15, line 6, strike "$1,730,000" and insert "$3,189,000".

Page 15, line 7, strike "$2,890,000" and insert "$5,314,000".

Page 7, line 12, strike "$27,215,000" and insert "$26,200,000".

Page 7, line 13, strike "$16,854,000" and insert "$16,230,000".

Page 7, line 14, strike "$10,361,000" and insert "$9,970,000".

Page 5, line 21, strike "$6,460,000" and insert "$6,455,000".

Page 5, line 22, strike "$5,180,000" and insert "$5,175,000".

Mr. STANGELAND (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota that the amendments be considered en bloc?

There was no objection.

Mr. STANGELAND. Madam Chairman, very quickly this amendment merely adjusts the cost estimates for projects in the bill to reflect the corps' most current estimates. It is essential that these amendments be adopted so these can be conferenceable.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. STANGELAND. I am happy to yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, I would be happy to accept the gentleman's amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota [Mr. STANGELAND].

The amendments were agreed to.

The CHAIRMAN. Are there any further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HALL of Ohio) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5314) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, pursuant to House Resolution 469, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 55, not voting 27, as follows:

[Roll No. 387]

YEAS—350

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Cooper
Costello
Courter
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Flake
Flippo
Foglietta
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Petri
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Shaw
Shuster
Sikorski
Sisisky
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Watkins
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—55

Armey
Bartlett
Barton
Broomfield
Brown (CO)
Burton
Campbell (CA)
Combest
Coughlin
Craig
Crane
DeLay
Dickinson
Douglas
Fawell
Frenzel
Gekas
Gingrich
Goodling
Hancock
Hansen
Hefley
Henry
Jacobs
Johnson (CT)
Kyl
Leach (IA)
Lukens, Donald
Michel
Miller (WA)
Nielson
Oxley
Pease
Pickett
Porter
Quillen
Rhodes
Ritter
Roberts
Schaefer
Sensenbrenner
Shays
Shumway
Skaggs
Skeen
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Solomon
Stump
Sundquist
Vucanovich
Walker
Whittaker

NOT VOTING—27

Borski
Clay
Conyers
Crockett
Dannemeyer
Dorgan (ND)
Fish
Ford (MI)
Ford (TN)
Gray
Hawkins
Horton
Leath (TX)
Martin (IL)
McNulty
Morrison (CT)
Robinson
Rostenkowski
Rowland (CT)
Schuette
Sharp
Traxler
Walgren
Washington
Weldon
Wilson
Young (FL)

□ 1921

The Clerk announced the following pair:

On this vote:

Mr. Hawkins for, with Mr. Weldon against.

Mr. SMITH of Vermont and Mr. DENNY SMITH changed their vote from "yea" to "nay".

Messrs. THOMAS of Wyoming, HUTTO, and McCOLLUM changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ANDERSON. Mr. Speaker, pursuant to House Resolution 469, I call up from the Speaker's table the Senate bill (S. 2740) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ANDERSON moves to strike all after the enacting clause of the Senate bill, S. 2740, and to insert in lieu thereof the provisions of H.R. 5314 as passed, as follows:

S. 2740

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Private sector development of infrastructure.
Sec. 6. Planning and engineering.
Sec. 7. Funding of costs assigned to commercial navigation.
Sec. 8. Emergency response.
Sec. 9. Construction of navigation projects by non-Federal interests.
Sec. 10. Project modifications for improvement of environment.
Sec. 11. Ability to pay.
Sec. 12. Environmental protection mission.
Sec. 13. Wetlands.
Sec. 14. Priority Louisiana coastal wetlands restoration projects.
Sec. 15. Louisiana coastal wetlands conservation planning.
Sec. 16. National coastal wetlands conservation grants.
Sec. 17. Authorizations.
Sec. 18. General provisions.
Sec. 19. Flood plain management.
Sec. 20. Shoreline protection.
Sec. 21. Reservoir management.
Sec. 22. Changes in reservoir project operations.
Sec. 23. Environmental dredging.
Sec. 24. Protection of recreational and commercial uses.
Sec. 25. Multipurpose water resources projects.
Sec. 26. Great Lakes remedial action plans.
Sec. 27. Matters to be addressed in planning.
Sec. 28. Cross Florida Barge Canal.
Sec. 29. Small navigation projects.
Sec. 30. Onondaga Lake, New York.
Sec. 31. Sauk Lake, Minnesota.
Sec. 32. Wappingers Lake, New York.
Sec. 33. Small flood control projects.
Sec. 34. Bay City, Michigan.
Sec. 35. Delaware River and tributaries, Pennsylvania.
Sec. 36. Tennessee River, Knoxville, Tennessee.
Sec. 37. Continuation of authorization of certain projects.

Sec. 38. Erosion prevention projects, Louisiana.
Sec. 39. Hazard, Kentucky.
Sec. 40. Demonstration of construction of Federal project by non-Federal interests.
Sec. 41. Modification of reversionary interest.
Sec. 42. Upper Mississippi River plan.
Sec. 43. Section 221 agreements.
Sec. 44. Cabin site leases.
Sec. 45. San Luis Rey, California.
Sec. 46. Land conveyances.
Sec. 47. Alternatives to mud dump site for disposal of dredged material.
Sec. 48. Big South Fork National River and Recreation Area.
Sec. 49. Construction of Virgin Islands projects by Secretary of the Army.
Sec. 50. Protection of recreation project purposes.
Sec. 51. Liberty, Ohio.
Sec. 52. Washingtonville, Ohio.
Sec. 53. Albermarle Sound-Roanoke River Basin, North Carolina.
Sec. 54. Cranston, Rhode Island.
Sec. 55. Santa Rosa, California.
Sec. 56. Generation facilities.
Sec. 57. Flat Rock, Michigan.
Sec. 58. Warroad Harbor, Minnesota.
Sec. 59. Rondout Creek and Wallkill River, New York and New Jersey.
Sec. 60. Struthers, Ohio.
Sec. 61. Virginia Beach, Virginia.
Sec. 62. Youngstown, Ohio.
Sec. 63. Maysville, Kentucky.
Sec. 64. Southwest Region Flood Response Commission.
Sec. 65. Rehabilitation of Federal flood control levees.
Sec. 66. Flood warning system.
Sec. 67. Rend Lake water storage contract extension.
Sec. 68. Caesar's Creek Lake, Ohio.
Sec. 69. Declaration of nonnavigability for portions of Lake Erie.
Sec. 70. Wetlands enhancement opportunities.
Sec. 71. Radium removal demonstration program.
Sec. 72. Studies.
Sec. 73. Lake of the Woods, Minnesota.
Sec. 74. New York Harbor, New York.
Sec. 75. Project deauthorizations.
Sec. 76. Half Moon Bay Harbor.
Sec. 77. Annual obligation ceilings.
Sec. 78. Raystown Lake, Pennsylvania.
Sec. 79. Addition of Columbiana County, Ohio to Appalachian Regional Development Program.
Sec. 80. Exchange Rate Demonstration Project, Lockwood's Folly Inlet, North Carolina.
Sec. 81. Rio Grande American Canal extension.
Sec. 82. Buy American.
Sec. 83. Conveyance of Oakland Inner Harbor Tidal Canal property to cities of Oakland and Alameda, California.
Sec. 84. Conveyance of lands located near Lewisville Dam and Garza-Little Elm Reservoir, Denton County, Texas.

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORT OF THE CHIEF OF ENGINEERS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this subsection:

(1) BAYOU LA BATRE, ALABAMA.—The project for navigation for Bayou La Batre, Alabama: Report of the Chief of Engineers, dated August 3, 1989, at a total cost of $16,230,000, with an estimated first Federal cost of $4,490,000 and an estimated first non-Federal cost of $11,740,000.

(2) HOMER SPIT, ALASKA.—The project for storm damage prevention, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of $4,700,000, with an estimated first Federal cost of $3,050,000 and an estimated first non-Federal cost of $1,650,000.

(3) CLIFTON, SAN FRANCISCO RIVER, ARIZONA.—The project for flood control on the San Francisco River at Clifton, Arizona, authorized by section 401(d) of the Water Resources Development Act of 1986 (100 Stat. 4130), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated September 6, 1988, at a total cost of $12,510,000, with an estimated first Federal cost of $9,150,000 and an estimated first non-Federal cost of $3,360,000.

(4) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona: Report of the Chief of Engineers, dated February 28, 1989, at a total cost of $11,100,000, with an estimated first Federal cost of $8,300,000 and an estimated first non-Federal cost of $2,800,000. The Secretary shall cooperate with the Government of Mexico as necessary to provide for flood warning gauges in Mexico.

(5) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, at a total cost of $56,300,000, with an estimated first Federal cost of $39,000,000 and an estimated first non-Federal cost of $17,300,000.

(6) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation and storm damage reduction, Oceanside Harbor, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of $5,100,000, with an estimated first Federal cost of $3,350,000 and an estimated first non-Federal cost of $1,750,000.

(7) VENTURA HARBOR, CALIFORNIA.—The project for navigation, Ventura Harbor, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of $6,455,000, with an estimated first Federal cost of $5,175,000 and an estimated first non-Federal cost of $1,280,000.

(8) MARTIN COUNTY, FLORIDA.—The project for storm damage reduction, Martin County, Florida: Report of the Chief of Engineers dated November 20, 1989, at a total first cost of $9,400,000, with an estimated first Federal cost of $3,850,000 and an estimated first non-Federal cost of $5,550,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Florida: Report of the Chief of Engineers dated September 25, 1989, at a total cost of $67,100,000, with an estimated first Federal cost of $42,810,000 and an estimated first non-Federal cost of $24,290,000.

(10) MCALPINE LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, McAlpine Lock and Dam, Indiana and Kentucky: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $219,600,000, with a first Federal cost of $219,600,000. The Federal share of costs of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(11) FORT WAYNE, ST. MARY'S AND MAUMEE RIVERS, INDIANA.—The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana: Report of the Chief of Engineers, dated May 1, 1989, at a total cost of $35,618,400, with an estimated first Federal cost of $26,493,000 and an estimated first non-Federal cost of $9,125,400.

(12) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette Area, Louisiana: Report of the Chief of Engineers dated April 11, 1990, at a total cost of $8,283,000, with an estimated first Federal cost of $6,212,000 and an estimated first non-Federal cost of $2,071,000.

(13) BOSTON HARBOR, MASSACHUSETTS.—The project for navigation, Boston Harbor, Massachusetts: Report of the Chief of Engineers, dated May 11, 1989, at a total cost of $26,200,000, with an estimated first Federal cost of $16,230,000 and an estimated first non-Federal cost of $9,970,000.

(14) ECORSE CREEK, WAYNE COUNTY, MICHIGAN.—The project for flood control, Ecorse Creek, Wayne County, Michigan: Report of the Chief of Engineers, dated August 8, 1989, at a total cost of $9,296,000, with an estimated first Federal cost of $6,754,000 and an estimated first non-Federal cost of $2,542,000.

(15) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN AND MINNESOTA.—The project for navigation, Great Lakes Connecting Channels and Harbors, Michigan and Minnesota: Report of the Chief of Engineers, dated January 30, 1990, at a total cost of $13,148,400, with an estimated first Federal cost of $8,791,700 and an estimated first non-Federal cost of $4,356,700.

(16) COLDWATER CREEK, MISSOURI.—The project for flood control, Coldwater Creek, Missouri: Report of the Chief of Engineers, dated August 9, 1988, at a total cost of $22,829,000, with an estimated first Federal cost of $15,496,000 and an estimated first non-Federal cost of $7,333,000.

(17) RIVER DES PERES, MISSOURI.—The project for flood control, River Des Peres, Missouri: Report of the Chief of Engineers, dated May 23, 1989, at a total cost of $21,318,000, with an estimated first Federal cost of $15,846,000 and an estimated first non-Federal cost of $5,472,000.

(18) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—

(A) FLOOD CONTROL ELEMENTS.—

(i) IN GENERAL.—The project for flood control, Passaic River Main Stem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, except that the main diversion tunnel shall be extended to include the outlet to Newark Bay, New Jersey, at a total cost of $1,200,000,000, with an estimated first Federal cost of $890,000,000 and an estimated first non-Federal cost of $310,000,000.

(ii) DESIGN AND CONSTRUCTION.—The Secretary shall design and construct the project in accordance with the Newark Bay tunnel outlet alternative described in the Phase I General Design Memorandum of the District Engineer dated December 1987. As such, the main diversion tunnel shall be extended approximately six and one-half miles to outlet in Newark Bay, the nine levee systems in Bergen, East Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded

from the project, and no dikes or levees shall be constructed or necessitated along the Passaic River in Bergen County in connection with the project. With the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded nine levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, shall be prohibited. The Secretary shall certify to the House of Representatives Committee on Public Works that no detrimental flood impact, as a result of the project, shall accrue in Bergen County.

(iii) APPLICABILITY OF COST SHARING.—Except as otherwise provided in this paragraph, the total project, including the extension to Newark Bay, shall be subject to cost sharing in accordance with section 103 of the Water Resources Development Act of 1986.

(iv) OPERATION AND MAINTENANCE.—The non-Federal sponsor shall maintain and operate the project after its completion in accordance with the regulations prescribed by the Secretary; except that the Secretary shall operate and maintain the diversion tunnels element, including inlet and outlet works, at full Federal expense.

(v) CREDIT FOR NON-FEDERAL WORK.—In recognition of the State of New Jersey's commitment to the project on June 28, 1984, all work subsequently completed by the State or other non-Federal interests which is either compatible with or complementary to the project shall be considered as part of the project and shall be credited by the Secretary toward the non-Federal share of the cost of the project. Such work shall include, but not be limited to, those activities specified in the letter of the New Jersey Department of Environmental Protection, dated December 9, 1988, to the Office of the Chief of Engineers. However, only the portion of such work that meets the guidelines established under section 104 of the Water Resources Development Act of 1986 shall be considered as project costs for economic purposes. In applying such section 104 to the project, the Secretary shall likewise consider work carried out by non-Federal interests after June 28, 1984, and before the date of the enactment of this Act that otherwise meets the requirements of such section 104.

(B) STREAMBANK RESTORATION MEASURES.—The project shall include the construction of environmental and other streambank restoration measures (including bulkheads, recreation, greenbelt, and scenic overlook facilities) on the west bank of the Passaic River between Bridge and Jackson Streets in the city of Newark, New Jersey, at a total cost of $6,000,000. The non-Federal share of the project element authorized by this subparagraph shall be 25 percent. The value of the lands, easements, and rights-of-way provided by non-Federal interests shall be credited to the non-Federal share. Construction of the project element authorized by this subparagraph may be undertaken in advance of the other project features and shall not await implementation of the overall project.

(C) WETLANDS BANK.—

(i) ESTABLISHMENT.—The State of New Jersey shall establish a Passaic River Central Basin Wetlands Bank (hereinafter in this paragraph referred to as the "Wetlands Bank") to be comprised of lands which are acquired before, on, or after the date of the enactment of this Act by the State or any other non-Federal interest and which lie within the Passaic River Central Basin, New Jersey, natural storage area discussed in the report of the Chief Engineers and the Phase I General Design Memorandum.

(ii) USE.—The Wetlands Bank shall be available for mitigation purposes required under Federal or State law with respect to non-Federal activities carried out in the State.

(iii) COMPENSATION.—The State may receive compensation for making lands available under clause (ii).

(iv) STATE OWNERSHIP AND OPERATION.—The State shall continue to own and operate, consistent with the purposes of the project authorized by this paragraph, lands made available for mitigation purposes under clause (ii).

(v) ACQUISITION OF ADDITIONAL LANDS.—The State or other non-Federal interests may acquire for the Wetlands Bank additional lands which are in, adjacent to, or provide drainage for runoff and streamflows into the storage area described in clause (i) and may use funds provided by sources other than the State for such purpose. Such lands shall include transition and buffer areas adjacent to the Central Basin natural storage wetlands, and other Passaic River Basin areas, including the Rockaway, Pequannock, Ramapo, and Wanaque River watershed areas.

(vi) CREDIT.—The fair market value of lands acquired by the State or other non-Federal interests in the storage area described in clause (i) before, on, or after the date of the enactment of this Act, the fair market value of lands acquired for the Wetlands Bank under clause (v) before, on, or after such date of enactment, and the costs incurred by the State or other non-Federal interests in converting any of such lands to wetlands shall be credited to the non-Federal share of the project authorized by this paragraph.

(vii) TREATMENT OF ACQUIRED LANDS.—Lands acquired by the State for the Wetlands Bank shall not be treated as a project cost for purposes of economic evaluation of the project.

(19) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio De La Plata, Puerto Rico: Report of the Chief of Engineers, dated January 3, 1989, at a total cost of $58,968,000, with an estimated first Federal cost of $35,900,000 and an estimated first non-Federal cost of $23,068,000.

(20) MYRTLE BEACH, SOUTH CAROLINA.—The project for storm damage reduction, Myrtle Beach, South Carolina: Report of the Chief of Engineers, dated March 2, 1989, at a total cost of $59,730,000, with an estimated first Federal cost of $38,820,000 and an estimated first non-Federal cost of $20,910,000.

(21) BUFFALO BAYOU AND TRIBUTARIES, TEXAS.—The project for flood control, Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers dated February 12, 1990, at a total cost of $727,364,000, with an estimated first Federal cost of $403,359,500 and an estimated first non-Federal cost of $324,004,500.

(22) RAY ROBERTS LAKE, GREENBELT, TEXAS.—The multiple purpose project, Ray Roberts Lake, Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965, is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers, dated December 24, 1987, at a total cost of $8,503,000, with an estimated first Federal cost of $3,189,000 and an estimated first non-Federal cost of $5,314,000.

(23) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah: Report of the Chief of Engineers, dated November 16, 1988, at a total cost of $7,900,000, with an estimated first Federal cost of $5,200,000 and an estimated first non-Federal cost of $2,700,000.

(24) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia: Report of the Chief of Engineers, dated June 27, 1990, at a total cost of $55,100,000, with an estimated first Federal cost of $41,300,000 and an estimated first non-Federal cost of $13,800,000.

(25) PETERSBURG, WEST VIRGINIA.—The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $17,904,000, with an estimated first Federal cost of $10,044,000 and an estimated first non-Federal cost of $7,860,000.

(b) PROJECTS SUBJECT TO FAVORABLE REPORT OF THE CHIEF OF ENGINEERS.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited with such modifications as are recommended in a final report of the Chief of Engineers and approved by the Secretary and with such other modifications as are recommended by the Secretary (and if no report is cited for a project the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers and with such other modifications as are recommended by the Secretary) and no construction on such a project may be initiated until such a report of the Chief of Engineers is issued:

(1) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County drainage area, California, at a total cost of $327,000,000, with an estimated first Federal cost of $163,500,000 and an estimated first non-Federal cost of $163,500,000.

(2) MORRO BAY, CALIFORNIA.—The project for navigation, Morro Bay, California, to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet and thereafter maintain such channel at such depth, at a total cost of $1,900,000.

(3) NORCO BLUFFS, CALIFORNIA.—The project for bank stabilization and erosion control, Norco Bluffs, California, at a total cost of $10,000,000.

(4) JEFFERSON PARISH, LOUISIANA.—The project for hurricane protection, Jefferson Parish, Louisiana, at a total cost of $250,000,000, with an estimated first Federal cost of $166,500,000 and an estimated first non-Federal cost of $83,500,000.

(5) LOCKS AND DAMS 2 AND 3, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2 and 3, Monongahela River, Pennsylvania, including replacement of locks and dams and related improvements as appropriate, at a total cost of $450,000,000, with a first Federal cost of $450,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(6) MARMET LOCK AND DAM, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock and Dam, Kanawha River, West Virginia, at a total cost of $300,000,000, with a first Federal cost of $300,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the

general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

SEC. 4. PROJECT MODIFICATIONS.

(a) VILLAGE CREEK, ALABAMA.—The project for flood control, Village Creek, Alabama, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4111), is modified to authorize the Secretary to acquire private vacant lands within the definite project boundaries established in the Real Estate Design Memorandum, dated March 4, 1988, as a nonstructural element of the project.

(b) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—Section 4(d) of the Water Resources Development Act of 1988 (102 Stat. 4015) is amended by inserting after "approved by the Secretary" in the first sentence the following: "or which, after the date of issuance of a report of the Chief of Engineers for such project, is included in such report".

(c) OAKLAND INNER HARBOR, CALIFORNIA.—The project for navigation, Oakland Inner Harbor, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified—

(1) to provide that the maximum amount reimbursable to non-Federal interests by the Secretary under section 215 of the Flood Control Act of 1968 with respect to the project shall be $10,000,000; and

(2) to direct the Secretary to enforce the navigational servitude with respect to construction of the project on a reimbursable basis if requested by a non-Federal sponsor of the project.

(d) SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA.—The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to direct the Secretary, if requested by a non-Federal sponsor, to enforce, on a reimbursable basis, the terms of any permit issued by the Secretary under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, to compel the relocation of any utility necessitated by the construction of an authorized navigation project.

(e) SANTA ANA MAINSTEM, CALIFORNIA.—The project for flood control, Santa Ana Mainstem, including Santiago Creek, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), is modified to authorize the Secretary to develop recreational trails and facilities on lands between Seven Oaks Dam and Prado Dam, including flood plain management areas.

(f) SANTA FE DAM, LOS ANGELES AND SAN GABRIEL RIVERS, CALIFORNIA.—

(1) IN GENERAL.—The Santa Fe Dam project authorized as part of the flood control project for the Los Angeles and San Gabriel Rivers, California, by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1589), is modified to authorize the Secretary to contract for the removal and sale of dredged material from the flood control basin for Santa Fe Dam, Los Angeles County, California, for the purposes of facilitating flood control, recreation, and water conservation. All funds received by the Secretary from the removal and sale of such dredged material shall be deposited in the general fund of the Treasury.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1990, an amount not to exceed the amount of funds received by the Secretary from the removal and sale of dredged material under subsection (a). Amounts appropriated under this subsection shall be available to the Secretary—

(A) to construct, operate, and maintain recreational facilities at the Santa Fe Dam project, at full Federal expense; and

(B) to the extent consistent with other authorized project purposes, to facilitate, in coordination with the county of Los Angeles, water conservation and ground water recharge measures at the Sante Fe Dam project, at full Federal expense.

(g) SANTA PAULA CREEK CHANNEL AND DEBRIS BASIN, SANTA CLARA RIVER BASIN, CALIFORNIA.—The project for flood control, Santa Paula Creek Channel and Debris Basin, Santa Clara River Basin, California, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1178), is modified to direct the Secretary to construct the debris basin feature of the project at the Mupu site in accordance with General Design Memorandum Number 4, Supplemental Design for Santa Paula Creek Channel, March 1972, at a total cost of $41,000,000.

(h) DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.—The project for navigation, inland waterway from the Delaware River to the Chesapeake Bay, Delaware and Maryland, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030), and modified by the Act entitled "An Act authorizing construction of a highway bridge across the Chesapeake and Delaware Canal at Saint Georges, Delaware", approved August 7, 1939 (53 Stat. 1240-1241), is modified to direct the Secretary to replace the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to meet current and projected traffic needs, at a Federal cost of $115,000,000. The State may carry out the bridge replacement. If the State carries out the bridge replacement, the Secretary may reimburse the State for costs incurred.

(i) ALAFIA CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Rivers and Harbors Act of September 22, 1922 (42 Stat. 1042), is modified to authorize the Secretary to maintain the Alafia Channel at a depth of 34 feet.

(j) FERNANDINA HARBOR, FLORIDA.—The project for navigation, Fernandina Harbor, Florida, authorized by the River and Harbor Appropriation Act of June 14, 1880, is modified to redesignate the location of the turning basin between stations 0+00 of cut 8 and 5+45 of cut 10 to the area between stations 11+70 and 23+30 of cut 5. Such redesignation shall remain in effect until the ongoing study of Fernandina Harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed.

(k) KISSIMMEE RIVER, CENTRAL AND SOUTHERN FLORIDA.—

(1) IN GENERAL.—The flood control project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is modified to provide for restoration of the Kissimmee River for environmental purposes, at an estimated total cost of $270,000,000. Such restoration includes filling of Canal C-38, removal of spillway structures and locks, and increasing the storage in the upper Kissimmee basin and shall minimize to the fullest extent possible any effect on the project's flood control and navigation purposes.

(2) REPORT OF CHIEF OF ENGINEERS.—The Secretary may undertake restoration of the Kissimmee River under this subsection only in accordance with a final report of the Chief of Engineers, including such modifications as the Secretary may recommend, which is based on the Level II Backfilling plan recommended by the South Florida Water Management District in the report entitled "Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design Report".

(3) NON-FEDERAL SHARE.—Non-Federal interests shall provide without cost to the United States all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project authorized by this subsection, except that the aggregate non-Federal share for the project shall not exceed 50 percent of the total cost of the project. In the event that the value of lands, easements, rights-of-way, relocations, and disposal areas is less than 25 percent of the total first cost of the project, non-Federal interests shall pay, during the period of construction, such amounts as may be necessary to make the total non-Federal contribution equal 25 percent. The non-Federal interests shall provide 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project. In addition, the non-Federal interests shall hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors.

(l) MANATEE HARBOR, FLORIDA.—The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), is modified to direct the Secretary to construct the project substantially in accordance with the post authorization change report, dated April 1990, at an estimated total cost of $27,589,000, with an estimated first Federal cost of $12,381,000 and an estimated first non-Federal cost of $15,208,000.

(m) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida, authorized by section 3 of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to direct the Secretary, in cooperation with the State of Florida, to renourish the southern beaches of Fernandia (south Amelia Island), Florida, from Florida Department of Natural Resources Monument Number 60 to Monument Number 74. The non-Federal share of the cost of such renourishment shall be 50 percent.

(n) PORT SUTTON CHANNEL, FLORIDA.—Section 3(a)(4) of the Water Resources Development Act of 1988 (102 Stat. 4013) is amended by striking "; except" and all that follows through "beneficiary".

(o) FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, INDIANA.—The Falls of the Ohio National Wildlife Conservation Area, Indiana, authorized by title II of Public Law 97-137, is modified to authorize the Secretary to design and construct an interpretive center for such area, at a total cost of $1,500,000, with an estimated first Federal cost of $750,000 and an estimated first non-Federal cost of $750,000.

(p) DES MOINES RIVER AND GREENBELT, IOWA.—

(1) AREA DESCRIPTION.—The project for Des Moines Recreational River and Greenbelt, Iowa, authorized by the Supplemental Appropriations Act, 1985 (99 Stat. 313), is modified to include the area described in the Des Moines Recreational River and Greenbelt map, which description is printed in

Committee Print 101-47 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990.

(2) FORMER AREA DESCRIPTION.—Section 604 of the Water Resources Development Act of 1986 (100 Stat. 4153) is repealed.

(q) KENTUCKY RIVER, KENTUCKY.—The project for the disposition of Kentucky River, Kentucky, Locks and Dams 5 through 14, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4109), is modified to provide that the Secretary may not proceed with such disposition until the Secretary has performed major maintenance on the lock and dam structures. Such major maintenance is to include resurfacing of lock chamber walls, timber replacement, valve repair, and gate leaf replacement, at a total cost of $3,500,000. Until such time as the lock and dam facilities are transferred to non-Federal interests, the Secretary shall perform routine maintenance that is necessary to prevent permanent failure of project components and to maintain operational capability.

(r) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection for the Ohio River Basin, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to carry out a project for flood protection for South Frankfort, Kentucky, in accordance with plan R-1 of the Louisville District Commander's Re-evaluation Report, dated June 1990. The level of protection shall be no less than afforded North Frankfort, Kentucky. In addition, the Secretary shall execute a local cooperation agreement for the project for South Frankfort not later than October 1991.

(s) LAKE PONTCHARTRAIN, LOUISIANA.—(1) Federal responsibility.—The project for flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to make construction, operation, and maintenance of the project a Federal responsibility. The modification made by this paragraph shall take effect January 1, 1966.

(2) RAISING OF LEVEES.—The project referred to in paragraph (1) is further modified to direct the Secretary to raise the levees along the entire lengths of the London Avenue Canal and the Orleans Avenue Canal in New Orleans, Louisiana, to grades sufficient to provide flood protection against a 300-year hurricane.

(t) BUFFUMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffumville Lake, Massachusetts, authorized by the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to authorize the Secretary to undertake low flow augmentation for improving water quality on the French River.

(u) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—The navigation project for replacement of locks and dam 26, Mississippi River, Alton, Illinois and Missouri, authorized by section 102 of Public Law 95-502, is modified to authorize the Secretary to provide project-related recreation development in the State of Illinois, that requires no separable project lands, and includes site preparations and infrastructure for a marina and docking facilities, access roads and parking, a boat launching ramp, hiking trails, and picnicking facilities, at a Federal construction cost that will not increase the overall project cost estimate for recreation development. The recreation development shall be subject to cost-sharing with the State of Illinois and costs incurred by non-Federal public interests for items of work that may have been completed before the date of the enactment of this Act may be credited to the non-Federal share of the overall cost if, in the Secretary's opinion, such work is directly related to and necessary for project-related recreation development described in the preceding sentence.

(v) CROOKED AND INDIAN RIVERS, MICHIGAN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Crooked and Indian Rivers, Michigan, authorized by the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes", approved September 3, 1954 (68 Stat. 1248), is modified to authorize the Secretary to enter into agreements with the State of Michigan and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) TERMS AND CONDITIONS.—The agreements referred to in paragraph (1) may—

(A) contain such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States; and

(B) require the Secretary to make payments to the State of Michigan to cover the costs of operation, maintenance, and repair of such project for lake level regulation and other flood control purposes, including payments made in advance of such costs being incurred by the State.

(3) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation and maintenance of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with such project which are not covered by payments made by the Secretary under this subsection.

(w) ROUGE RIVER, MICHIGAN.—The multipurpose project at Rouge River, Michigan, authorized by the Act of August 30, 1935 (49 Stat. 1036-1037), is modified to authorize and direct the Secretary, in consultation with appropriate State and local agencies, to conduct a 1-year comprehensive study of the Rouge River streamflow enhancement project at the Rouge River, Huron River, and Belleville Lake for the purpose of identifying measures which will optimize achievement of the project's purposes while preserving and enhancing the quality of the Rouge River, Huron River, and Belleville Lake for current and future users. Upon completion of the study, the Secretary shall undertake a demonstration project at the Rouge River to determine the effectiveness of measures identified in such study, at a total cost of $88,183,000, with an estimated Federal share of $19,612,000 and an estimated non-Federal share of $68,571,000.

(x) REDWOOD RIVER, MARSHALL, MINNESOTA.—The project for flood control, Redwood River at Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117) and modified by section 4(k) of the Water Resources Development Act of 1988, is modified to provide that the costs of the project are as follows: The total cost of the project is $9,632,000, with an estimated first Federal cost of $7,823,000 and an estimated first non-Federal cost of $1,809,000.

(y) MISSISSIPPI RIVER, ST. PAUL, MINNESOTA.—The project for flood control, Mississippi River at St. Paul, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to construct the project substantially in accordance with the Design Memorandum, dated March 1990, and the Recreational Supplement, dated April 1990, at a total cost of $18,021,000, with an estimated first cost of $10,226,000 and an estimated first non-Federal cost of $7,795,000.

(z) SOUTH FORK ZUMBRO RIVER WATERSHED, ROCHESTER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed at Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum of the Chief of Engineers, dated September 1982, at a total cost of $112,000,000, with an estimated first Federal cost of $82,900,000 and an estimated first non-Federal cost of $29,700,000.

(aa) PEARL RIVER BASIN, MISSISSIPPI.—Section 401(e)(3) of the Water Resources Development Act of 1986 (100 Stat. 4132) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B)(vi) and inserting "; and";

(3) by inserting after subparagraph (B)(vi) the following new subparagraph:

"(C) for measures to provide flood protection for the Jackson metropolitan area, Mississippi, and all areas affected by flooding of the Pearl River downstream of the areas covered by subparagraph (B) in the State of Mississippi, including the counties of Rankin, Hinds, Simpson, Lawrence, Marion, and Madison, Mississippi."; and

(4) by adding at the end the following new sentence:

"In carrying out the projects and measures described in subparagraphs (A), (B), and (C), the Secretary shall consult with local governmental entities affected by such projects.".

(bb) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1969, as revised in January 1990, at a total cost of $26,200,000, with an estimated first Federal cost of $16,090,000 and an estimated first non-Federal cost of $10,110,000.

(cc) ACEQUIAS SYSTEM, NEW MEXICO.—The irrigation system project, New Mexico, authorized by section 1113 of the Water Resources Development Act of 1986 (100 Stat. 4232), is modified to provide that the costs of the project are as follows: The total cost of the project is $73,300,000, with an estimated first Federal cost of $55,000,000 and an estimated first non-Federal cost of $18,300,000.

(dd) NEW YORK HARBOR DRIFT REMOVAL PROJECT, NEW YORK AND NEW JERSEY.—

(1) REMOVAL OF FLOATING MATERIAL.—The New York Harbor collection and removal of

drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), is modified to authorize the Secretary to collect and remove floating material whenever the Secretary is collecting and removing debris which is an obstruction to navigation.

(2) CONTINUATION.—The Secretary shall continue engineering, design, and construction on the New York Harbor collection and removal of drift project, including construction of the 2nd phase in the Jersey City North reach which shall include remaining piers and debris in the Harsimus Cove area, construction of the Brooklyn II reach, and engineering and design for the remaining unconstructed reaches.

(3) BARGE REMOVAL.—As part of the New York Harbor collection and removal of drift project, the Secretary shall expedite necessary engineering, design, and removal of 7 abandoned barges from the Passaic River in Kearny, Nutley, and Passaic, New Jersey.

(4) PROHIBITION ON BURNING OF WOOD.—The New York Harbor collection and removal of drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), including construction described in paragraph (2) of this subsection, is further modified to provide that, after December 31, 1991, no material collected by the Secretary under the project may be disposed of by burning on ocean waters.

(ee) IRONDEQUOIT BAY, NEW YORK.—The navigation project for Irondequoit Bay, New York, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299), is modified to authorize the Secretary to construct a highway bridge across the new channel constructed as part of such project if non-Federal interests—

(1) agree to be responsible for operation and maintenance of such bridge,

(2) agree to pay 50 percent of the cost of such construction, and

(3) agree that title to such bridge will be held by non-Federal interests.

(ff) WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project in accordance with the Post Authorization Change Notification Report, dated April 1990, at a total cost of $28,694,000, with an estimated first Federal cost of $12,338,910 and an estimated first non-Federal cost of $16,355,090.

(gg) CLEVELAND HARBOR, OHIO.—The project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to direct the Secretary to reimburse the non-Federal sponsor for the Federal share of amounts expended by the non-Federal sponsor for improvements to Pier 34 of such project.

(hh) HARSHA LAKE, OHIO.—

(1) PROJECT MODIFICATION.—The project for flood control, water supply, and recreation, Harsha Lake, Ohio, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to provide that any water supply storage assigned to the State of Ohio which is not used by such State for water supply purposes before October 1, 1991, shall be reassigned to the Clermont County Board of Commissioners.

(2) MAXIMUM AMOUNT.—The maximum amount of water supply storage which may be reassigned under paragraph (1) is an amount of storage sufficient to yield 20,000,000 gallons of water a day.

(3) TERMS AND CONDITIONS.—Water supply storage provided to the Clermont County Board of Commissioners pursuant to a reassignment under paragraph (1) shall be subject to the same terms and conditions as water supply storage provided to the State of Ohio, including prepayment based on original project investment costs.

(4) REIMBURSEMENT.—Upon a reassignment of water supply storage under paragraph (1), the Clermont County Board of Commissioners shall reimburse the State of Ohio for amounts previously paid by the State to the Secretary for costs which are attributable to water supply storage which has been so reassigned.

(ii) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio, authorized by section 3(a) of the Water Resources Development Act of 1988 (102 Stat. 4014), is modified to increase the total cost of the project to $90,000,000.

(jj) CANTON LAKE, OKLAHOMA.—The second paragraph under the heading "ARKANSAS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 647), as amended by the first paragraph under the heading "ARKANSAS RIVER BASIN" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is amended—

(1) by striking "Enid, Oklahoma" and inserting "Oklahoma City, Oklahoma"; and

(2) by adding at the end the following: "Not later than 180 days after the date of the enactment of the Water Resources Development Act of 1990, the Secretary of the Army is directed (subject to agreement between the city of Oklahoma City, Oklahoma, or the Oklahoma City Municipal Improvement Authority and the city of Enid, Oklahoma, providing for such reassignment) to reassign to the city of Oklahoma City all the municipal and industrial storage in the Canton Reservoir for the city of Enid and all irrigation storage to municipal and industrial water supply storage (under the terms of the Water Supply Act of 1958 (72 Stat. 319-320)); except that if the city of Oklahoma City contracts for permanent municipal and industrial water supply storage under this Act, the city of Oklahoma City shall receive credit for amounts previously paid by it, or on its behalf, toward the principal investment cost for storage under prior term contracts and other payments. The principal amount to be paid by the city of Oklahoma City shall be the proportional amount of original project construction cost for which the city of Oklahoma City contracts for storage and at the original project interest rate over a 50-year payback amortization schedule beginning in 1955.".

(kk) DELAWARE RIVER, PENNSYLVANIA, NEW JERSEY, AND DELAWARE.—The project for navigation, Delaware River, Pennsylvania, New Jersey, and Delaware, Philadelphia to the Sea, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, is modified to authorize the Secretary to make improvements to the Tioga Marine Terminal, at a total cost of $2,700,000. Such improvements include piling replacement, a new pier fendering system, paving, deck replacement, lighting, and fencing.

(ll) LOCK AND DAM 7 REPLACEMENT, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Lock and Dam 7 Replacement, Monongahela River, Pennsylvania, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), is modified to provide that the dam structure will be gated instead of fixed crest and to increase the total cost of the project to $133,000,000.

(mm) ROCHESTER, PENNSYLVANIA.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by section 13 of the River and Harbor Act of 1909 (35 Stat. 831), is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $90,000.

(nn) SOUTHERN BRANCH OF THE ELIZABETH RIVER, NORFOLK HARBOR, VIRGINIA.—The project for navigation, Southern Branch of the Elizabeth River, Norfolk Harbor, Virginia, authorized by the Water Resources Development Act of 1976 (90 Stat. 2917), is modified to provide that the City of Chesapeake shall not be required to make payments after the date of the enactment of this Act under the cost-sharing agreement which the City entered into with the United States with respect to such project.

(oo) COOPER LAKE AND CHANNELS, TEXAS.—The project for mitigation of fish and wildlife resource losses, Cooper Lake and Channels, Texas, authorized by section 601 of the Water Resources Development Act of 1986 (100 Stat. 4145), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Notification Report dated April 1990, at a total cost of $22,500,000, with an estimated first Federal cost of $12,400,000 and an estimated first non-Federal cost of $10,100,000.

(pp) DENISON, TEXAS.—The Act entitled "An Act to authorize the utilization of a limited amount of storage space in Lake Texoma for the purpose of water supply for the city of Denison, Texas", approved August 14, 1953 (67 Stat. 583), is amended by striking "in an amount not to exceed 13,000 acre-feet annually".

(qq) MCNARY LOCK AND DAM, WASHINGTON AND OREGON.—The project for McNary Lock and Dam, Second Powerhouse, Columbia River, Washington and Oregon, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4146), is modified to direct the Secretary to construct the levee beautification portion of the project described in the Phase I General Design Memorandum: Report of the Chief of Engineers, dated June 24, 1981. In determining the new levee heights, the Secretary shall complete the feasibility studies underway for the Tri-Cities Levees, Washington, giving full consideration to the impact that present upstream reservoir storage has had in lowering water surface elevations during major floods.

(rr) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—

(1) MINIMIZATION OF DRIFT AND DEBRIS RELEASE.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to minimize the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report detailing the Secretary's progress in carrying out paragraph (1).

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect the authority of the Secretary to carry out other authorized purposes of the project referred to in paragraph (1); except that no policy or priority established by the Secretary shall be used to defer or impede the implementation of the measures described in paragraph (1).

(ss) MATEWAN, WEST VIRGINIA.—The project for flood control, Matewan, West Virginia, authorized by section 202 of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to provide that the flood control project for Hatfield Bottom, West Virginia, shall be treated as being an inseparable element of the Matewan project for purposes of section 103 of the Water Resources Development Act of 1986.

(tt) WISCONSIN AND FOX RIVERS, WISCONSIN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Wisconsin and Fox Rivers, Wisconsin, authorized to be acquired pursuant to the Act entitled "An Act for the Improvement of Water Communication between the Mississippi River and Lake Michigan, by the Wisconsin and Fox Rivers", approved July 7, 1870 (16 Stat. 189), is modified to authorize the Secretary to enter into agreements with the State of Wisconsin and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation, maintenance, and repair of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with the project.

SEC. 5. PRIVATE SECTOR DEVELOPMENT OF INFRASTRUCTURE.

(a) MARKET FEASIBILITY PROGRAM.—The Secretary, in cooperation with non-Federal interests, is authorized to carry out, during the 3-year period beginning on the date of the enactment of this Act, a market feasibility program for the purpose of determining what opportunities exist for private sector development of facilities for water, waste management, and energy generation and other critical support facilities.

(b) COOPERATIVE AGREEMENTS.—To carry out subsection (a), the Secretary may enter into cooperative agreements with non-Federal entities, including State and local governments, colleges and universities, corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of a State, the District of Columbia, or a territory or possession of the United States. The Secretary may not agree to provide more than 50 percent of the costs incurred under such an agreement.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress on implementation of this section. Such report shall include any recommendations of the Secretary concerning modification and extension of the program carried out under this section.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 to carry out this section.

SEC. 6. PLANNING AND ENGINEERING.

Section 105(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(b)) is amended by adding at the end the following new sentence: "This subsection shall not apply to planning and engineering of projects for which non-Federal interests contributed 50 percent of the cost of the feasibility study.".

SEC. 7. FUNDING OF COSTS ASSIGNED TO COMMERCIAL NAVIGATION.

Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting the following:

"(2) not more than 100 percent of the eligible operation and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States.".

SEC. 8. EMERGENCY RESPONSE.

The first sentence of section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended—

(1) by striking "flood emergency preparation," and inserting "preparation for emergency response to any natural disaster,"; and

(2) by striking the period at the end and inserting the following: "; or for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disaster.".

SEC. 9. CONSTRUCTION OF NAVIGATION PROJECTS BY NON-FEDERAL INTERESTS.

(a) TRANSMISSION OF HARBOR IMPROVEMENT STUDIES TO NON-FEDERAL INTERESTS.—Section 204(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(c)) is amended by inserting after the first sentence the following new sentence: "The Secretary is further authorized to complete and transmit to the appropriate non-Federal interest any study for improvement to harbors or inland harbors of the United States that is initiated pursuant to section 107 of the River and Harbor Act of 1960 or, upon request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest.".

(b) REIMBURSEMENT.—Section 204 of such Act is amended—

(1) by redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively;

(2) in paragraph (1) of the first subsection (e) by inserting "including any small navigation project approved pursuant to section 107 of the River and Harbor Act of 1960," after "or separable element thereof,"; and

(3) in paragraph (1)(A) of the first subsection (e) by inserting "(or, in the case of a small navigation project, after completion of a favorable project report by the Corps of Engineers)" after "authorization of the project".

SEC. 10. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.

(a) REVIEW OF PROJECT OPERATIONS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), is amended by striking "before the date of enactment of this Act".

(b) MODIFICATION PROGRAM.—Section 1135(b) of such Act is amended—

(1) by striking "demonstration program in the 5-year period beginning on the date of enactment of this Act" and inserting "program"; and

(2) by striking "before the date of enactment of this Act".

(c) REPORT.—Section 1135(d) of such Act as amended to read as follows:

"(d) BIENNIAL REPORT.—Beginning in 1992 and every 2 years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b).".

(d) FUNDING.—Section 1135(e) of such Act is amended by striking "$25,000,000 to carry out this section." and inserting "$15,000,000 annually to carry out this section.".

SEC. 11. ABILITY TO PAY.

Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) GENERAL RULE.—Any cost-sharing agreement under this section for flood control or water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) PROCEDURES.—

"(A) IN GENERAL.—The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

"(B) LIMITATIONS.—The procedures established pursuant to this subsection shall not prescribe a minimum non-Federal share and shall allow for situations in which no cash contribution is required from the non-Federal interest; except that nothing in this subsection shall affect the requirements of a non-Federal interest to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations pursuant to this section. In addition, such procedures shall provide for determination of the eligibility of the non-Federal interest for a reduction in the required cash contribution on the basis of local, not statewide, economic data and for consideration of reductions in non-Federal cash contributions without regard to project benefit-to-cost ratio.

"(C) REGULATIONS.—Not later than the 180th day following the date of the enactment of this subparagraph, the Secretary shall issue regulations establishing the procedures required by this paragraph.".

SEC. 12. ENVIRONMENTAL PROTECTION MISSION.

(a) GENERAL RULE.—The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

(b) LIMITATION.—Nothing in this section affects—

(1) existing Corps of Engineers' authorities, including its authorities with respect to navigation and flood control;

(2) pending Corps of Engineers permit applications or pending lawsuits involving permits or water resources projects; or

(3) the application of public interest review procedures for Corps of Engineers permits.

(c) REPORT.—The Secretary shall, not later than January 1, 1992, and on a biennial basis thereafter, transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the implementation of this section, including—

(1) specific measures taken and agency resources committed to carry out the purposes of this section;

(2) any legal, funding, or policy obstacles encountered or anticipated; and

(3) recommendations for administrative and legislative measures to further the purposes of this section.

SEC. 13. WETLANDS.

(a) GOALS AND ACTION PLAN.—

(1) GOALS.—There is established, as part of the Corps of Engineers water resources development program, an interim goal of no overall net loss of the Nation's remaining wetlands base, as defined by acreage and function, and a long-term goal to increase the quality and quantity of the Nation's wetlands, as defined by acreage and function.

(2) USE OF AUTHORITIES.—The Secretary shall utilize all appropriate authorities, including those to restore and create wetlands, in meeting the interim and long-term goals.

(3) ACTION PLAN.—

(A) DEVELOPMENT.—The Secretary shall develop, in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies, a wetlands action plan to achieve the goals established by this subsection as soon as possible.

(B) CONTENTS.—The plan shall include and identify actions to be taken by the Secretary in achieving the goals and any new authorities which may be necessary to accelerate attainment of the goals.

(C) COMPLETION DEADLINE.—The Secretary shall complete the plan not later than 1 year after the date of enactment of this Act.

(b) RESTORATION AND CREATION.—

(1) RESTORATION OF WETLANDS.—The Secretary is authorized and directed to carry out demonstration projects to restore and create wetlands that will contribute to attainment of the goals established by subsection (a). Projects undertaken pursuant to this section are not intended to satisfy mitigation of past, ongoing, or future wetlands alterations under section 404 of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, but instead to develop technical information to provide greater assurances that wetlands restoration and creation projects succeed.

(2) PROJECT ELEMENTS.—Elements of projects conducted under this subsection shall include—

(A) defining wetland functions which are expected to be restored and maintained giving due consideration to site specific conditions;

(B) conducting research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(C) establishing and reporting design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report on these wetland functions;

(D) creating or restoring sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(E) securing a long-term commitment from a non-Federal interest for the maintenance of the wetlands following the conclusion of the research work.

(3) COORDINATION.—The Secretary shall coordinate with the Environmental Protection Agency, the Tennessee Valley Authority, the Department of the Interior, the Department of Commerce, the Department of Agriculture, States, and others in conducting projects under this subsection.

(4) REPORT.—The Secretary shall report every 2 years to Congress on projects conducted under this subsection.

(c) CONSTRUCTED WETLANDS FOR WASTEWATER TREATMENT.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized and directed to establish and carry out a program to evaluate and demonstrate (A) the use of constructed wetlands for wastewater treatment, and (B) methods by which such projects contribute (i) to meeting the objective of the Federal Water Pollution Control Act to restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and (ii) to attaining the goals established by subsection (a).

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary shall conduct, in geographically diverse regions of the Nation, research and pilot projects utilizing constructed wetlands with a total treatment capacity of not to exceed 200,000,000 gallons per day to determine the technical and economic feasibility of using constructed wetlands systems to treat wastewater from point and nonpoint sources.

(B) RURAL COMMUNITY EMPHASIS.—Emphasis shall be given to siting projects in small and rural communities either lacking wastewater treatment facilities or with substandard facilities.

(C) MUD CREEK.—Notwithstanding any other provision of law, the Secretary shall conduct a project under this subsection to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(3) INTERAGENCY WORKING GROUP.—

(A) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish in the Corps of Engineers an interagency working group on wetlands for wastewater treatment to coordinate, manage, and oversee all phases of the program under this subsection.

(B) MEMBERS.—The working group shall include members of the Corps of Engineers, the Environmental Protection Agency, the Tennessee Valley Authority, the Fish and Wildlife Service, and private individuals or organizations with a demonstrated interest in the use of constructed wetlands for wastewater treatment.

(C) REPORT.—Not later than 2 years after the date of the enactment of this Act, the working group shall transmit to Congress a report evaluating the use of constructed wetlands for treating various sources of wastewater, together with recommendations on methods by which constructed wetlands systems might be utilized to improve local and regional water quality and an analysis of the contributions such systems make to attainment of the goals established by subsection (a).

(d) NON-FEDERAL RESPONSIBILITIES.—For each project conducted under each of subsections (b) and (c), the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices; except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(e) MITIGATION BANK DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary is authorized to establish and implement a demonstration program for the purpose of determining the feasibility of mitigation banks as a means of contributing to the goals established by subsection (a) and of evaluating the feasibility of utilizing mitigation banks for satisfying compensatory mitigation obligations under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, or wetland mitigation requirements of other Federal laws.

(2) GOALS.—The goal of the program under this subsection shall be to establish a limited number of demonstration mitigation banks in districts of the Corps of Engineers for the purpose of evaluating the technical and scientific long-term feasibility of such banks as a means (A) of providing adequate compensation for wetlands alterations resulting from the Army Civil Works program or permitted under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899; and (B) of contributing to the attainment of the goals established by subsection (a). Federal and State landowning agencies and private parties may contribute to such banks.

(3) PROGRAM COMPONENTS.—The program under this subsection shall include—

(A) mechanisms for making deposits into the mitigation bank;

(B) a means of accounting for deposited wetlands, including an assessment of the ecological value of such deposits;

(C) mechanisms for managing and maintaining the ecological values for credits assigned to the original deposit; and

(D) mechanisms for receipt of credit for deposits which can be applied to permit applications filed by the depositor under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899.

(4) FACTORS TO CONSIDER.—In establishing the program under this subsection, the Secretary shall consider—

(A) past experience with mitigation banks;

(B) the appropriate credit to be given for various types of wetlands, including existing wetlands, created wetlands, and restored wetlands;

(C) provisions for transfer of credits;

(D) the appropriate geographic scope of a mitigation bank;

(E) the technical feasibility of creating banks and the scientific likelihood that such banks will succeed;

(F) liability and long-term ownership;

(G) responsibilities for short- and long-term project monitoring; and

(H) whether or not the applicant has fully complied with the guidelines of section 404(b)(1) of the Federal Water Pollution Control Act.

(5) MITIGATION BANK DEFINED.—For purposes of this subsection, the term "mitigation bank" includes a system or process of accounting under which (before submitting an application for a permit under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899) an applicant may deposit or withdraw units measuring wetlands restoration, enhancement, and creation efforts in order to satisfy mitigation or compensation requirements.

(6) REPORTING.—

(A) TO CHIEF OF ENGINEERS.—The district engineer for each district of the Corps of Engineers in which a mitigation bank is established under this subsection shall transmit annual reports to the Chief of Engineers describing credits made to, and withdrawn from, the bank and a summary of whether the bank is fulfilling the goals established in paragraph (2).

(B) TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report evaluating the use of mitigation banks in fulfilling the goals established by paragraph (2), together with recommendations on whether or not to continue use of mitigation banks as a means of meeting the goals established by subsection (a).

(f) TRAINING AND CERTIFICATION OF DELINEATORS.—

(1) IN GENERAL.—The Secretary is authorized to establish a program for the training and certification of individuals as wetlands delineators. As part of such program, the Secretary shall carry out demonstration projects in districts of the Corps of Engineers. The program shall include training and certification of delineators and procedures for expediting consideration and acceptance of delineations performed by certified delineators.

(2) REPORTS.—The Secretary shall transmit to Congress periodic reports concerning the status of the program and any recommendations on improving the content and implementation of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

SEC. 14. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within 45 days after the date of the enactment of this Act, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 17 of this Act.

(3) TRANSMITTAL OF LIST.—No later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to Congress as part of the President's annual budget submission. Annual transmittals of the list to Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from a wetlands fund established to carry out this Act.

(4) LIST CONTENTS.—

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a 5-year period commencing on the date the project is placed on the list.

(C) POST-PLAN.—Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within 3 years from the date of the enactment of this Act.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore, and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Coastal Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration project, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.—Upon completion of the restoration plan, the Secretary shall submit the plan to Congress. The restoration plan shall become effective 90 days after the date of its submission to Congress.

(7) PLAN EVALUATION.—Not less than 3 years after the completion and submission of the restoration plan required by this subsection and at least every 3 years thereafter, the Task force shall provide a report to Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting, and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.—Where such a determination is required under applicable law, the

net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) CONSISTENCY.—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control, or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972.

(e) FUNDING OF WETLANDS RESTORATION PROJECTS.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced, or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) COST-SHARING.—

(1) FEDERAL SHARE.—Amounts made available from the Wetlands Fund to carry out coastal wetlands restoration projects under this Act shall provide 75 percent of the cost of such projects.

(2) FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.—Notwithstanding the previous paragraph, if the State develops a coastal wetlands conservation plan pursuant to section 15 of this Act, and such conservation plan is approved pursuant to such section, amounts made available from the Wetlands Fund for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to section 15 of this Act, amounts made available from the Wetlands Fund for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project; except that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and the Administrator and the State has been given 90 days from such notice or hearing to take corrective action.

(3) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) EXISTING COST-SHARING AGREEMENTS.—Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 15. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) DEVELOPMENT OF CONSERVATION PLAN.—

(1) IN GENERAL.—The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.—

(A) IN GENERAL.—Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereinafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) TERMS.—The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereinafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than 3 years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(A) the Administrator shall, in consultation with the Director, make grants to assist the designated State agency in developing a conservation plan with the funds made available in accordance with section 17 of this Act. Such grants shall not exceed 75 per centum of the cost of developing the plan; and

(B) the Secretary the Director and the Administrator shall provide technical assistance to the State to assist it in the development of the Plan.

(b) CONSERVATION PLAN GOAL.—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 14 of this Act.

(c) ELEMENTS OF CONSERVATION PLAN.—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 13 of this Act;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) APPROVAL OF CONSERVATION PLAN.—

(1) IN GENERAL.—If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within 180 days following receipt of such plan, approve or disapprove it.

(2) APPROVAL CRITERIA.—The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the Plan was developed in accordance with the terms of the agreement set forth in subsection (a) of this section.

(e) MODIFICATION OF CONSERVATION PLAN.—

(1) NONCOMPLIANCE.—If the Secretary, the Director, and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.—If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the Director, and the Administrator shall have 90 days to determine whether the modifications are sufficient to bring the plan into compliance with the requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.—If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the 90-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such 90-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.—A conservation plan approved under

this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.—

(1) INITIAL REPORT TO CONGRESS.—Within 180 days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including an accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORTS TO CONGRESS.—24 months after the initial 180-day period set forth in paragraph (1), and at the end of each 24-month period thereafter, the Secretary, the Director and the Administrator shall report to Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 16. NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) MATCHING GRANTS.—The Director shall, with the funds made available in accordance with section 17 of this Act, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.—Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas, and open spaces.

(c) CONDITIONS.—The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.—

(1) FEDERAL SHARE.—Grants to coastal States of matching moneys by the Director for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects; except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) FORM OF STATE SHARE.—The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(e) PARTIAL PAYMENTS.—

(1) IN GENERAL.—The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) AGREEMENT.—The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

SEC. 17. AUTHORIZATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated up to $115,400,000 for each fiscal year through 1999 to carry out sections 14, 15, and 16 of this Act.

"(b) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.—Of the total amount authorized under subsection (a) during a given fiscal year, 65 per centum, not to exceed $75,000,000, shall be available to carry out sections 14 and 15 and shall remain available until expended.

"(c) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount authorized under subsection (a) during a given fiscal year, 35 per centum, not to exceed $40,400,000, shall be available to carry out section 16 and shall remain available until expended. and

SEC. 18. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) FEASIBILITY STUDY.—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

(c) DEFINITIONS.—As used in this section and sections 14, 15, 16, and 17, the following definitions apply:

(1) ADMINISTRATOR.—"Administrator" means the Administrator of the Environmental Protection Agency.

(2) DEVELOPMENT ACTIVITIES.—"Development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters.

(3) DIRECTOR.—"Director" means the Director of the United States Fish and Wildlife Service.

(4) STATE.—"State" means the State of Louisiana.

(5) COASTAL STATE.—"Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(6) COASTAL WETLANDS RESTORATION PROJECT.—"Coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this section and sections 13 through 16 of this Act or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects. The primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits.

(7) COASTAL WETLANDS CONSERVATION PROJECT.—"Coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality, and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon.

(8) GOVERNOR.—"Governor" means the Governor of Louisiana.

(9) TASK FORCE.—"Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of Agriculture, and the Secretary of Commerce.

SEC. 19. FLOOD PLAIN MANAGEMENT.

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1)(A) any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 100-year flood plain after July 1, 1991; or

(B) in the case of a county substantially located within the 100-year flood plain, any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 10-year flood plain after July 1, 1991; and

(2) any structure becomes located in the 100-year flood plain or the 10-year flood plain, as the case may be, by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COUNTIES SUBSTANTIALLY LOCATED WITHIN 100-YEAR FLOOD PLAIN.—For the purposes of subsection (a), a county is substantially located within the 100-year flood plain—

(1) if the county is comprised of lands of which 50 percent or more are located in the 100-year flood plain; and

(2) if the Secretary determines that application of the requirement contained in subsection (a)(1)(A) with respect to the county would unreasonably restrain continued economic development or unreasonably limit the availability of needed flood control measures.

(c) COST SHARING.—Not later than January 1, 1992, the Secretary shall transmit to Congress a report on the feasibility and advisability of increasing the non-Federal share of costs for new projects in areas where new or substantially improved structures and other constrictions are built or placed in the 100-year flood plain or the 10-year flood plain, as the case may be, after the initial date of the affected governmental units entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968.

(d) REGULATIONS.—Not later than 6 months after the date on which a report is transmitted to Congress under subsection (b), the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a). Such regulations shall define key terms, such as new or substantially improved structure, constriction, 10-year flood plain, and 100-year flood plain.

(e) APPLICABILITY.—The provisions of this section shall not apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has been forwarded to the Secretary before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) but not later than July 1, 1993.

SEC. 20. SHORELINE PROTECTION.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes—

(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 50 times the annual erosion rate;

(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

(3) provisions for the relocation of structures in erosion-prone areas;

(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.

SEC. 21. RESERVOIR MANAGEMENT.

(a) TECHNICAL ADVISORY COMMITTEES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall establish for each major reservoir (including reservoirs of greater than 200,000 acre feet of gross storage) under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir research. The Secretary shall determine the membership of each committee, except that for each committee the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b) PUBLIC PARTICIPATION.—The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this subsection, including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the Secretary shall transmit to Congress a report on measures taken pursuant to this subsection.

(c) RECREATION, FISH, AND WILDLIFE PURPOSES.—The Secretary is authorized to manage any existing dam and reservoir project of the Corps of Engineers for recreation and fish and wildlife purposes to the extent such management does not impair any other authorized project purpose.

SEC. 22. CHANGES IN RESERVOIR PROJECT OPERATIONS.

(a) REVIEW.—The Secretary shall conduct a review of the operations of reservoir projects which are under the jurisdiction of the Secretary—

(1) to determine whether or not such projects are being operated in accordance with their authorized purposes;

(2) to identify deficiencies in the operations of such projects which prohibit the realization of project benefits; and

(3) to determine inconsistencies in the operations of those projects which have the same authorized project purposes.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under subsection (a), together with recommendations for correcting deficiencies and eliminating inconsistencies identified under subsection (a).

(c) WATER CONTROL MANUALS.—

(1) PRELIMINARY DRAFT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop a preliminary draft of a water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(2) PUBLIC REVIEW.—The Secretary shall make each draft developed under paragraph (1) available for review by the public for a period of not less than 90 days.

(3) FINAL DRAFT.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall develop and publish a final water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(4) CONSISTENCY WITH PROJECT PURPOSES.—Each manual developed under this subsection shall be consistent with the authorized purposes of the project for which such manual is developed.

(d) OPERATION OF PROJECTS.—After the last day of the 15-month period beginning on the date of the enactment of this Act, each reservoir project which is under the jurisdiction of the Secretary shall be operated in accordance with the final water control manual developed for such project under this section.

(e) SIGNIFICANT CHANGES.—Before making any significant change in a water control manual developed under this section, the Secretary shall—

(1) make the proposed change available for review by the public for a period of not less than 60 days;

(2) prepare a comprehensive assessment of the need for the proposed change, the expected effects of the proposed change, comments received on the proposed change, the impact of the proposed change on authorized project purposes, the anticipated cost and benefits of the proposed change, alternatives which were considered before selection of the proposed change, and the authority for making the proposed change; and

(3) transmit to Congress a copy of the proposed change, together with such assessment, so that the proposed change and assessment will be available to Congress for a period of not less than 60 days before the proposed change becomes effective.

SEC. 23. ENVIRONMENTAL DREDGING.

(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—Whenever necessary to meet the requirements of the Federal Water Pollution Control Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

(b) NAVIGATION PROJECTS.—In carrying out a navigation project in an area which is not meeting applicable water quality standards, the Secretary may remove contaminated sediments outside the boundaries of and adjacent to the navigation channel if such removal is necessary to enable the area to meet such standards, such removal is requested by a non-Federal sponsor, and the sponsor agrees to pay 50 percent of the cost of such removal.

(c) NONPROJECT SPECIFIC.—The Secretary may remove contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal is requested by a non-Federal sponsor and the sponsor agrees to pay 50 percent of the cost of such removal.

(d) JOINT PLAN REQUIREMENT.—The Secretary may only remove contaminated sediments under subsections (b) and (c) in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

(e) DISPOSAL COSTS.—Costs of disposal of contaminated sediments removed under this section shall be a non-Federal responsibility.

SEC. 24. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) GENERAL RULE.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) MAINTENANCE.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practica-

ble, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

(c) MITIGATION.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(d) APPLICABILITY.—

(1) GENERAL RULE.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) LIMITATION.—Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(e) COST SHARING.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 25. MULTIPURPOSE WATER RESOURCES PROJECTS.

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of hydroelectric power generating facilities at Corps of Engineers multipurpose water resources projects are to be considered as inherently governmental functions and not commercial activities. This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

SEC. 26. GREAT LAKES REMEDIAL ACTION PLANS.

The Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978. Non-Federal interests shall contribute 50 percent of the costs of such development and implementation.

SEC. 27. MATTERS TO BE ADDRESSED IN PLANNING.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting "(including preservation and enhancement of the environment)" after "environment".

SEC. 28. CROSS FLORIDA BARGE CANAL.

Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt; 100 Stat. 4232) is amended to read as follows:

"SEC. 1114. CROSS FLORIDA BARGE CANAL.

"(a) DEAUTHORIZATION.—The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter in this section referred to as the 'project'), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution specifically agreeing on behalf of the State of Florida (hereinafter in this section referred to as the 'State') to all of the terms of the agreement prescribed in subsection (b).

"(b) TRANSFER OF PROJECT LANDS.—Notwithstanding any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e), directed to transfer to the State all lands and interests in lands acquired by the Secretary and facilities completed for the project in subsection (a), without consideration, if the State agrees to each of the following:

"(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

"(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

"(A) Any area of the project corridor where, as of the date of the enactment of this subparagraph, no land is owned by the State or State Canal Authority.

"(B) Any area of the project corridor where, as of the date of the enactment of this subparagraph, the land owned by the State or State Canal Authority is less than 300 yards wide.

"(C) Any area of the project corridor where a road or bridge crosses the project corridor.

"(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east.

"(4) The State shall agree, consistent with paragraphs (2), (5) and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

"(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of $32,000,000 in cash or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

"(6) The State shall agree to provide that, after repayment of all sums due to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2), (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

"(c) ENFORCEMENT.—

"(1) REMEDIES AND JURISDICTION.—The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

"(2) STATE REMEDIES.—The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

"(d) TIME OF TRANSFER.—Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until the last day of the 24-month period beginning on the date of the enactment of the Water Resources Development Act of 1990.

"(e) MANAGEMENT PENDING TRANSFER.—In the 124-month period following the date of the enactment of the Water Resources Development Act of 1990, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d).

"(f) SURVEY.—The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State.".

SEC. 29. SMALL NAVIGATION PROJECTS.

(a) BUFFALO, NEW YORK.—The Secretary shall carry out a navigation project south of the existing dike disposal area in Buffalo, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater, fishing pier, and floating docks.

(b) ROCHESTER, NEW YORK.—The Secretary shall carry out a navigation project for the mouth of the Genesee River in Rochester, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by development and implementation of wave surge control measures.

(c) BOLLES HARBOR, MICHIGAN.—The Secretary shall carry out a navigation project at the mouth of the LaPliasance Creek, Bolles Harbor, Michigan, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of an offshore barrier.

(d) FORT PECK RESERVOIR, MONTANA.—The Secretary shall carry out a navigation

project at the Fort Peck Reservoir, Montana, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater.

SEC. 30. ONONDAGA LAKE, NEW YORK.

(a) MANAGEMENT CONFERENCE.—The Secretary and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator"), and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake.

(b) PURPOSES OF CONFERENCE.—The purpose of the management conference under this section shall include but not be limited to—

(1) developing, within the 1-year period following the date of the enactment of this Act, a comprehensive restoration, conservation, and management plan that recommends priority corrective actions and compliance schedules for the cleanup of Onondaga Lake; and

(2) coordinating implementation of the plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in the conference.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The members of the management conference shall include, at a minimum—

(A) the Secretary,

(B) the Administrator,

(C) the Governor of the State of New York,

(D) a representative of the Attorney General of the State of New York,

(E) a representative of Onondaga County, New York, and

(F) a representative of the city of Syracuse, New York.

(2) PERMANENT REPRESENTATIVE.—The members of the management conference may designate a permanent representative to attend meetings of the management conference and otherwise represent and vote on their behalf on the management conference.

(3) EX OFFICIO MEMBERS.—The management conference shall include the following ex officio members:

(A) The United States Senators from the State of New York.

(B) The members of the United States House of Representatives within whose congressional districts Onondaga Lake lies.

(4) STANDING COMMITTEES.—There shall be two standing committees of the management conference as follows:

(A) The Citizens Advisory Committee.

(B) The Technical Review Committee.

(d) PLAN.—

(1) APPROVAL.—Not later than 120 days after the completion of a plan and after providing for public review and comment, the Secretary and the Administrator shall approve such plan if the plan meets the requirements of this section, and the Governor of the State of New York concurs in such approval.

(2) IMPLEMENTATION.—Upon approval of the plan under this section, such plan shall be implemented.

(e) GRANT PROGRAM.—

(1) IN GENERAL.—The management conference, with the approval of the Secretary, the Administrator, and the Governor of the State of New York, is authorized to make grants to the State of New York and public or nonprofit private agencies, institutions, organizations, and individuals.

(2) PURPOSES; NON-FEDERAL SHARE.—Grants under this subsection may be made for—

(A) research, surveys, and studies necessary for the development of the plan under this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources;

(B) conducting activities identified in the plan developed pursuant to this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources; and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage cost from parties responsible for the pollution of Onondaga Lake.

(3) IN-KIND PAYMENTS.—In-kind payments shall qualify for the purpose of meeting the non-Federal matching requirements of this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary and the Administrator $15,000,000 per fiscal year for each of fiscal years 1992 through 1998 to carry out this section.

SEC. 31. SAUK LAKE, MINNESOTA.

The Secretary shall complete the project for removal of silt and aquatic weeds, Sauk Lake, Minnesota, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148), including acquisition of weed harvesting equipment using funds appropriated by Congress for such purpose, and shall carry out measures to protect and enhance water quality through implementation of best management practices in the upstream drainage basin.

SEC. 32. WAPPINGERS LAKE, NEW YORK.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148-49) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(10) Wappingers Lake, New York, for removal of silt and aquatic growth.".

SEC. 33. SMALL FLOOD CONTROL PROJECTS.

(a) DRY JORDAN AND CROOKED CREEKS, ARKANSAS.—The Secretary may carry out a project for flood control, Dry Jordan and Crooked Creeks, Harrison, Arkansas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—The Secretary may carry out a project for flood control, East Fork of the Blue River and Brock Creek, Salem, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(c) OLD SULFUR CREEK, ORLEANS, INDIANA.—The Secretary may carry out a project for flood control, Old Sulfur Creek, Orleans, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(d) WHITE RIVER, GIBSON COUNTY, INDIANA.—The Secretary may carry out a project for flood control, White River, Hazelton, Gibson County, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(e) FARMERS BRANCH CREEK, WHITE SETTLEMENT, TEXAS.—The Secretary shall carry out, on an expedited basis, a nonstructural project for flood control, Farmers Branch Creek, White Settlement, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall consist of relocation and purchase of residential structures located within the flood plain.

(f) VALLEY VIEW BRANCH, HURST, TEXAS.—The Secretary may carry out a project for flood control, Valley View Branch, Hurst, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). The maximum amount which may be allotted under such section for such project shall be $7,500,000 instead of $5,000,000.

(g) SAVAN GUT, VIRGIN ISLANDS.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Savan Gut, Virgin Islands, shall be $10,000,000 instead of $5,000,000. Nothing in this section shall be construed as affecting any cost sharing requirements applicable to such project under the Water Resources Development Act of 1986.

(h) KROUTS CREEK, WEST VIRGINIA.—The Secretary may carry out a project for flood control, Krouts Creek in the vicinity of Huntington, West Virginia, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall include deepening and widening of the channel and culvert replacement.

SEC. 34. BAY CITY, MICHIGAN.

The Secretary may undertake a project for shoreline protection along the Saginaw River in Bay City, Michigan, at a total estimated cost of $6,105,000.

SEC. 35. DELAWARE RIVER AND TRIBUTARIES, PENNSYLVANIA.

The Secretary may carry out a project for shoreline protection for the Glen Foerd Historic Property in Philadelphia, Pennsylvania, along the Delaware River and tributaries, including restoration of seawalls.

SEC. 36. TENNESSEE RIVER, KNOXVILLE, TENNESSEE.

The Secretary may carry out a project for streambank protection along the Tennessee River in Knoxville, Tennessee.

SEC. 37. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) SANTA CRUZ HARBOR, CALIFORNIA.—The modification for sealing the east jetty of the project for Santa Cruz Harbor, California, authorized by section 811 of the Water Resources Development Act of 1986 (100 Stat. 4168).

(2) PAJARO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, Pajaro River and tributaries, Santa Cruz, California, authorized by the Flood Control Act of 1966 (80 Stat. 1421).

(3) HILLSBORO INLET, FLORIDA.—Dredging of Hillsboro Inlet, Florida, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(4) LITTLE CALUMET RIVER BASIN, INDIANA.—The project for flood control, Little Calumet River basin (Cady Marsh Ditch), Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(5) LOUISIANA STATE PENITENTIARY LEVEE, LOUISIANA.—The project for flood control, Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(6) ONTONAGON HARBOR, MICHIGAN.—The project for navigation, Ontonagon Harbor, Michigan, authorized by the Rivers and

Harbors Appropriations Act of June 25, 1910 (36 Stat. 655).

(7) OTTAWA RIVER HARBOR, MICHIGAN AND OHIO.—The project for navigation, Ottawa River Harbor, Michigan and Ohio, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, in accordance with the Phase I General Design Memorandum (dated November 1976) for such project, at a total cost of $13,200,000, with an estimated first Federal cost of $6,530,000 and an estimated non-Federal cost of $6,670,000.

(8) SAULT SAINTE MARIE, MICHIGAN.—The second lock for Sault Sainte Marie, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254-55); except that—

(A) the Secretary shall allocate, not later than 180 days after the date of the enactment of this Act and after providing an opportunity for notice and comment, the non-Federal share of the cost for such lock to Canada and the States of Minnesota, Wisconsin, Indiana, Illinois, Michigan, Ohio, Pennsylvania, and New York based on the Secretary's estimate, using current traffic statistics, of the projected total tonnage of commercial cargo which will be delivered to or from ports in Canada and each such State by vessels using such lock,

(B) the non-Federal share so allocated shall not include any cost allocated to Canada under subparagraph (A), and

(C) the amount of the non-Federal share of such cost shall be reduced by the amount of any contribution made by the Government of Canada toward construction of such lock.

(9) CONNEAUT, OHIO.—The small boat harbor project for Conneaut, Ohio, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(10) FAIRPORT, OHIO.—The small boat harbor project for Fairport, Ohio, and the dredging of the navigation project for Fairport, Ohio, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f).

(11) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—The project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145).

(12) EAST FORK OF TRINITY RIVER, TEXAS.—The project for flood protection on the East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).

(13) NORFOLK HARBOR, VIRGINIA.—The project for deepening of 3 navigation anchorages at Norfolk Harbor, Virginia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

(c) FREEPORT, ILLINOIS.—The project for flood control, Freeport, Illinois, as authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1586), which was deauthorized by section 1002 of the Water Resources Development Act of 1986 (100 Stat. 4208) is authorized to be carried out by the Secretary.

SEC. 38. EROSION PREVENTION PROJECTS, LOUISIANA.

The Secretary shall carry out erosion prevention projects in Vermilion Parish and Cameron Parish, Louisiana, at a total cost of $200,000. Such projects shall include revetment work and reconstruction of spoiled banks with dredged material.

SEC. 39. HAZARD, KENTUCKY.

The Secretary is authorized and directed to design and construct such flood control measures at or in the vicinity of Hazard, Kentucky, on the North Fork of the Kentucky River as the Secretary determines necessary and appropriate to afford the city of Hazard, Kentucky, and its immediate environs a level of protection against flooding at least sufficient to prevent any future losses to such city from the likelihood of flooding such as occurred in January 1957, at a total cost of $30,000,000. With respect to such project, Congress finds that the benefits determined in accordance with section 209 of the Flood Control Act of 1970 and attributable to the flood measures authorized for such project exceed the cost of such measures.

SEC. 40. DEMONSTRATION OF CONSTRUCTION OF FEDERAL PROJECT BY NON-FEDERAL INTERESTS.

(a) IN GENERAL.—For purposes of demonstrating the safety benefits and economic efficiencies which would accrue as a consequence of non-Federal management of harbor improvement projects, the Secretary shall enter into agreements with 2 non-Federal interests pursuant to which the non-Federal interests will undertake part or all of a harbor project authorized by law, by utilizing their own personnel or by procuring outside services, if the cost of doing so will not exceed the cost of the Secretary undertaking the project. If proposals for such agreements meet the criteria of section 204 of the Water Resources Development Act of 1986, the agreements shall be entered into not later than 1 year after the date of the enactment of this Act.

(b) LIMITATION.—At least 1 project carried out pursuant to this section shall pertain to improvements to a major ship channel which carries a substantial volume of both passenger and cargo traffic.

(c) REPORT.—The Secretary shall transmit to Congress a report regarding the safety benefits and economic efficiencies accrued from entering into agreements with non-Federal interests under this section.

SEC. 41. MODIFICATION OF REVERSIONARY INTEREST.

(a) IN GENERAL.—The Secretary shall modify the reversionary interest of the United States in approximately 50 acres of land reserved in the deed described in subsection (b) for the purpose of allowing the United Methodist Church to construct and operate a retirement village on such land.

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(c) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office an amended deed or other appropriate instrument effecting the modification of the reversionary interest under section 1.

SEC. 42. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF PROGRAMS.—Section 1103(e)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(2)) is amended—

(1) by striking "ten years" and inserting "15 years"; and

(2) by striking "ten-year" and inserting "15-year".

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1103(e) of such Act is amended—

(1) in paragraph (3) by striking "eight" and inserting "13";

(2) in paragraph (4) by striking "nine" and inserting "14"; and

(3) in paragraph (5) by striking "seven" and inserting "12".

(c) RECREATIONAL PROJECTS.—Section 1103(f)(2)(A) of such Act is amended by striking "ten" and inserting "15".

SEC. 43. SECTION 221 AGREEMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(a)) is amended by striking "State legislative" in the last sentence.

SEC. 44. CABIN SITE LEASES.

Section 1134(d) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "cabin and" after "lawfully installed dock or".

SEC. 45. SAN LUIS REY, CALIFORNIA.

Notwithstanding section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f), the authorized first Federal cost of construction of the project for flood control, San Luis Rey, California, being carried out under such section shall be $60,000,000.

SEC. 46. LAND CONVEYANCES.

(a) RIVERSIDE, CALIFORNIA.—If the holder and owner of a leasehold mineral and royalty interest in the existing Prado Flood Control Basin in Riverside, California, requests the Administrator of General Services to exchange such interest for excess Federal property, the Administrator shall acquire such interest by exchange of excess Federal property. Such acquisition must be completed not later than 270 days after the date of such request. The Administrator shall undertake an evaluation and appraisal of an interest to be acquired under this section.

(b) SNEADS, FLORIDA.—

(1) IN GENERAL.—The Secretary shall convey to the trustees of the Salem Wesleyan Church all right, title, and interest of the United States in and to the parcel of land described in paragraph (2).

(2) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) contains approximately 2.30 acres lying in section 12, township 4 north, range 8 west, Tallahassee meridian, Jackson County, Florida, and is more particularly described as follows:

Beginning at a point that is 294 feet west of the east line and 294 feet north of the south line of the northeast quarter of the northeast quarter of such section 12, and at a corner of a tract of land now or formerly owned by the Salem Wesleyan Church;

Thence south along a line parallel to the east line of such section a distance of approximately 269 feet to a point that is 25 feet north of the south line of the northeast quarter of the northeast quarter of such section;

Thence west along a line parallel to the south line of the northeast quarter of the northeast quarter of such section a distance of approximately 425 feet to the eastern right-of-way line of Florida State Road Numbered S-69A;

Thence northerly along the eastern right-of-way line of such State road a distance of approximately 200 feet to the boundary of such Salem Wesleyan Church tract; and

Thence northeasterly along the boundary of such Salem Wesleyan Church tract approximately 450 feet to the point of beginning.

(3) PAYMENT OF FAIR MARKET VALUE.—The conveyance authorized by this subsection

shall be made upon payment to the United States of a sum equal to the fair market value of the land as determined by the Secretary.

(4) CONDITIONS AND RESTRICTIONS.—The conveyance under this subsection shall be subject to a reversionary interest in the United States if the lands conveyed are used for other than church purposes. The Secretary may require any additional terms, conditions, reservations, and restrictions in connection with the conveyance that the Secretary determines are necessary to protect the interests of the United States.

(5) SURVEY COSTS.—The cost of any surveys necessary as an incident to the conveyance authorized by this subsection shall be borne by the trustees of the Salem Wesleyan Church.

(6) DEADLINE.—Subject to compliance with this section, the Secretary shall convey the parcel of land described in paragraph (2) within 2 years after the date of the enactment of this Act.

(c) IRA D. MACLACHLAN AMERICAN LEGION POST, SAULT SAINTE MARIE, MICHIGAN.—

(1) IN GENERAL.—The Secretary shall convey to the Ira D. MacLachlan Post Numbered 3 of the American Legion the parcel of land described in the Act of June 5, 1936 (49 Stat. 1481), and the building located thereon for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan.

(2) TERMS AND CONDITIONS.—The transfer under paragraph (1) shall be subject to a reversionary interest in the United States if the land and building transferred are used for a purpose other than as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan. Such transfer shall also be subject to such other terms, conditions, regulations, and restrictions as the Secretary determines necessary to protect the interest of the United States.

(d) ABERDEEN, WASHINGTON.—

(1) IN GENERAL.—The Secretary may transfer to the city of Aberdeen, Washington, by quitclaim deed, all rights, interests, and title of the United States in the approximately 570.5 acres of land under the administrative jurisdiction of the Department of the Army acquired for the purposes of the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), together with any improvements thereon.

(2) CONDITIONS.—A transfer under this section shall be subject to the following conditions:

(A) The city shall operate, maintain, repair, replace, and rehabilitate the project in accordance with regulations prescribed by the Secretary which are consistent with the project's authorized purposes including fish and wildlife mitigation.

(B) The city shall hold and save the United States free from any claims or damages resulting from the operation, maintenance, repair, or rehabilitation of the project by the city or its contractors.

(C) If the city uses the land transferred under this subsection for any purpose other than the project's authorized purposes or generation of hydropower or fails to comply with subparagraph (A) or (B), the Secretary shall notify the city of such use or failure. If the city does not correct such nonconforming use or failure during the 1-year period beginning on the date of such notification, the land transferred under this subsection shall revert to the United States.

(3) LIMITATION.—No transfer under this subsection may be made until the Secretary has determined that the city can operate, maintain, repair, replace, and rehabilitate the project.

(4) REPAYMENT OF CAPITAL COSTS.—Nothing in this subsection shall be construed to relieve the city of its obligations under the project contract to repay the capital costs of the project allocated to water supply. The Secretary may negotiate a cash settlement to allow the city to prepay the present value of the payments for capital costs due under the contract.

SEC. 47. ALTERNATIVES TO MUD DUMP SITE FOR DISPOSAL OF DREDGED MATERIAL.

(a) REPORT.—Within 90 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Congress a final report on the feasibility of designating an alternative site to the Mud Dump Site at a distance not less than 20 miles from the shoreline.

(b) PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall submit to Congress a plan for the long-term management of dredged material from the New York/New Jersey Harbor region. The plan shall include—

(1) an identification of the source, quantities, and characteristics of material to be dredged;

(2) a discussion of potential alternative sites for disposal of dredged material, including the feasibility of altering the boundaries of the Mud Dump Site;

(3) measures to reduce the quantities of dredged material proposed for ocean disposal;

(4) measures to reduce the amount of contaminants in materials proposed to be dredged from the Harbor through source controls and decontamination technology;

(5) a program for monitoring the physical, chemical, and biological effects of dumping dredged material at the Mud Dump Site; and

(6) a study of the characteristics of the bottom sediments, including type and distribution.

(c) DEMONSTRATION PROJECT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall implement a demonstration project for disposing on an annual basis up to 10 percent of the material dredged from the New York/New Jersey Harbor region in an environmentally sound manner other than by ocean disposal. Environmentally sound alternatives may include capping of borrow pits, construction of a containment island, application for landfill cover, habitat restoration, and use of decontamination technology.

(d) DREDGED MATERIAL WHICH MAY BE DUMPED AT MUD DUMP SITE.—Notwithstanding section 103(d) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1413(d)), only dredged material that meets the criteria of section 102(a) of such Act (33 U.S.C. 1412(a)) may be dumped at the Mud Dump Site.

(e) MUD DUMP SITE DEFINED.—For purposes of this section, the term "Mud Dump Site" means the area located approximately 5¾ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees, 23 minutes, 48 seconds North, 73 degrees, 51 minutes, 28 seconds West; 40 degrees, 21 minutes, 48 seconds North, 73 degrees, 50 minutes, 00 seconds West; 40 degrees, 21 minutes, 48 seconds North; 73 degrees, 51 minutes, 28 seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1991, $500,000 to implement subsection (b) and $1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

(g) REPEAL.—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.

SEC. 48. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

TRANSFER OF JURISDICTION.—Section 108(b) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking "After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings" and inserting "Not later than 30 days after the date of the enactment of the Water Resources Development Act of 1990".

SEC. 49. CONSTRUCTION OF VIRGIN ISLAND PROJECTS BY SECRETARY OF THE ARMY.

(a) GENERAL RULE.—Upon request of the Governor of the Virgin Islands with respect to a construction project in the Virgin Islands for which Federal financial assistance is available under any law of the United States, the Federal official administering such assistance may make such assistance available to the Secretary instead of the Virgin Islands. The Secretary shall use such assistance to carry out such project in accordance with the provisions of such law.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as relieving the Virgin Islands from complying with any requirements for non-Federal cooperation with respect to a construction project carried out with Federal financial assistance provided to the Secretary pursuant to this section; except that the Secretary shall be responsible for complying with administrative and fiscal requirements associated with utilization of such assistance.

(c) TERMINATION DATE.—Subsection (a) shall not be effective after the last day of the 3-year period beginning on the date of the enactment of this Act; except that the Secretary shall complete construction of any project commenced under subsection (a) before such day.

SEC. 50. PROTECTION OF RECREATION PROJECT PURPOSES.

Notwithstanding any other provision of law, section 1 of the Act of September 6, 1960 (16 U.S.C. 580m), shall not apply to the projects referred to in paragraphs (1), (2), (3), (6), (9), (10), and (11) of section 6(a) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 51. LIBERTY, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Liberty, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Liberty, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Liberty, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 52. WASHINGTONVILLE, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Washingtonville, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Washingtonville, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Washingtonville, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 53. ALBERMARLE SOUND-ROANOKE RIVER BASIN, NORTH CAROLINA.

No construction may be carried out with respect to the permit granted by the Corps of Engineers for project application 83-0747-06 until—

(1) submission of the report mandated by section 5 of Public Law 100-589; and

(2) review of such report and determination by the Corps of Engineers of the impact of the project in light of such report.

SEC. 54. CRANSTON, RHODE ISLAND.

(a) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a feasibility study of wastewater treatment options for transporting contamination from the Central Landfill site and other sources of pollution in Rhode Island to a wastewater treatment facility in Cranston, Rhode Island, through the use of a regional connector system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

(c) DEMONSTRATION PROGRAM.—After completion of the feasibility study under this section, the Secretary shall conduct a technology demonstration of the connector system described in subsection (a) to determine the capability of the system design to operate properly.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $5,000,000 to carry out subsection (c).

SEC. 55. SANTA ROSA, CALIFORNIA.

The Secretary is authorized to assist the city of Santa Rosa, California, in the development and construction of storage facilities associated with wastewater reclamation, with an estimated Federal cost of $45,000,000.

SEC. 56. GENERATION FACILITIES.

The Secretary may not authorize, approve, or recommend any activity referred to in section 10 of the Rivers and Harbors Act of 1899 in connection with the construction (commencing after the enactment of this section) by any entity of generation facilities at the project on the Savage River referred to in section 6(a)(7) of the Water Resources Development Act of 1988 (102 Stat. 4022) or at any location on the Savage River downstream of such project and upstream of the confluence of the Savage River and the North Branch of the Potomac River. No permit under the Federal Water Pollution Control Act shall authorize any discharge in connection with the construction or operation of any such facilities and no certification shall be issued or waived under such Act for any discharge resulting from such construction or operation. The prohibitions contained in the first 2 sentences of this section shall also be applicable to the project referred to in section 6(a)(9) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 57. FLAT ROCK, MICHIGAN.

The Secretary shall provide assistance to non-Federal interests in the design and construction of repairs to the dam at Flat Rock, Michigan.

SEC. 58. WARROAD HARBOR, MINNESOTA.

The Secretary shall carry out a navigation project to dredge the navigation channel and adjacent basin at Warroad Harbor, Minnesota. The project shall be undertaken to provide safe boating access and egress and to upgrade existing retaining walls.

SEC. 59. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

The non-Federal undertaken to provide safe boating access and egress and to upgrade existing retaining walls.

SEC. 59. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

The non-Federal share of correcting the design deficiency of the North Ellenville portion of the project for flood control, Rondout Creek and Wallkill River and their tributaries, New York and New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), shall be the same as the non-Federal share of the project as originally authorized and constructed.

SEC. 60. STRUTHERS, OHIO.

The Secretary is authorized to carry out planning, engineering, and design for replacement of the Bridge Street bridge in Struthers, Ohio, at a total cost of $2,000,000.

SEC. 61. VIRGINIA BEACH, VIRGINIA.

The Secretary shall, pursuant to section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d-5f), enter into a local cooperation agreement with the city of Virginia Beach, Virginia, for nourishment of the project for beach erosion, Virginia Beach, Virginia, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1254). Such agreement shall be deemed to have taken effect on February 6, 1987.

SEC. 62. YOUNGSTOWN, OHIO.

The Secretary is authorized to carry out planning, engineering, and design of the Center Street bridge new alignment for Youngstown, Ohio, at a total cost of $2,000,000.

SEC. 63. MAYSVILLE, KENTUCKY.

The Secretary is authorized to carry out planning, engineering, and design for construction of a bridge between Maysville, Kentucky, and the State of Ohio, at a total cost of $2,000,000.

SEC. 64. SOUTHWEST REGION FLOOD RESPONSE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Southwest Region Flood Response Evaluation Commission" (hereinafter in this section referred to as the "Commission").

(b) DUTIES OF COMMISSION.—The Commission shall evaluate—

(1) existing flood control measures in the Arkansas, Red, and Ouachita river basins, including the adequacy of flood control storage at existing reservoirs, operation of such reservoirs, and downstream flood control and local protection projects;

(2) the effectiveness of Federal emergency response capabilities to prevent or minimize loss of life and damage to property resulting from flooding; and

(3) the effectiveness of Federal disaster assistance programs in providing adequate and prompt compensation to flood victims.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members appointed as follows:

(A) The Secretary (or the Secretary's delegate).

(B) The Secretary of Agriculture (or the Secretary's delegate).

(C) The Director of the Federal Emergency Management Agency (or the Director's delegate).

(D) The Governor of the State of Arkansas (or the Governor's delegate).

(E) The Governor of the State of Oklahoma (or the Governor's delegate).

(F) The Governor of the State of Texas (or the Governor's delegate).

(2) TERMS.—Each member shall be appointed for the life of the Commission.

(3) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—Three members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish such information to the Commission.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) REPORT.—The Commission shall transmit a report to the President and Congress not later than 1 year after the date of the enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for such legislation and administrative actions as the Commission considers appropriate.

(f) TERMINATION.—The Commission shall terminate 30 days after submitting its final report pursuant to subsection (e).

SEC. 65. REHABILITATION OF FEDERAL FLOOD CONTROL LEVEES.

The Secretary shall undertake—

(1) projects for rehabilitation and reconstruction of Federal flood control levees on the Arkansas River, Arkansas and Oklahoma, substantially in accordance with the Little Rock District Engineer's Arkansas River Basin, Arkansas and Oklahoma, Draft Feasibility Report, dated March 1990, and the Tulsa District Engineer's Keystone to Tulsa Reconnaissance Report, dated September 1989; and

(2) projects for rehabilitation and reconstruction of Federal flood control levees on the Red River, Oklahoma and Arkansas, below Denison Dam.

The purpose of such projects shall be to make such levees comply with current Federal design standards. Such projects shall include repairs of design deficiencies and replacement of deteriorated drainage structures and other appurtenances.

SEC. 66. FLOOD WARNING SYSTEM.

(a) INSTALLATION.—The Secretary may develop and install a flood warning system for the Santa Clara River and its tributaries (including Santa Paula Creek), Ventura and Los Angeles Counties, California, at a total cost of $850,000. Such system shall provide, at a minimum, base stations in both Ventura and Santa Paula, California.

(b) OPERATION AND MAINTENANCE.—Before installation of the flood warning system under this section, non-Federal interests must agree to operate and maintain such system and to develop, maintain, and implement such emergency preparedness plans for flooding along the Santa Clara River and its tributaries in Ventura and Los Angeles Counties, California, as are satisfactory to the Secretary.

SEC. 67. REND LAKE WATER STORAGE CONTRACT EXTENSION.

Section 1137 of the Water Resources Development Act of 1986 (100 Stat. 4252) is amended by striking "5 years" and inserting "10 years".

SEC. 68. CAESAR'S CREEK LAKE, OHIO.

The Secretary shall amend the contract for use of storage space for water supply in Caesar's Creek Lake, Ohio, to relieve the non-Federal sponsor of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 85-500). The relief provided by the preceding sentence shall apply for 5 years after the date of the enactment of this Act or until the storage space is used, whichever first occurs, and shall apply in such proportion as the storage is used for water supply purposes.

SEC. 69. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF LAKE ERIE.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of Lake Erie described in Committee Print 101-48 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of Lake Erie, bounded and described in such Committee print, are declared to be nonnavigable waters of the United States.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in the Committee print referred to in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in the Committee print referred to in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b), or if work in connection with any activity permitting in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 70. WETLANDS ENHANCEMENT OPPORTUNITIES.

Not later than January 20, 1991, the Secretary shall transmit to Congress a list which specifically identifies opportunities of enhancing wetlands in connection with construction and operation of water resource projects.

SEC. 71. RADIUM REMOVAL DEMONSTRATION PROGRAM.

(a) GRANT PROGRAM.—The Secretary, in cooperation with State public authorities, may assist local governments in demonstrating methods of mitigating radium contamination in ground water. Upon application of a State public authority, the Secretary may make a grant to the authority for such purposes. Assistance provided pursuant to this section shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) PURPOSES OF GRANTS.—Funds made available through grants under this section may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such authority of a program to provide financing for such acquisition and installation.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL COMMUNITY.—The term "small community" means a political subdivision of a State the population of which does not exceed 20,000 individuals.

(2) STATE PUBLIC AUTHORITY.—The term "State public authority" means an agency or instrumentality of a State which is established for the purposes of assisting local governments in financing capital improvements on a statewide or regional basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1991, $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993.

SEC. 72. STUDIES.

(a) HOT SPRINGS, ARKANSAS.—The amount which non-Federal interests would be required to pay, but for this section, of the costs of the feasibility study which the Secretary is conducting for a flood control project for Hot Springs, Arkansas, shall be reduced by the same percentage as the percentage of the total benefits of such project which are attributable to protection of lands owned by the United States.

(b) SOUTH ATLANTIC CARGO TRAFFIC.—

(1) STUDY.—The Secretary, in conjunction with the Administrator of the Federal Maritime Administration of the Department of Transportation, shall conduct a study of the market for container ship traffic in the South Atlantic region of the United States from Port Everglades, Florida, to Norfolk, Virginia.

(2) PURPOSES.—The purposes of the study to be conducted under this subsection are as follows:

(A) Identifying major containerized cargo trade routes and commodity flows.

(B) Identifying inland transportation infrastructure needs.

(C) Projecting future traffic volumes.

(D) Forecasting future container vessel fleets.

(E) Developing origin-to-destination transportation costs.

(F) Developing differential trade route costs for origin-destination pairs.

(G) Forecasting future micro- and mini-bridging opportunities.

(H) Developing a computerized database of all traffic flows and costs.

(I) Forecasting future port infrastructure needs.

(3) REPORT.—Not later than 14 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,200,000.

(c) LOWER CALLEGUAS CREEK, CALIFORNIA.—

(1) STUDY.—The Secretary shall conduct a feasibility study for a flood control project on the lower Calleguas Creek, California. A purpose of the study shall be to determine the full benefits of increased agricultural production which are likely to result from the project.

(2) REPORT.—Not later than December 31, 1991, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $600,000 for fiscal years beginning after September 30, 1990. Such sums shall remain available until expended.

(d) RANCHO PALOS VERDES, CALIFORNIA.—The Secretary shall—

(1) complete the study of the feasibility of constructing shoreline erosion mitigation measures along the Rancho Palos Verdes coastline and in the city of Rolling Hills, California, authorized by section 712 of the Water Resources Development Act of 1986 (100 Stat. 4160), and

(2) in connection with such study, investigate measures to conserve fish and wildlife (as specified in section 704 of the Water Resources Development Act of 1986), including measures to demonstrate the effectiveness of intertidal marine habitat.

(e) SOUTHERN CALIFORNIA INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the Southern California region of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(f) SANTA MONICA BREAKWATER, CALIFORNIA.—The Secretary shall complete the reconnaissance investigation and feasibility study for the breakwater project, Santa Monica, California, not later than July 1, 1992, and shall ensure that reestablishment of past charter fishing vessel accommodation activities which existed in the area from the 1930's until prior to damage of the breakwater structure shall be counted the same as commercial benefits for purposes of section 119 of the 1970 River and Harbor Act.

(g) CALIFORNIA OIL SPILL RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and the Commandant of the Coast Guard, shall conduct a feasibility study in the California coastal region of the problems and alternative solutions, including Federal and non-Federal roles and responsibilities, of containment and restoration of coastal waters and lands (including natural wildlife, habitat restoration, commercial, and recreational activities) following a major oil spill.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(h) ATLANTA, GEORGIA.—

(1) STUDY REVIEW.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Atlanta Regional Commission, shall review the completed study and supporting documentation for the Metropolitan Atlanta Area Water Resources Management Study for the purpose of providing plans for the improvement of water quality of major streams in the Metropolitan Atlanta Region. The scope of the review shall include review of the effectiveness of existing treatment facilities and the need for additional or improved treatment of municipal and industrial wastewater, combined sewer overflows, and other significant point or nonpoint pollution sources.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under this subsection.

(i) THURMAN TO HAMBURG, IOWA.—The Secretary shall complete the feasibility phase of the study authorized by section 1152 of the Water Resources Development Act of 1986 (100 Stat. 4255), including completion of planning and specifications, not later than August 1, 1991, and commence construction of the project authorized by such section not later than October 1, 1991.

(j) ROCK CREEK, MARYLAND.—

(1) WATER QUALITY STUDY.—The Secretary shall conduct a study of methods of improving water quality of Rock Creek, Maryland.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(k) SAGINAW BAY, MICHIGAN.—

(1) EXTENSION OF DEADLINE FOR FEASIBILITY REPORT.—Section 711 of the Water Resources Development Act of 1986 (100 Stat. 4160) is amended by striking "1989" and inserting "1992".

(2) CONTINUATION OF FEASIBILITY STUDY AUTHORIZATION.—For purposes of section 710 of the Water Resources Development Act of 1986, the study authorized by section 711 of such Act shall be treated as being authorized on the date of the enactment of this Act.

(l) WATER SUPPLY STUDY, MINNESOTA AND NORTH DAKOTA.—The Secretary shall conduct a study, with the States of Minnesota and North Dakota, to determine and recommend alternative plans to augment flows in the Red River of the North, Minnesota and North Dakota. Such study shall include methods to supplement flows on such river for municipal, industrial, agricultural, and fish and wildlife purposes and recognize the need for continued flow into Canada. In conducting such study, the Secretary shall coordinate with the Bureau of Reclamation on actions being undertaken by the Bureau with respect to the Garrison Diversion Unit.

(m) UPPER MISSISSIPPI RIVER.—

(1) STUDY.—The Secretary shall conduct a study of the water quality of the Upper Mississippi River.

(2) CONSULTATION.—In conducting such study, the Secretary is authorized to consult with, and request the assistance of, the United States Geological Survey, the Fish and Wildlife Service, the Environmental Protection Agency, and affected States.

(3) REPORT.—The Secretary shall report the results of the study conducted under this subsection, together with findings and recommendations of the Secretary, to Congress on or before December 31, 1992.

(4) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $2,000,000 to carry out the study authorized by this subsection.

(n) HIGHFIELD WATER COMPANY, NEW JERSEY.—

(1) STUDY.—The Comptroller General shall conduct a study of the facts and circumstances concerning the claims of the Highfield Water Company, New Jersey, against the United States Army Corps of Engineers for the purpose of making recommendations for an appropriate settlement of such claims.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under this subsection.

(o) MANASQUAN RIVER, NEW JERSEY.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of implementing flood control measures on the Manasquan River to alleviate flooding in Freehold, Howell, and other effected townships in New Jersey.

(2) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(p) BUFFALO, NEW YORK.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the plan prepared by the city of Buffalo, New York, on flooding and associated water quality problems (including those associated with combined sewer overflows, sewer backups, and riverside outfalls) in the Buffalo, New York, metropolitan area.

(2) PURPOSES.—The purposes of the review and evaluation to be conducted under this subsection are to develop recommendations for Federal and State participation in solving the problems described in paragraph (1) and to identify flood control benefits of implementing the plan.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall transmit to Congress and the mayor of Buffalo, New York, a report on the results of the review and evaluation conducted under this subsection.

(q) LAKE ERIE TO OHIO RIVER CANAL, OHIO.—The study for the inland navigation project, Lake Erie to the Ohio River Canal, Ohio, authorized by resolution of the Committee on Public Works and Transportation of the House of Representatives, dated October 1, 1986, shall be considered to be a water resources study primarily designed for the purposes of navigation improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

(r) MILL CREEK, TENNESSEE.—

(1) FEASIBILITY STUDY.—The Secretary shall study the feasibility of nondam options to alleviate flooding along Mill Creek and Seven Mile Creek, Tennessee.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with a recommended plan for alleviating the flooding referred to in paragraph (1).

(s) NEW MADRID INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the region surrounding the New Madrid Fault (including the States of Tennessee, Missouri, Arkansas, Kentucky, Mississippi, Indiana, and Illinois) of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

SEC. 73. LAKE OF THE WOODS, MINNESOTA.

(a) INVESTIGATION.—The Secretary may undertake an investigation of the lands bordering on the Lake of the Woods, Minnesota, to determine if such lands and improvements thereto in the United States currently meet applicable requirements of international agreements concerning regulation of the levels of the Lake of the Woods.

(b) LAND ACQUISITION.—In addition, the Secretary may acquire lands and provide protective works and measures when neces-

sary to satisfy the requirements referred to in subsection (a).

(c) REPORT.—The Secretary shall report to Congress within 1 year after the date of the enactment of this Act on the progress made in carrying out this section and the need for further legislation to resolve any outstanding claims for damages caused by the need for additional protective works and measures to satisfy the requirements referred to in subsection (a).

SEC. 74. NEW YORK HARBOR, NEW YORK.

(a) REVIEW AND INVESTIGATION.—The Secretary, in conjunction with the Commandant of the United States Coast Guard and in consultation with appropriate Federal and State agencies and the Port Authority of New York and New Jersey, shall conduct a comprehensive review of existing reports on New York Harbor and a systems investigation of the system of channels and anchorages of the Port of New York and New Jersey (including areas and channels outside the Federal system). Such investigation shall include analysis of traffic design, shoaling, and hydraulics in order to determine the potential of streamlining the operation of such system and of reducing the potential for maritime accidents. The Secretary is further directed to construct feasible works within the Secretary's authority and to make recommendations to Congress with respect to works which are needed to improve the operation of such system and are outside the Secretary's authority.

(b) REPORTS.—

(1) INITIAL FINDINGS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress initial findings on the review and investigation conducted under subsection (a).

(2) FINAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a final report on such review and investigation.

SEC. 75. PROJECT DEAUTHORIZATIONS.

(a) NOTIFICATION OF MEMBERS OF CONGRESS.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended by inserting after the first sentence the following new sentence: "Before submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located.".

(b) REPEAL OF OUTDATED DEAUTHORIZATION PROVISION.—Section 12 of the Water Resources Development Act of 1974 (33 U.S.C. 579) is repealed.

(c) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) GREENWICH HARBOR, CONNECTICUT.—The following portion of the channel at Greenwich Harbor, Connecticut, authorized by the Rivers and Harbors Appropriations Act of March 2, 1919 (40 Stat. 1276):

Beginning at a point on the limit line of the Federal Anchorage Area in Greenwich Harbor, such point having coordinates of N66,309.76 E358,059.81 and running thence northwesterly along the limit line of the Federal Anchorage Area N50°0104W, a distance of 621.62 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,709.18 E357,583.50; thence continuing along the existing Federal Anchorage Area Limit Line N39°5855E a distance of 200.00 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,862.43 E357,712.01; thence continuing along the existing Federal Anchorage Area Limit Line S50°0104E a distance of 140.00 feet to a point on the existing Federal Anchorage Area Limit Line having coordinates N66,772.47 E357,819.28; thence running into the existing Federal Anchorage Area S39°5855W a distance of 187.66 feet to a point having coordinates N66,628.75 E357,698.76; thence running in the existing Federal Anchorage Area S59°1032"E a distance of 376.47 feet to a point having coordinates N66,435.85 E358,022.05; thence running in the existing Federal Anchorage Area S16°4026"E a distance of 131.62 feet to the point and place of the beginning for a total area of 47,737 square feet.

(2) CONNEAUT HARBOR, OHIO.—The feature of the navigation project for Conneaut Harbor, Ohio, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176), which feature is a channel lying easterly of the access channel and adjacent to the municipal pier.

(3) BIG RIVER RESERVOIR, RHODE ISLAND.—The water supply project, Big River Reservoir, Providence, Rhode Island, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4144).

SEC. 76. HALF MOON BAY HARBOR.

(a) DESIGNATION.—The harbor commonly known as Half Moon Bay Harbor, located in El Granada, California, shall hereafter be known and designated as "Pillar Point Harbor".

(b) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to the harbor referred to in subsection (a) shall be deemed to be a reference to "Pillar Point Harbor".

SEC. 77. ANNUAL OBLIGATION CEILINGS.

Section 901 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended by adding after paragraph (5) the following new paragraphs:

"(6) For the fiscal year ending September 30, 1992, the sum of $1,800,000,000.

"(7) For the fiscal year ending September 30, 1993, the sum of $1,800,000,000.".

SEC. 78. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary is directed to submit to the Congress for approval any proposed changes in the allocation of storage for the Raystown Lake project, Pennsylvania, which result from the on-going Raystown Lake Reallocation Study undertaken by the Baltimore District. Pending submission to and approval by the Congress of the results of that study, the Secretary may not reallocate storage at the project.

SEC. 79. ADDITION OF COLUMBIANA COUNTY, OHIO, TO APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont,".

SEC. 80. EXCHANGE RATE DEMONSTRATION PROJECT, LOCKWOOD'S FOLLY INLET, NORTH CAROLINA.

(a) IN GENERAL.—The Secretary shall conduct an exchange rate demonstration project for the eastern channel of Lockwood's Folly River Inlet, North Carolina, to improve water quality, at a total cost of $1,300,000, with an estimated first Federal cost of $9,750,000 and an estimated first non-Federal cost of $3,250,000.

(b) CONSULTATION REQUIREMENT.—In conducting the demonstration project under this section, the Secretary shall consult with appropriate Federal and State departments and agencies.

SEC. 81. RIO GRANDE AMERICAN CANAL EXTENSION.

(a) CONSTRUCTION OF EXTENSION.—Subject to subsection (e), the Secretary shall construct an extension of the American Canal, together with pumping plants, wasteways, measuring devices, and other facilities needed to connect such extension with existing irrigation systems. Such extension shall lie wholly in the United States and shall be approximately 13 miles in length, beginning at the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(b) OPERATION OF CANAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall operate the extension of the American Canal provided for in subsection (a).

(2) DELIVERY OF WATERS.—The Secretary shall enter into an agreement with El Paso County Water Improvement District Number 1 pursuant to which the Water Improvement District would be responsible for the operation of the American Canal with respect to the delivery of all waters, with the exception of those waters belonging to Mexico which, consistent with paragraph (3), the Secretary shall be responsible for delivering.

(3) UNITED STATES OBLIGATIONS UNDER 1906 AND 1933 CONVENTIONS.—In authorizing the agreement described in paragraph (2), this Act—

(A) does not in any way affect the jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, and

(B) does not in any way impede the ability of the United States Government to fulfill its obligations under the 1906 and 1933 Conventions.

(c) USE OF CANAL AS CONVEYANCE CHANNEL.—

(1) USE BY MEXICO.—The Secretary may enter into an agreement with Mexico which permits Mexico to use the American Canal as a conveyance channel. Any such agreement shall require Mexico to make payments to the United States for Mexico's use of the American Canal.

(2) USE BY NON-FEDERAL ENTITIES.—Upon obtaining the express approval of the Secretary, El Paso County Water Improvement District Number 1 may enter into agreements with other non-federal entities pursuant to which such entities may use the American Canal as a conveyance channel.

(d) MAINTENANCE OF EXTENSION.—The Secretary shall maintain the extension of the American Canal provided for in subsection (a).

(e) LOCAL CONTRIBUTIONS TO COSTS.—The extension of the American Canal provided for in subsection (a) may not be constructed unless the Secretary and El Paso County Water Improvement District Number 1 have entered into the following agreements:

(1) CONSTRUCTION COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will pay $5,000,000 as its share of the construction costs for the construction of the extension of the American Canal provided for in subsection (a).

(2) MAINTENANCE COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will contribute a cumulative amount of $50,000 each year to the United States Commissioner as its share of the costs for maintenance of the

extension of the American Canal provided for in subsection (a). After the 7-year anniversary of the completion of the construction of that extension (and after the end of each 7-year interval since the last such renegotiation), the Secretary and the El Paso County Water Improvement District Number 1 may renegotiate the amount of the contribution of El Paso County Water Improvement District Number 1 pursuant to the agreement required by this paragraph in order to reflect any increase in Bureau of Labor Statistics Consumer Price Index-Urban Wage Earners and Clerical Workers (CPI-W)-1982-84-100 Index. In the event the funds contributed by the El Paso County Water Improvement District Number 1 pursuant to this paragraph are not utilized during any given year, the funds shall be carried over to the succeeding years in a contingency fund for necessary preventative and routine maintenance work to be performed by the United States Section, International Boundary and Water Commission.

(f) REPEAL OF PREVIOUS CONSTRUCTION AUTHORIZATION.—Title IV of the Act entitled "An Act to authorize various Federal reclamation projects and programs, and for other purposes", approved September 28, 1976 (Public Law 94-423; 90 Stat. 1327), is repealed.

(g) STUDY OF SUBSIDENCE DAMAGE.—The Secretary—

(1) shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension provided for in subsection (a), and

(2) shall submit a report to the Congress detailing his findings not later than 1 year after the date of the enactment of this Act.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated—

(1) $42,000,000 to construct the extension of the American Canal provided for in subsection (a); and

(2) such sums as may be necessary to operate and maintain that extension and to conduct the study required by subsection (g).

(i) DEFINITIONS.—As used in this section—

(1) AMERICAN CANAL.—The term "American Canal" means the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961).

(2) UNITED STATES COMMISSIONER.—The term "United States Commissioner" means the United States Commissioner, International Boundary and Water Commission, United States and Mexico.

(3) SECRETARY.—The term "Secretary" means the Secretary of State, acting through the United States Commissioner.

SEC. 82. BUY AMERICAN.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall not expend, after the date of the enactment of this Act, any funds appropriated to carry out this Act for any project, unless materials and products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that materials and products referred to in subsection (a) are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of material and products produced in the United States in a project will increase the cost of such project by more than 25 percent.

SEC. 83. CONVEYANCE OF OAKLAND INNER HARBOR TIDAL CANAL PROPERTY TO CITIES OF OAKLAND AND ALAMEDA, CALIFORNIA.

The Secretary may convey, by quitclaim deed, the title of the United States in all or portions of the approximately 86 acres of uplands, tidelands, and submerged lands, commonly referred to as the Oakland Inner Harbor Tidal Canal, California, as follows:

(1) To the city of Oakland, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Oakland.

(2) To the city of Alameda, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Alameda.

The Secretary may reserve and retain from any such conveyance a right-of-way for the operation and maintenance of the authorized Federal channel in the Oakland Inner Harbor Tidal Canal.

SEC. 84. CONVEYANCE OF LANDS LOCATED NEAR LEWISVILLE DAM AND GARZA-LITTLE ELM RESERVOIR, DENTON COUNTY, TEXAS.

(a) AUTHORIZATION OF CONVEYANCE.—

(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the Secretary shall convey all right, title, and interest of the United States in any property described in subsection (d) to the person named in subsection (c) (or his or her heirs and assigns) from whom the United States acquired such right, title, and interest in connection with the Lewisville Dam and Garza-Little Elm Reservoir projects in Denton County, Texas.

(2) TIME LIMIT.—Each conveyance under paragraph (1) shall be made within 90 days after the date of receipt of payment under subsection (b) from such person.

(3) APPLICABILITY.—The requirement of paragraph (1) shall apply with respect to a property for which payment under subsection (b) is made within 60 days of the date of the enactment of this Act.

(b) PRICE TO BE PAYED BEFORE CONVEYANCE.—No conveyance shall be made under authority of this section until the person to whom such conveyance will be made pays to the United States the fair market value of the right, title, and interest to be conveyed, or $2,000 per acre of property conveyed, whichever is less.

(c) ELIGIBLE BUYERS.—The persons to whom conveyances may be made under authority of this section are the following: Stella Faye Anderson, Archer Lee Curtis, Arden Foil Curtis, William Rylie Curtis, Fred C. Emery, Max Hahn, Jr., Nolen Hasten, Rosella Higgins, Marguerite Higgins, Shirley Dean Johnson, Curtis N. McDaniel, Gilbert Newton MacDaniel, John Edward McWhorter, Noble Alfred Talley, and Zennia Marie Warnick.

(d) PROPERTY TO BE CONVEYED.—

(1) IN GENERAL.—The property that may be conveyed under authority of this section consists of those tracts of land located near the Lewisville Dam and the Garza-Little Elm Reservoir in Denton County, Texas, which are designated by the following tract numbers in Army Corps of Engineers Project M2-2-0003:

B134	B152	B164
B136	B153	B165
B143	B154	B166
B144	B155	B167
B145	B156	B177
B146	B157	B178
B148	B158	B179
B149	B159	B193
B150	B162	B194
B151	B163	

(2) EXCLUDED PORTIONS.—The property referred to in paragraph (1) does not include portions of tracts listed in paragraph (1) to the extent that such portions are within 200 feet of the spillway of the Lewisville Dam.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5314) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5314

Mr. ANDERSON. Mr. Speaker, pursuant to House Resolution 469, I offer a motion.

The SPEAKER pro tempore (Mr. STENHOLM). The Clerk will report the motion.

The Clerk read as follows:

Mr. ANDERSON moves to insist on the House amendment to the Senate bill, S. 2740, and to request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON].

The motion was agreed to

The SPEAKER pro tempore. The Speaker will appoint conferees upon his return to the chair.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5314

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that, in the engrossment of H.R. 5314, the Clerk be authorized to correct section numbers, punctuation, and cross references and make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 5314.

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

There was no objection.

GENERAL LEAVE

Mr. ANDERSON. 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. 5314, the bill just passed.

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

There was no objection.

PERSONAL EXPLANATION

Mr. DORGAN of North Dakota. Mr. Speaker, due to an illness in my family, I was unavoidably absent during the vote on final passage of H.R. 5314, the Water Resources Develop-

ment Act of 1990. Had I been present, I would have voted "yes" on rollcall No. 387.

The bill left unresolved some crucial problems relating to management of the Missouri River flows by the Army Corps of Engineers. However, I am satisfied that this issue will be addressed in hearings which the chairman of the Water Resources Subcommittee has promised to conduct early next year. Meanwhile, I intend to introduce legislation to make the corps more responsive to the needs of the all Missouri Basin States and, in particular, to those of the upper basin.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990, AND AGAINST ITS CONSIDERATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-760) on the resolution (H. Res. 477) waiving all points of order against consideration of the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2039, JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-761) on the resolution (H. Res. 478) providing for the consideration of the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES ON SEPTEMBER 27, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-762) on the resolution (H. Res. 479) providing for consideration of motions to suspend the rules on September 27, 1990, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I believe that the business of the day is now concluded and there will be no other legislative business. Members can feel free that there will be no additional votes this evening.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, certainly on our side of the aisle we do not expect any additional business and we would oppose any effort to get a vote to adjourn this evening.

Mr. Speaker, we appreciate the act of comity in going forward with special orders.

Mr. HOYER. Mr. Speaker, based upon that, I believe the legislative business is at a conclusion and that we will convene tomorrow at 10 a.m.

□ 1930

MEDICARE FRAUD MUST BE STOPPED

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, yesterday the Subcommittee on Oversight of the Committee on Ways and Means held a hearing on the subject of Medicare fraud. This hearing was part of the subcommittee's ongoing efforts to examine fraud and abuse in programs under the Ways and Means Committee's jurisdiction.

Earlier this year the subcommittee held a hearing in Fort Lauderdale, FL, that focused on a fraud scheme uncovered there. Under this scheme, an organization called Healthy Heart contacted senior citizens groups and offered to provide free cholesterol testing. When the day came for the tests, most of the people who took the cholesterol test were told that they should immediately take followup tests. These followup tests measured blood flow and were designed to detect arterial blockages. Curiously, it seems that if you weren't covered by Medicare, you didn't need the followup tests. In other words, what was really screened out by the initial cholesterol screening were the people not covered by Medicare.

Patients were told that the followup tests were free. Medicare, they were told, would pick up the tab. Although many were at first skeptical about the tests, they felt reassured when they were told that Medicare would cover the costs. Under the law, Medicare only pays 80 percent of the costs of medical procedures. Beneficiaries are responsible for the 20 percent not paid by Medicare. In Florida the labs involved didn't send bills to the beneficiaries. However, bills were sent to the Medicare carrier—a lot of bills. And Medicare paid them. In fact, within a period of about 6 months, Medicare paid out between $3 to $4 million for followup tests in Florida. Meanwhile, most patients got no test results. Those that did get results were all told the same thing: That everything was fine and there was nothing to worry about. One woman had been told she had no vascular problems; sadly, she had a heart attack several weeks later.

There are two important lessons that I learned from this hearing. The first is a lesson for Medicare beneficiaries: Beware of someone who tries to talk you into having a medical procedure on the grounds that it's free. Remember, the patient—or his insurance company—is responsible for 20 percent of the bill. It's against the law to waive that 20 percent copayment. Involving patients in the Medicare process by making them responsible for part of the bill is a safeguard against fraud. And anyone who tries to take the patient out of the picture, by waiving the patient's portion of the bill, may be trying to eliminate the first line of defense against Medicare fraud.

The second lesson I've learned from these hearings on Medicare fraud is how frighteningly easy it can be to cheat the Medicare system. Consider these facts: First, the Federal Government will spend more than $100 billion on Medicare this year. A pot of money that size is mighty tempting to someone who'd like to get his hands on some quick cash. Second, Medicare carriers are under pressure to pay Medicare claims quickly. We here in Congress have applied that pressure, and one of the unfortunate results is that Medicare carriers have to assume that the claims are valid and to pay them without much scrutiny. Third, funds for payment safeguard activities—money intended to assure that Medicare funds are spent for appropriate, allowable medical services—have been reduced for the past couple of years. As a result, the carriers have been able to check up on fewer claims. Meanwhile, the number of claims has been growing at more than 10 percent per year. Fourth, it's awfully easy for labs to get a Medicare provider number, which allows them to participate in the program. In fact, we learned that in some places you can get one on the phone. And even where a lab has to fill out a form, virtually no background information is requested about the people who own or manage the lab.

These facts could spell trouble for Medicare. The Government Accounting Office has put the Medicare Program on its list of high-risk programs vulnerable to fraud and abuse. At the subcommittee's Florida hearing, the regional inspector general for the Department of Health and Human Serv-

ices admitted that his office is able to just skim the surface when it comes to fraud and abuse.

Given our budget crisis, we've got to make sure that every dollar of Medicare funds is well spent. We can't afford to let the program become an easy target for people who are good at figuring out how to cheat the system. So, I call on those of you in the Medicare Program to be careful about free services like the scam we investigated in Florida. Check the charges on the explanation of medical benefits, the statement you get when Medicare pays a claim on your behalf. If something is wrong with those charges, don't hesitate to voice your suspicions by calling the number shown on the form.

And we in the Federal Government have to be diligent as well. We've got to be sure that there is sufficient funding to allow for screening out fraudulent or invalid claims. We've got to make sure that allegations of Medicare fraud are pursued vigorously. And we've got to make an example of some of the people who would steal from the program intended to serve the health needs of the elderly.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut, Mr. Speaker, I was unavoidably absent today for rollcall 387, which occurred on final passage of H.R. 5314, the Water Resource Development Act of 1990. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I was unavoidably detained, and missed roll-call vote 387 on final passage of H.R. 5314, the Water Resources Development Act of 1990.

I would like the record to show that had I been present, I would have voted in the affirmative.

JOHN WEBER—RECIPIENT OF PATRIOTISM AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, today I rise to recognize a loyal and patriotic Air Force master sergeant from my congressional district. While John Weber was attending the U.S. Air Force Tactical Air Command Noncommissioned Officers' Academy at Tyndall AFB, his essay was the winner of the Paul W. Airey Patriotism Award, VFW Jonathan Wainwright Chapter Post 2185. Furthermore, at a time when thousands of U.S. troops are responding to the call of duty in the Persian Gulf, I find that his essay eloquently describes the unspoken bond between our military forces overseas and their family, friends, and loved ones back home. The text of John's Essay, "Patriotism," follows:

Sir Walter Scott once wrote:

"Breathes there a man with soul so dead, who never to himself hath said, this is my native land? Whose heart hath ne'er with him burn'd as home his footsteps he hath turn'd from wandering on a foreign strand?"

Great men of battle are forever longing to return to their loved ones back home. Those loved ones, the most patriotic of people, are they that await for their loved ones to return home from war. To come home from under the sea, from in the sky, and from on the soil.

When a soldier, sailor, airman or marine goes forth to defend to the death this great land of ours, he or she leaves behind a mother and father, wife or husband, girl friend or boy friend. The soldier lives with the knowledge death may be coming with that next bullet; the sailor knows death may arrive by way of that submarine hidden below; the marine knows that death may await as he hits that foreign beach, and the airman knows that silver dot far off in the sky may send a missile of death straight for his jet.

However, that lonely, frightened loved one back home knows not what may be awaiting with the coming dawn. Every day, when the soldier's wife gets up to send the kids off to school she wonders if this will be the day that the messengers of death will knock at her door. In the evening when the sailor's wife is tucking her children into their snug, warm beds she wonders. "When, oh Lord, will he come home; please, please bring him back safe to me and our children." The airman's wife cries herself to sleep when she hears of another downed fighter; thanking the Lord that it wasn't him, yet cursing the terrible fate she must endure. The marine's lady paces the floor from the kitchen, to the living room, to the bedroom: Thinking, remembering, and hoping. Thinking of the horrors her loved one must bear, remembering the feelings of love and security she holds dear to her heart, and hoping against hope that he will soon walk through that door laughing that special laugh she knows so well.

The soldiers, sailors, airmen, and marines would most surely lose, without those family, friends, and loved ones to come home to, the courage and will they must possess to win in battle. The special hope and caring held by those left at home, their complete faith in the righteousness of their loved ones' cause, and their eternal vigilance for and preservation of the homeland, those together are true measures of patriotism. Please for our sake keep those home fires burning.

□ 1940

CIGARETTE VENDING MACHINE OCCUPATIONAL TAX

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, our Nation is preparing to participate in a World Summit for Children on September 28-29, 1990. At this meeting, leaders from around the world will be asked to do something bold and courageous—divert more of their attention and resources from current priorities, such as military security, and adopt a policy of first call for children.

Today I want to introduce a bill that will go far in protecting the health of our children and youth, the cigarette vending machine occupational tax.

More than 3 million children and adolescents under the age of 18 years regularly smoke cigarettes or use smokeless tobacco. Almost as many are occasional users, experimenting and trying it out, well on their way to becoming regular users.

For some of these children, tobacco will be their first experience with using, and becoming dependent upon, a chemical substance to modulate their feelings, and will facilitate their progression to other illicit drug use. It is thus recognized that tobacco is a gateway drug. Former Secretary of Health and Human Services Otis Bowen reported that the earlier a person begins smoking, the more unlikely it is that they will be able to quit later as adults, and the more likely it is that they will suffer and die from a disease caused by smoking.

One of the factors contributing to childhood and early adolescent smoking is the accessibility of cigarettes through vending machines. Thirteen-year-olds are 11 times as likely as 17-year-olds to buy cigarettes from vending machines—22 percent versus 2 percent. Most teens who use vending machines say they do so "because no one will stop me from buying cigarettes this way."

A number of studies have shown 100 percent success when minors aged 14 to 16 years attempted to purchase cigarettes from vending machines. This was confirmed in a series of 240 attempts in a major study covering the three State area surrounding Washington, DC. Therefore, in order to discourage vending machines as a source of cigarette sales to minors, I am introducing a bill to impose an occupational tax on the cigarette vending machine business. The proceeds of the tax will be used to support public health programs which combat tobacco addiction, particularly for our youth.

The administration oppose a ban on cigarette vending machines, and it is encouraging States to develop their own programs for controlling cigarette sales. However, in government, resources, not words, are an index of value. Funding gives legitimacy to working on a fundamentally important problem. Therefore, I am proposing a bill which demonstrates the commitment necessary to do this.

Mr. Speaker, the cigarette vending machine tax will discourage children and young people from becoming addicted to smoking in several important ways. The first of these is accessibility. Half a million children regularly purchase their cigarettes from vending machines. If the business of operating cigarette vending machines becomes more marginal in profitability there will be fewer machines, fewer locations, and less access. Another discouragement for beginning smokers is price. Increasing the price of cigarettes has been shown to be by far the most effective means of discouraging young people from becoming smokers. In my home State of California, raising tax on cigarettes reduced smoking among children and youth by 15 percent in just 1 year.

The administration recently introduced a set of goals and objectives for national health promotion and disease prevention entitled "Healthy People 2000." It proposes reducing the number of smokers in the United States and it also proposes improving the health of our children and youth.

Mr. Speaker, this bill will help address both of these objectives. I am proposing that the money collected from the tax on cigarette vending machines be directed to the Center for Disease Control [CDC] for the accomplishment of the tobacco objectives stated in the "Healthy People 2000" report. There are two of these: First, reduce initiation of smoking to no more than 15 percent by age 20—a 50 percent decrease—and, second, reduce cigarette smoking prevalence to no more than 15 percent of adults—a 48 percent decrease. The CDC has the capability of distributing this money to the States and to local health departments where it can be put to maximum benefit.

Moneys passed on to the States will result in a wide array of methods felt to be effective locally in preventing children and youth from using tobacco products. The idea is to allow States to incorporate some smoking education funding into programs they already conduct, thus decreasing the costs which would be needed for new program startups. Examples of this would be: Maternal and child health: Healthstart, occupational and environmental programs such as asbestos, radon and lead, alcohol and drug abuse programs, recognizing that smoking addiction is often present in youth with one of these other addictions.

In addition, States may want to develop legislation for the control of tobacco sales to children and strengthen local enforcement capabilities. They may wish to conduct counteradvertising campaigns.

This legislation is not intended to tell States and local health departments how to accomplish their task, but rather to give them the funding support necessary to be able to produce good results. This will vary from State to State depending upon their needs.

The purpose of an occupational tax on cigarette vending machines is to decrease the number of sales to children and youth. The tobacco industry claims it doesn't want to sell cigarettes to children. Therefore it is the recipient of $221 million each year in unwanted profit. I would invite them to match the moneys available through the occupational tax in a campaign directed strictly toward the prevention of children and youth purchasing and smoking cigarettes. Let the tobacco industry participate in action for the good of children at this year of the World Summit for Children.

The cigarette industry is spending over $3 billion annually on advertising. Ten percent of that budget would go a long way toward accomplishing their stated goal of not realizing profits from the sale of tobacco to children and youth.

I am proposing that each of the cigarette vending machines in the United States, which currently number about 374,000, be taxed $1,000 per machine. This would be a small total amount compared to the expenditure of the industry on advertising. However, it would be highly effective if oriented directly toward the Objectives 2000.

Mr. Speaker, this is an important commitment that we can make as a Congress and as a nation. Let's make the antismoking objectives for Healthy People 2000 the first success story of that program.

CONDITIONS FOR USE OF THE U.S. BOTANIC GARDEN CONSERVATORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the Joint Committee on the Library is announcing a revision of its procedures for congressional use of the Botanic Garden Conservatory.

Under the previous procedure the chairman and vice chairman of the Joint Committee were usually requested to grant exceptions to the one event per week limitation on the use of the facility. Such requests over the past year have been made with ever increasing frequency, causing unavoidable delay in responding to requests and generating excessive demands on the time of all concerned. In addition, the lead time for arranging events has grown with the popularity of use of the facility.

Accordingly, the joint committee, in consultation with the Architect of the Capitol, has revised the "Conditions for Use of the U.S. Botanic Garden Conservatory" to make two primary changes.

Henceforth the use of the conservatory is limited to a firm maximum of four events per week. The joint committee does not desire to entertain requests for exceptions to this new limitation because four events per week is the reasonable limit on the staff resources of the botanic garden. In addition, the new conditions now permit the reservation of the facility as long as 1 year in advance of the event instead of the former limitation of 6 months. A telephone reservation will be honored only for 2 weeks pending the required letter requesting the reservation directed to the Architect of the Capitol. Reservations will be honored in the order of receipt if the reservation complies with all conditions and has been timely requested in writing.

The joint committee believes this new procedure will expedite the confirmation of reservations. The revised conditions are printed below for the convenience of Members, Senators, and their staff. Attention is particularly called to the longstanding rule that the facility is intended for use directly related to official congressional business and is not available for functions that are personal celebrations, such as birthdays, weddings, wedding receptions, retirements or anniversaries, and so forth.

CONDITIONS FOR USE OF THE U.S. BOTANIC GARDEN CONSERVATORY

It is a prerequisite that any and all functions held in the U.S. Botanic Garden Conservatory must be Congressionally related.

1. The Conservatory may then be made available:

A. For meetings or other functions originated and sponsored by Senators, Representatives, Congressional Committees, Officers of the Congress, and Congressional employee associations.

B. To other federal government agencies when requested by a Senator or Representative.

C. To private, non-profit organizations qualifying under Internal Revenue Code 501(c)(3) provisions when requested by a Senator or Representative. Evidence of 501(c)(3) status may be required.

2. The Conservatory is not available for functions that are:

A. Personal celebrations such as birthdays, weddings, wedding receptions, retirements or anniversaries, etc.

B. Originated, sponsored or primarily attended by members of commercial or profit-making organizations, trade associations, professional societies, social clubs, and similar entities.

C. Originated or sponsored by any organization practicing discrimination based on age, sex, race, creed, color, handicap or national origin.

D. Originated or sponsored by organizations planning to charge admission fees, make collections, seek contributions, give door prizes, have auctions or raffles or sell articles while in the building.

E. Held for political or lobbying purposes.

F. Held during June, July or August, when the Conservatory remains open to the public until 9:00 PM.

G. Proposed to begin prior to 6:00 PM or continue beyond 11:00 PM.

H. At a frequency exceeding four evenings per week for all functions.

I. During formal flower shows and exhibitions.

J. Designed to include exhibits or other structures without prior USBG approval.

3. Procedures for reserving the Conservatory:

A. Reservations may be made no more than one year in advance of the proposed function.

B. An official contact for the sponsoring Member or Officer should telephone the U.S. Botanic Garden Office (x58333) to determine if the proposed date is open. If so, only a two-week tentative hold will be placed pending receipt of the sponsor's written request for use of the Conservatory. Reservations are honored in the order of receipt of the reservation provided that a telephone request of this nature is followed promptly by the sponsor's written request to avoid tentative reservations that may serve to deny access to the facilities by other Members or Officers.

C. All requests for use of the Conservatory should be addressed in writing to the Architect of the Capitol by the sponsoring Member or Officer. Such request should certify the proposed function complies in all respects with the Conditions contained herein, providing full details about the function, including the purpose of the meeting, particulars about any involved agency or organization, the date and time that use of the Conservatory is desired, the approximate number of people to be in attendance, whether anyone attending will require additional security or be accompanied by his/her own security, whether a reception or dinner is planned, and the name and telephone number of the appropriate staff contact. For reservations made six months or more in advance of the event the Architect is authorized to require reconfirmation of the reservation.

4. All sponsors of approved functions must:

A. Follow the rules outlined in the USBG Rules for Functions.

B. Advise the Architect promptly in writing of any changes that may occur concerning a reserved function, such as cancellation, number of people expected to attend or the need for additional security.

RULES FOR FUNCTIONS

The following rules must be observed for all events. Questions regarding the set-up or coordination within the Conservatory should be directed to the Conservatory Manager, Wayne Amos, at 225-6646.

1. Set-up of public areas cannot begin until after the building closes to the public at 5:00 PM.

2. Sponsor must arrange for all tables, chairs, coat racks, hangers, etc., and for pick-up of same prior to the 9:00 AM opening of the building the following morning.

3. Conservatory plants, containers or furniture may not be moved by the sponsor or caterer.

4. Adequate trash cans and liners must be arranged for by the sponsor to avoid trash being placed in planting beds or containerized plants. Trash must be deposited in the dumpster at the conclusion of the function.

5. Sponsor is responsible for clean-up and assurance that the Conservatory is left in its original condition at the conclusion of the function. It is not the responsibility of the U.S. Botanic Garden to clean the facility following the function.

6. Candles may not be placed in planting beds or containers.

7. Items may not be fastened to doors, walls, floors, glass or any other part of the building.

8. Plants may not be removed, or flowers cut or removed, by any attendee. Sponsor is liable for any damage incurred.

9. Food set-up and bars are restricted to the East and West Display Galleries. Guests are, however, allowed access to the entire Conservatory.

10. Caterer must coordinate set-up with the Conservatory staff since access to all areas must be maintained at all times. Food must be prepared in advance elsewhere; only warming of food is permitted.

11. Caterer may not make delivery of supplies or equipment before 3:00 PM on the day of the function.

12. USBG reserves the right to disallow future access to the building by any caterer that has violated these rules.

TURKEY: A PROUD ALLY AND HONEST FRIEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. MOODY] is recognized for 5 minutes.

Mr. MOODY. Mr. Speaker, I would like to begin by acknowledging the visit to the United States this week of the President of the Turkish Republic, Turgut Ozal. President Ozal has become much more familiar to many Americans during the past 2 months because of the critical and pivotal role played by Turkey in the gulf crisis. And I am sure they, like many of us in this House, have been impressed by the wit, articulation, and determination he has shown during the many interviews he has given on American television.

We welcome him to our country, and salute him and the Turkish people for the immediate and unqualified support they have offered to the United States and the United Nations in the gulf crisis.

TURKISH LOYALTY NO SURPRISE

Of course, Mr. Speaker, it should also come as no surprise to anyone familiar with the history of modern Turco-American relations. Turkey, or Turkiye as it is more properly called, has been an ally of steadfastness and integrity throughout the postwar era.

Other speakers here today will discuss the military relationship between our two countries, from the valiant and brave Turkish involvement in Korea to their latest role on the frontline of the Iraq-Kuwait crisis. These are indeed important issues and I commend the attention of the House to them, but I would like to focus on several other issues which I believe are of equal importance to a fuller understanding of the richness of the Turco-American relationship.

These issues are: trade, culture, democracy and Turkey's unique geo-political position straddling Europe and the Middle East. I would also like to mention the enormous and positive contribution to the American mosaic made by the Turkish-American community in this country.

NEGATIVE STEREOTYPES

Mr. Speaker, no discussion of Turkey would be complete without acknowledging one unsettling aspect of the relationship—the persistent negative stereotype of Turks and Turkey portrayed in many Western countries' media and history texts. One marvels at the loyalty and perseverance of the Turkish people in the fact of the insulting and blatantly false images that are so prevalent in the West.

Much of this anti-Turkish attitude can be traced to cultural and religious differences that emerged during the early part of this century. Judeo-Christian Europe and America were suspicious of the Muslim Ottoman Empire and the later Turkish Republic. From the Crusades to World War I, Turks were always depicted as cruel, militaristic barbarians and rapacious conquerors. During and immediately after World War I, this negative stereotyping was exacerbated by certain Christian missionary groups and the overtly racist and nationalistic yellow press of the era. Much as Europeans—who enslaved, destroyed, and finally assimilated the cultures and nations of the indigenous Indians of the Americas—found it convenient to label them "wild Indians," so too was it convenient to label the Ottomans and Turks as the "terrible Turks."

The role of the American and British Christian missionary organizations in the early part of this century bears special mention. These church-based groups helped foment the "us"—Christian, Western, innocent—"them"—Muslin, Eastern, barbaric—mentality that infected journalism's depiction of Turks in the pre- and post-World War I age.

The sad fact is that many of these missionary groups were engaged in highly competitive fundraising efforts and many tried outdoing others by whipping up public hysteria against Turks, each topping the other with lurid and factless tales of "anti-Christian atrocities." The fact that millions of innocent Muslim Turks died alongside hundreds of thousands of Christian Armenians was of little consequence to those who fanned the flames of religious and racial hatred.

The legacy of that era is sadly still with us today; there are still those who try to portray the tragic conflicts during the disintegration of the old Ottoman Empire during and after World War I as genocide against a Christian minority in eastern Anatolia. Wisely, both the House and the Senate have decided not to take up this question. And, equally wisely, most Americans realize that the drumbeat of anti-Turkish propaganda in this country is politically motivated and orchestrated, and unrelated to the real national interests of the United States.

As we reflect here today on Turkey's selfless and immediate response to our call for support on the gulf crisis, it might do well to think back to the rancorous and diversive debates we have had on the Armenian resolution. Can there be any doubt that had we passed such an unfair and gratuitously insulting resolution that it might have been impossible for President Özal and the Turkish Government to have stood by us on Kuwait?

A HISTORY OF RELIGIOUS TOLERANCE

The task of establishing an accurate image in this country is complicated by the fact that most Americans know so little about Turkey and Turks. Many Americans only know the Turkey of the racist and inaccurate film, "Midnight Express"—but they know nothing of Turkey as a cosmopolitan, economically booming nation that sees itself as the eastern anchor of the West.

And they know little of the Turkish people—long and rightly known for their warmth and hospitality and tolerance.

They do not know that when the Jews were presecuted and expelled from Spain during the Inquisition at the end of the 16th century, they were welcomed to Turkey, where their descendants still live in Istanbul.

They do not know that when the Jewish community's main synagogue, Neve Shalom, was bombed by PLO terrorists a few years ago, the entire

Turkish nation reacted with outrage and horror or that the city of Istanbul came to a virtual halt as tens of thousands of Turks marched in the streets to show solidarity with and share in the grief of the Turkish Jewish community.

They simply do not know that thousands of Jews escaped the Holocaust during World War II because they were given false Turkish passports and protected by the Turkish Government.

THE TURKISH-AMERICAN COMMUNITY

And, Mr. Speaker, most Americans do not know that the Turkish-American community has made tremendous contributions to our society. It is a small community, scattered across our country. But despite its small size, the Turkish-American community is a rich stripe in our Nation's flag. Like many immigrant communities, Turkish-Americans brought a dowry from their motherland—for Turks it was centuries of Ottoman art, culture, science, and music.

In the Midwest and West, Turkish Americans settled in Chicago, California, and Texas; in the East, they settled around New York City, in Rochester, around Washington, and in New England. Turkish-Americans are disproportionately represented among the professions: doctors, engineers, scientists, and business people.

I could literally spend hours on this floor recognizing members of the Turkish-American community who have significantly enriched American life, but I would like to mention a few. They range from Ahmet Ertegun of New York, founder of Atlantic Records and former owner of the New York Cosmos Soccer Team; to Arif Mardin, the composer who won the 1990 Grammy Award for producing "Wind Beneath My Wings," Bette Midler's Record-of-the-Year; to Prof. Kemal Karpat of the University of Wisconsin in my home State who is a recognized authority on Near and Middle East history; to Tunch Ilkin of the Pittsburgh Steelers; to Erol Onaran, founder and president of Erol's Video; to the highly successful industrialist Ayhan Hakimoglu of Philadelphia; to Ahmet Kafadar of Denver who invented a new type of ejection seat widely used in the aerospace industry; to Dr. Esin Atil of the Smithsonian Museum in Washington who was the curator for the stunning "Suleyman, The Magnificent" exhibition that toured America in 1987, reminding us all that Suleyman is one of the great lawgivers of history whose likeness looks over us from the walls of this very Chamber.

And the Turkish-American community has developed strong organizations that speak out on matters affecting American and Turkish-American interests. The Assembly of Turkish American Associations, headquartered in Washington, is comprised of more than 52 component groups across the country, and has been a leader in uniting Turkish-Americans and giving voice to the concerns of the community. The assembly has become an often consulted and respected factor in the deliberations of Congress.

In New York, the Federation of Turkish American Societies, with 22 component groups, has also contributed to a strong sense of cultural pride among Turkish-Americans. Their annual Turkish-American Day parade brings tens of thousands of Turkish-Americans together in a celebration of heritage and history.

Mr. Speaker, I regret that time will not allow me to name even more people, and there are hundreds from communities large and small all over the country. But I want to give the House a sense of the fact that Turkish-Americans are hard-working, valuable members of our Nation—from business, to sports, to education, to science, to the arts. They care deeply about values that are fundamental to their new home, and to their old home: family, a strong work ethic and above all integrity in personal and public life.

TURKISH INTEGRITY

In fact, Mr. Speaker, it is the issue of integrity that dominates Turco-American relations. The Turkish people ask only that the United States return the integrity and consistency as an ally that they have given us. "Trade, not aid" is more than a catchy phrase coined by President Ozal, it is a fundamental tenet of the Turkish nation.

Turkey does not ask for a handout, it just offers its hand in friendship. As one of the few countries with whom we have a positive balance of trade, Turkey does not ask for debt forgiveness, just for fair consideration on trade matters.

Mr. Speaker, I find it ironic that in the 1970's—when America first began to suffer from the ravages of drugs on our society—it was Turkey, more than any other country, that stood with us and successfully eradicated its domestic poppy crop that ultimately made its way to American cities via the "French Connection" as heroin. It was Turkey that cracked down on domestic production and transshipment of drugs. And what, with American encouragement, did the Turks substitute as a crop for the poppy? Cotton. The very same textiles that we now restrict with trade barriers.

Let me repeat this: We asked Turkey to wipe out the poppy, and she did. The repayment? Trade barriers, favoritism toward Asian textile producers and a popular American movie that reflected America's 1970's benign attitude toward recreational drug use by demonizing the Turkish people with slanted and grossly distorted stereotypes.

DEMOCRACY IN TURKEY

Mr. Speaker and fellow colleagues, as we welcome the Turkish President, Turgut Ozal, I think it would also be helpful to realize that he is not only the democratic leader of his country, but also a symbol of the restoration and deepening of Turkey's democratic institutions.

Following a period of instability and near-lawlessness in the late 1970's and early 1980's, the Turkish military stepped in and assumed control of the government in 1980. It was a period of harsh medicine and great domestic controversy. Ultimately, however, the Turkish military honored its word and withdrew from government control and full democracy was gradually restored. Turgut Ozal—interestingly without support from the military—became Prime Minister in 1983, was reelected in 1987 and was elected President in 1989. Turkey today is a thriving parliamentary democracy, with active opposition parties and a lively free press.

DANGEROUS NEIGHBORS

All of these developments, Mr. Speaker, occurred in a neighborhood that can only be described as one of the world's most dangerous. Turkey's neighbors—Bulgaria, the Soviet Union, Iraq, Iran, and Syria were all openly hostile. Armed Kurdish terrorists still operate in the far southeast and from across the border sanctuaries in Iraq and Iran. Relations with its other neighbor, Greece, have always been complicated—even before the disputes over Cyprus. To its credit, Turkey has persevered and maintained both stability and democracy at home, and avoided being drawn into open, military conflicts with its neighbors.

As we look to the future, Mr. Speaker, we need to keep in mind the significance of Turkey's past as a strong ally and the unique role it has in the changing world. There are those who, somewhat gleefully, predicted that the fall of communism in Europe would diminish the importance of Turkey as an ally. Just a few weeks before the Iraqi invasion of Kuwait, material circulated to congressional offices, denigrating Turkey and implying that it was no longer an important ally. What a difference a few weeks makes.

AN ALLY FOR THE FUTURE

Far from making Turkey less important as an ally, the fall of communism in Europe and the unraveling of the Soviet Union makes Turkey even more important—just in different ways.

First, as we have seen so dramatically, Turkey occupies a strategically vital position as a bridge and buffer to the volatile Middle East. We've seen the role as buffer and ally already; the role as mediator and bridge lays

ahead. As a secular Muslim country with a Near Eastern tradition and a European outlook, Turkey is uniquely qualified to translate and mediate in this dangerous region. It is absolutely crucial that the United States begin to value Turkey as a political ally as well as a military one. Peace in the Middle East is vital to peace in the world.

Second, with regard to Eastern Europe and the Soviet Union itself, Turkey will remain of vital strategic importance. From Bulgaria all the way across the southern Soviet Union into the heart of central Asian China, large Turkic speaking minorities and nations exist in the midst of rising political and nationalist ferment. Few Americans realize the extent of the reach of Turkic speaking people. Naim Suleymanoglu, the Bulgarian Olympic Gold Medal weightlifter who defected to Turkey, was a member of Bulgaria's long oppressed Turkish minority and Wu'er Kaixi, the leader of the Chinese student movement at Tiananmen Square is from the Turkic speaking Uigur region of China and is known by his family as Umare Karaci.

Turkic speaking republics in the Soviet Union will all be pushing toward independence in the next decade. The Azerbaijan, Turkistan, Tadzhik, Turmenian, Kazakh, Kirghiz, and Uzbeki republics and autonomous regions of people like the Tatars are all Turkic speaking. As these republics and regions push for independence, Turkey will increasingly be seen as a stabilizing and mediating force.

COURAGE IS NOTHING NEW

Mr. Speaker, I could go on at great length here, but I would like to close my comments by noting that Turkey's recent actions regarding the gulf crisis are really nothing unusual and nothing new. What is unusual, and what is new, is that so many Americans have seen so clearly the courage and fortitude that is Turkey. And I think it is highly appropriate, and perhaps long overdue, that we take the floor of the House to underscore the value and esteem we attach to our friendship with Turkish people.

Mr. Speaker, we will never be in absolute total agreement with all of the actions and policies of another country. There are always going to be occasions when our interests and their's will diverge. But there clearly are countries with whom we are in fundamental harmony—in our values, in our respect for law and human dignity and in the direction of our strategic interests. The Republic of Turkey is one of those countries.

The friendship and relationship between our peoples and our countries has been of enormous benefit to Turkey and to the United States. In the years ahead, it can only get better.

Mr. BERMAN. Mr. Speaker, there is much discussion these days of begging and prodding our friends and allies to do their fair share in protecting the vital interests at stake in the gulf. It's important that we take the time to commend a NATO ally which has contributed, with absolutely no hesitation, more than its fair share.

Turkey shares a border with Iraq. But, when Iraq sought Turkey's help in keeping oil and supply lines open, Turkey refused. Instead, Turkey closed the twin pipeline which handles nearly 50 percent of Iraq's oil.

Turkey was one of the first countries to implement the U.N. sanctions against Iraq. Turkey's participation is key to the embargo's success—without its swift and decisive action, it is doubtful that the international sanctions against Iraq would have been effective.

President Ozal acted quickly and firmly in this crisis, without looking over his shoulder to see what his neighbors were doing. Instead, he courageously put Turkey's security and economy on the line—because it was the right thing to do.

It is clearly time for us to stop questioning Turkey's credentials as a friend and ally and to give it full credit for being a staunch ally and a responsible member of the international community.

BUDGET AGREEMENT REQUIRES SACRIFICE ON THE PART OF ALL AMERICANS

The SPEAKER pro tempore (Mr. McCURDY). Under a previous order of the House, the gentleman from Alabama [Mr. HARRIS] is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, if those participating in the budget summit came to my district in west Alabama they would clearly understand the frustration and impatience which most of our constitutents feel as they read and hear news reports of the failure to reach agreement on the measures necessary to fund and operate our Government.

When the choices before us are so stark, and the consequences of inaction so horrendous, it is difficult to understand the President's insistence on including new unrelated programs such as capital gains tax reductions in a budget agreement. I say that as one who supports a capital gains tax reduction, but Mr. Speaker, now is not the time, and a deficit reduction package is not the proper vehicle for such a controversial measure which would have no immediate impact on the deficit. If we speak of legislation as a vehicle, right now we don't have a motor, we don't have a transmission, we are running out of fuel, and all the President can think of is wire hubcaps and a power moonroof.

Where is the President's budget? Why did our Republican colleagues refuse to even offer his plan and let the House vote on it? Right now the only comprehensive budget proposal on the table is the one put forward by our Budget Committee. If the President and his aides have a program, and if our friends on the other side of the aisle can find it within themselves to be publicly identified with such a proposal, bring it forward for debate. Submit it for a vote. This is what the citizens of our country have a right to expect from their Government—something more than government by press release.

In conclusion, Mr. Speaker, I call on all participants in the budget summit to set aside personal ambition and forego the temptation to use this dreadful situation as leverage to achieve policy goals not otherwise obtainable. Forget new programs, forget rewriting the 1986 Tax Code. Concentrate on a realistic plan to bring spending in line with our revenues. We must squarely face the issue of whether we as a nation are willing to pay, today and not tomorrow, the full cost of the many services we expect and demand from Government. We must have a plan which efficiently meets the basic humans needs of our people. If new revenues are determined to be needed, they must be asked for openly and must be fairly applied. They must ask equal sacrifice from all our citizens. None should be singled out for special treatment—not for preferences and not for punishment. Fairness and equity must be our goals. The measure of our success will be the acceptance of our work by those whom we represent.

□ 1950

GENERAL LEAVE

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order this evening.

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

There was no objection.

EXPRESSING APPRECIATION TO REPUBLIC OF TURKEY AND ITS LEADERS FOR THEIR STAND AGAINST IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I had an opportunity last week to visit some of my Turkish friends in California, and one thing I promised them I would do is tell my colleagues and anyone else who was listening that the correct pronunciation of Turkey is Tur-kay-ah. That is the way the country's name is supposed to be pronounced. I henceforth

will do my best when talking casually about Turkey to pronounce the country's name properly. But tonight in my special order I may say Turkey a few times, so please forgive me, my friends.

Mr. Speaker, I have reserved this special order today to show my appreciation to the Republic of Turkey, and its leaders, for the stand that this country has taken against Iraq's invasion of Kuwait. Turkey's support for the United States's action in the gulf deserves even more credit when one considers the illtreatment that Turkey continually receives from this Congress. Given that the President of Turkey, Turgut Ozal is now in Washington to meet with President Bush, I believe it is extremely important to let both President Ozal and the people of Turkey know that some Members of the United States Congress do support the Republic of Turkey.

Since being elected to the United States Congress in 1982, I have stressed the importance of maintaining and promoting both the political and military relationship between the United States and Turkey. During my 8 years in Congress nothing has happened to diminish the importance of this goal. In fact, recent events in the gulf demonstrate that the Turkish-American relationship is, and must remain, a top priority of the United States into the 1990's and beyond.

Mr. Speaker, Turkey is located on a great cultural divide between Europe, the Middle East, and Asia. It is our only Moslem ally in NATO. Except for pre-revolutionary Iran, Turkey was the first Moslem country to recognize Israel. Turkey is also the only Moslem country with a completely secular political orientation and a longstanding commitment to Western democracy. This commitment, as evidenced by Turkey's willingness to shut down Iraq's oil pipeline through Turkey, remains a fundamental part of Turkey's world view today.

The spirit of democracy is inspiring people around the world. Yet despite these changes, it is important to understand that the future is nearly impossible to predict. As welcome as events in the Soviet Union and Eastern Europe may be, the reduction in United States-Soviet tensions have not diminished the security concerns of Turkey. Turkey still shares a 1,300-mile border with the Soviet Union, the longest of any NATO nation. Although Soviet forces are leaving Eastern Europe, Soviet forces on Turkey's border will not be withdrawn. In fact, many Soviet troops leaving Eastern Europe are being sent to the Turkish border, as are tanks and other equipment. Furthermore, Soviet forces on Turkey's border are continuing to be modernized.

Mr. Speaker, as Iraq's invasion of Kuwait demonstrates, the kind of conflict that could engulf Turkey may not necessarily come from an invasion by the Soviet Union. Turkey faces an array of dangerous, non-Warsaw Pact neighbors armed with sophisticated weapons. The armies of Iraq, Iran, and Syria are now equipped with long-range ballistic missiles and chemical weapons for which the Turks have no defense. Kurdish terrorists, who commit hit-and-run attacks in Turkey's southeast provinces, are now operating from bases in Syria. And Iran is actively supporting the Islamic fundamentalist movement in Turkey. These alone are enough to justify continuing the modernization of Turkey's military that has been underway, though underfunded, for a good many years.

Unfortunately, many of my colleagues, motivated by political considerations relating to Cyprus, have failed to supply Turkey with the support necessary to meet its external threats. Turkey is now struggling just to come close to meeting current NATO equipment standards. For example, Turkey lags behind both Syria and Iraq in both numbers and quality of tanks and aircraft. Our Government has estimated that it will take $1.2 billion per year for 10 years just to permit Turkey to meet its minimum defense requirements. This is not what it would take to fully modernize Turkish Armed Forces, but simply to permit Turkey to enter the post-Korean war age.

Mr. Speaker, I believe that it is a sad and persistent shortcoming in our relations that we have not funded more than half of Turkey's real defense requirements. It is even more troubling when one takes a close look at the issue which so many of my colleagues use to justify their denial of Turkish aid. That issue is Cyprus.

Seemingly every few months, Members of the "hate-the-Turk-club" in Congress take to the House floor to demagog Turkey on the Cyprus issue. Regrettably, this group puts forth the same tired-old myths, which unfortunately have been absorbed by many in Congress and the American public as fact. For this reason, Mr. Speaker, I believe it is important to dispel these myths.

Few Members of Congress seem to have a thorough understanding of the origin of this conflict, specifically the period of 1960-74. Without a thorough comprehension of the events which took place during this time, it is impossible to understand the security concerns of the Turkish Cypriot people. When Britain relinquished control of the island in 1960, a bicommunal government, with shared leadership by Turkish Cypriot and Greek Cypriot communities, was created by treaty. This compromise recognized the Turkish Cypriot and Greek Cypriot peoples of the island as political equals, with shared responsibilities and authority.

The Treaty of Guarantee, signed by the Turkish Cypriots, Turkey, Britain, Greece, and the Greek Cypriots, clearly stated that any of its guarantors had the right to intervene should the sovereignty of the island be threatened.

Mr. Speaker, it was Archbishop Makarios, the first President of Cyprus, who immediately began to carry out his plan for enosis, union with Greece. By 1963, the Greek Cypriots had completely destroyed the bicommunal character of the republic by ousting Turkish Cypriot leaders from their elected positions and destroying over 100 Turkish Cypriot villages. For the next 11 years, Turkish Cypriots suffered great losses, both human and material, in clashes initiated by Greek Cypriots. These clashes were fully supported by the Greek Army. Almost 1 out of every 120 Turkish Cypriots, including women and children, and the elderly, was killed during this period even with United Nations peacekeeping troops present on the island.

Given this tragic repression, I believe that Turkey was completely within its right, as early as 1963 when the Greek Cypriot Constitution was destroyed by the Greek Cypriots, to intervene on Cyprus in order to prevent the annexation of Cyprus to Greece. Most importantly, Turkey was completely within its right to prevent the annihilation of the Turkish Cypriot population. Solutions for Cyprus which ignore the history between the Turkish and Greek Cypriots or legislative measures which attempt to portray Turkey as the party responsible for the division of the island, are impractical, insulting, and counterproductive to achieving a just and lasting solution.

Unfortunately, misperceptions about the Cyprus issue, have allowed my colleagues in Congress to continually impose a 7 to 10 ratio on military aid to Greece and Turkey. Turkey has rightly objected to this formula as breaching our commitments in United States-Turkish defense agreements. I support this view, and for this reason, I attempted to eliminate this ratio earlier this year. I also attempted to remove a cap of $430 million on military assistance to Turkey. Unfortunately, the House Rules Committee rejected my amendment. And as a result, this year's foreign aid appropriations once again contain this absurd formula.

Mr. Speaker, I did not come here today to dwell on the repression experienced by Turkish Cypriots on Cyprus, nor did I come here to enumerate all things the United States Congress has done to damage Turkish-

Americans relations. But if one looks at the ill-treatment that Turkey has received from the United States, one of its allies, Turkey's most recent stand against Iraq in the gulf crisis becomes even more admirable.

Of all America's allies, none deserves more credit for their stand against Iraq's invasion of Kuwait than the Republic of Turkey. If the current gulf crisis teaches Members of Congress anything, it should be that the United States needs allies with the inclination, resolution, and wherewithal to share in the responsibilities, and to meet the challenges necessary to promote peace and stability.

Mr. Speaker, I know who America's friends are, and it does not take a genius to know Turkey is one of them. Who was it that denounced Iraq's invasion of Kuwait within hours? Turkey, who immediately endorsed the United States led initiative in the United Nations security council to condemn Iraq's aggression? Turkey, who shutdown Iraq's pipelines even though it would cut the country off from its major source of domestic oil, and cost them over $300 million a year? Turkey. And now, who is losing over $2 billion a year in trade with Iraq? Turkey.

Yet, despite the economic devastation these actions have caused, despite the slaps in the face that Turkey continually receives from the United States Congress, and despite the criticisms the Government of Turkey has received from its own people, Ankara accepted the United Nations-ordered economic sanctions immediately. What more does Turkey need to do to prove it is one of our most loyal allies. Absolutely, nothing. Turkey has always been our ally, even before the gulf crisis.

Mr. Speaker, one of the United States' most important foreign policy objectives must to keep the Turks, who have committed themselves to western democracy, the United States, and the European community, as our friends. I am committed to this goal. But this means that Turkey must be able to defend themselves against any and all threats. It also means that we as a country will have to hold up our end of the relationship. The Republic of Turkey must know that we are ready to stand beside them, just as they stood by us in Korea, in NATO, and now in the gulf crisis.

Before I conclude my remarks Mr. Speaker, I would like to touch on one last issue of great importance to Turks everwhere, the Armenian issue. Mr. Speaker, the U.S. Congress must be extremely cautious not to politicize the events that took place in the Ottoman empire over 75 years ago. I regret the suffering experienced by Armenians during this period. However, resolutions which make the charge that Armenians were victims of a genocide place the U.S. Congress at odds with the great preponderance of American scholars who are experts on the region's history.

Mr. Speaker, few members of Congress seem to know or remember that during World War I, the eastern provinces of the Ottoman empire were invaded by Russia. Incited by the Russians, Armenians in the region launched an armed uprising to establish an exclusively Armenian State in an area that was predominately non-Armenian. War, famine, and epidemics took heavy tolls on all sides. Armenians suffered, but some 2 million Turks and others also perished during the period. There was certainly no government-planned scheme to execute the Armenian population. Mr. Speaker, I hope all my colleagues realize that it is extremely dangerous to stoke the fires of ancient grievances.

To sum up, I would like to thank both President Ozal and the Republic of Turkey for their longstanding friendship to the United States. I know that Turkey is currently experiencing many economic hardships. And while I cannot speak for my colleagues, I want them to know that there is at least one Member of Congress, who will do everything in his power to help Turkey through these tough times.

THE GREEK CYPRIOT LEADERSHIP WAGES A NEW DISINFORMATION CAMPAIGN

The Greek Cypriot leadership is currently waging a new disinformation campaign by attempting to draw a parallel between the Gulf crisis and the Cyprus question. The two situations are totally different in terms of their nature and origin, as well as their consequences. The Greek Cypriot aim in trying to force this untenable parallel is to mislead public opinion about the Cyprus problem and to have it considered as an issue created by Turkey.

The Cyprus problem stems from the destruction of the partnership state by the Greek Cypriots in 1963 through their use of armed force against the Turkish Cypriots, and the attempt by Greece to annex the island in 1974. Turkey acted in accordance with its rights and obligations under the Treaty of Guarantee, but only as a last resort. In other words, the 1974 intervention is not the cause of the Cyprus question but the consequence of Greek and Greek Cypriot behavior and acts during the period 1963-1974. Iraq invaded Kuwait and ended its independence. Turkey stopped Greece's annexation of Cyprus. In the aftermath of the Greek junta's coup in Cyprus on July 15, 1974, Archbishop Makarios stated to the UN Security Council on July 19, 1974 that "it was an invasion, which violated the independence and sovereignty of the Republic. And the invasion will continue so long as there are Greek officers in Cyprus."

Turkish intervention was, therefore, a legitimate response to the institution of de facto ENOSIS (union with Greece) in Cyprus, as well as a legal measure by which to defend the Turkish Cypriots from annihilation. Turkish intervention brought to an end the internecine warfare between the Greeks and Greek Cypriots, led to the downfall of ex-terrorist Nicos Sampson who was installed by the Greek junta as "president", and resulted in the restoration of democracy in Greece. The territorial regrouping of the two peoples of the island in 1974-75 brought peace and stability to the island and laid the foundation for a mutually acceptable solution to the Cyprus question as defined in the Denktas-Makarios and Denktas-Kyprianou high-level agreements of 1977 and 1979, and reaffirmed in UN Security Council Resolution 649 (1990).

Iraq's military action against Kuwait was neither based on any international agreement, nor aimed at providing security to the people of that country. On the contrary, it was designed to terminate the independence of Kuwait and has endangered the lives of both Kuwaitis and foreigners. Iraq invaded and annexed a neighboring Arab country in utter defiance of international principles and law. This is why the Security Council has adopted resolutions under Chapter VII of the UN Charter relating to breaches of peace and acts of aggression.

Turkey intervened in Cyprus in compliance with the Treaty of Guarantee, under which it exercised its rights and obligations to remedy an unlawful situation. Turkey's intervention in Cyprus was based on Article 4 of the 1960 Treaty of Guarantee too which not only Turkey, Greece and the United Kingdom, but also Cyprus, are a party. Under this article each guarantor power has the right, in case of the treaty's violation, to take action with the aim of reestablishing the state of affairs; that is, the restoration of the political partnership between the two peoples of the island based on their political equality.

The search for a comprehensive settlement on this basis became possible only after 1974. Since then, there has been no armed confrontation between the two sides of the island, and the Turkish Cypriot people have enjoyed peace, freedom, security, and economic development.

Unlike Iraq's historical claim to Kuwait, Turkey has no territorial claim over Cyprus. Turkey's paramount interest is in the welfare and security of the Turkish Cypriot people and the preservation of their status of equality. If any parallel is to be drawn between the Gulf crisis and the Cypriot question, it must certainly be the parallel between Iraq's illegitimate claim to Kuwait and that of the Greeks to the entirety of Cyprus. In fact, the Greek and Greek Cypriot obsession to "hellenize" Cyprus is at the root of all the problems in the island.

Iraq has attempted to use innocent civilians as human shields against possible attacks on its installations in an effort to escape the consequences of its aggression against Kuwait. On this account, the actions of the Iraqi leadership are strikingly similar to the threats issued by Archbishop Makarios in the 1960s. Just as the Iraqi leadership is rounding up foreign nationals and placing them at strategic sites, Makarios had threatened Turkey to the effect that "if it dared to intervene militarily in order to save Turkish Cypriots, by the time it arrived in Cyprus it would find no Turkish Cypriots to save." Indeed, large massacres of Turkish Cypriot women and children took place both before and in 1974. And the Turkish Cypriots in South Cyprus who were all desperately trying to reach safe haven in the north during 1971 and 1975 who were treated as virtual hostages by the Greek Cypriots and their EOKA-B terrorist organization.

Therefore, if there is a comparison to be drawn, it can only be between Greek Cypriot policy and actions in Cyprus vis-a-vis the Turkish Cypriots and the role played by Iraq in the Gulf crisis.

TURKISH REPUBLIC OF NORTHERN CYPRUS—PRESIDENT'S OFFICE ON THE 30TH YEAR OF THE SO-CALLED REPUBLIC OF CYPRUS

The Republic of Cyprus which was established 30 years ago was a bi-communal Republic having a functional federative system . . . and its reason of existence was firmly established in the partnership status of the State and its Government. None of the National Communities was entitled to administer the island on its own. Neither community had the right to rule the other . . . the sovereignty of Cyprus was vested in the two communities on the basis of political equality.

That Republic was destroyed in the 1963-64 onslaught of the Greek Cypriots in the name of Enosis. See the Akritas plan!

The Republic which seeks to celebrate its 30th birthday has nothing to do with the bi-communal Republic of Cyprus and cannot replace that Republic. Those who profess to be the heirs of the 1960 Republic and thus see themselves entitled to celebrate its 30th birthday are merely the representatives of the Greek Cypriot wing of the 1960 Republic. They are not entitled, legally or morally to claim the title of the Government of Cyprus . . . the fact that they have used this title and have been able to pass it off as such for 27 years does not in law or in fact make them the heirs of the 1960 bi-communal Republic! A Greek Cypriot Republic in the South can argue that it has its 30th year, but it cannot in law or in fact be deemed to be the continuation of the bi-communal Republic of Cyprus which ceased to exist at the end of 1963 . . .

Those who claim to be the legitimate successors of the bi-communal Republic established in 1960 do so deliberately because they had never digested the 1960 partnership state and want, through the illegitimate use of the title of the Government of Cyprus, to take over the whole assets of the Turkish Cypriot partners, in other words, they want to become our Colonizers although the international agreements which created the 1960 Republic recognize our political equality and equal partner status! . . .

Those who attend the so-called 30th year celebrations of the Republic of Cyprus will in fact be attending a show of international misrepresentation aimed at camouflaging the fact that Greek Cypriots have not succeeded in destroying the Turkish Cypriot wing of the 1960 Republic and all that Turkish Cypriots are entitled to, in Cyprus!

We had been assured on the basis of the Zurich and London Agreements that all that has happened in Cyprus since December, 1963 would never be allowed to happen; that we were guaranteed against such developments. But for that guarantee and triple assurance by three guarantor powers 1960 accord could never be reached and Cyprus would have been truly divided. Greek Cypriot side accepted the accord on the basis that once the British left the island, Greek Cypriots could easily become the masters of Cyprus and 1960 Agreements could be nullified. . . .

From the outset we saw which way the joint Republic was going! . . . Makarios charted the way to Enosis. Denial of all partnership rights ceded to the Turkish Cypriots were to be eroded! . . . Greek Cypriots were to be the master of Cyprus. Turkish Cypriots were projected to the world as an insignificant minority! . . . The Minister of Interior declared publicly that his duty was to help his EOKA colleagues to fulfill their objective: Enosis!

The argument that Turkish Cypriots rebelled in order to divide the island cannot stand. Had there been such a plan, Cyprus could have been divided on the day we were attacked by Greek Cypriots. That there was a Greek Cypriot plan for destroying the partnership state and take it over as a Greek Cypriot State needs no additional proof. The events prior to the 1963 onslaught, Makarios's public statements on Enosis, and the events which followed prove that the Republic of Cyprus as established in 1960 was the target of Greek Cypriot onslaught because of its bi-communal partnership nature, because it was this partnership status of the state which gave legitimacy to the guaranties for its permanence!

After the 1963 coup by Makarios against the legitimacy of the state, everyday gave us a new chance for re-establishing a new partnership state but there was no such intention on the Greek Cypriot side because the new state would, again, have to be guraranteed against Enosis and that was anathema to Makarios who had agreed with the Greek Government never to sign an agreement which could bar Enosis! In Cyprus the Greek Cypriot members of the House had already passed a resolution for union with Greece! Again, if such a partnership state was to be set up Turkish Cypriots would have to be treated as co-founder partners, and not as a minority within a non-existent nation! Makarios could not accept any of these conditions, and why should he? He had hoodwinked the world to believe that his administration, composed 100% of Greek Cypriots was a legal and moral replacement for a 70/30 bi-communal Government . . . All that he could be was to offer minority rights to Turkish Cypriots. He refused to accept back Turkish Civil servants. "Not until a political settlement" he said. And now the world is asked to celebrate the birth of a 70/30 Greek-Turk Republic when, for the lack of a political settlement (meaning refusal of Turkish Cypriots to bow to the political dictat of Makarios and his successors) the title of that "Republic" has been monopolized by Greek Cypriots for 27 years!. . .

From whatever angle one looks, factual—political, legal or moral—, to allow Greek Cypriots to get away with the 1963 Conspiracy to destroy the bi-communal Republic and render a co-founder partner Community to the status of a minority, will be tantamount to giving in to terrorism!

1955-58 Eoka terrorism headed by Markarios was nor Enosis; our attempt to counter it by our National Reistance Movement in order to avoid being colonized by Greeks, led us into the 1959-60 Agreements. We all hoped that everyone had learned his lesson and the past was not be be repeated. But alas, it was repeated with ten-fold suffering. I had hoped that 1967 Kophinou tragedy and the near-landing of Turkish Troops in Cyrpus, the fear it arose, would let Greek Cypriot side see that Turkey would not allow Cyprus to become a Greek Colony nor would Turkey allow Turkish Cypriots to be colonized by Greek Cypriots! . . .

In this belief I began my talks with Mr. Cleridis, only to find out that on all points on which our security and the future status of Cyprus as a bi-national state stood was rejected by Makariosl Makarios would not sign a new agreement which barred Enosis nor would be accept Turkey's guarantee; he would not agree that Turkish Cypriots were a cofounder partner, enjoying equal political rights. He believed, as Mr. Cleridis now concedes, that he could render us into the status of a minority in Cyprus. Alas, Mr. Vassilou has no different vision on these cardinal issues than Makarios or Kyprianou.

Again I believe that Turkey's intervention in 1974 would be a lesson to all of us and and the idea of converting a bi-national state into a Greek State would be abandoned! Again I was proved wrong. On the contrary, as envisaged in the Akritas plan, presentation of an administration composed of 100% Greek Cypriots as "the Government of Cyprus" was treated as a "permanent fait accompi" and under this false title Greek Cypriots invited the world to treat Turkey's intervention as an invasion (in the words of the Akritas plan "a temporary fait accompli") . . . and, the designers of this illegal, "permanent fait accompli", under the false pretence of being the legitimate Government of Cyprus now invite world leaders to come and celebrate with them 30th Anniversary of the birth of "the Republic of Cyprus", when the celebrations are in fact for the 27th Year of the destruction of a bi-national state! This farce is the continuation of the unceasing Greek and Greek Cypriot effort to conceal the glaring fact that Turkish Cypriots' vested rights in the independence and sovereignty of Cyprus have not been destroyed and that having denied the Turkish Cypriot partners their fundamental rights while treating them, from 1963 to 1974, as outlaws, the right of Turkish Cypriot partners to establish their own state arose as a consequential legitimate event!

Today we stand for a political-partnership based on the political equality of the two parties with full security, justice and fair deal. That is the way political developments are proceeding in Europe and USSR. Being good, trusting neighbours as politically equal entities is the road to unity. The fake claim to be the government of the other is not!

Mr. Vassiliou rejects the idea of equality and partnership and wants to impose on us his conditions as "the Government of Cyprus"—a title which he knows lack legal and moral validity. We want security and we see this in the continuation of the Treaty of Guarantee with the right of Turkey to come and save us if 1963 events are repeated. Mr. Vassiliou turns his back on this in his assumed capacity of "the Government of Cyprus". He fails to understand that, as in 1959-60, for the island of Cyprus to have one legitimate government it is unavoidable that, that Government will have to be a partnership Government and it will need, for its permanence, guarantees—and what better guarantees can one devise except the one and only guarantee which saved us from being wiped off the map of Cyprus?

Partnership? Good, secure, neighbourliness and a process for establishing friendship and trust cannot begin without mutual need for them! "Government of Cyprus" destroyed all these elements 27 years ago inorder to make Cyprus Greek! This futile attempt to mislead the world that the Republic of Cyprus is entering its 30th year is further proof that Greek Cypriot leaders' aim is to capitalize on their crime of destroying a partnership Republic 27 years ago! To them, Turkish Cypriot resistance from 1963 to 1974, was "rebellion", to us it was an honourable national resistance in defence of our

vested rights in the Republic. But for our resistence, from 1963 to 1974, Cyprus would have been colonized by Greece years ago . . . but for the intervention of Turkey in 1974 Cyprus would have become part of Greece.

Our resistance to Mr. Vassilou's regime is a resistance fully justified by the events of the last 27 years! Any man of honour would have resisted any armed gang who claimed to be his Government without his consent and especially while international Treaties provide that, legitimacy of government and validity of state rest on inter-communal partnership.

Now, we are told 30th year of the Republic of Cyprus is being celebrated . . . Ask any Turkish Cypriot and his answer will be "Don't be funny! . . ."

RAUF R. DENKTAS,
President.

Mr. Speaker, on August 2, Iraq, despite its public statements and private promises, deployed its military machinery across its southern border with Kuwait, and invaded that small and virtually defenseless country. The world community quickly moved to isolate Iraq, and reverse this blatant violation of international law, through U.N. resolutions calling for the immediate and unconditional withdrawal of Iraqi troops from Kuwait.

The Republic of Turkey, despite a common border with Iraq, and critical trade relations with that country, took courageous and decisive actions, as one of the key players in the Persian Gulf crisis. Despite the overwhelming economic cost, Turkey was the first regional state to support U.N. sanctions imposed against the aggressor, halting exports and imports to and from Iraq. Again, acting in accordance with the consensus in the international community, Turkey shut off the two pipelines used by Iraq to export up to 60 percent of its oil.

These actions weren't cost-free. According to preliminary estimates, Turkey's response to the Gulf crisis could cost the country more than $4 billion annually. This includes a 50-percent reduction in shipping business, loss of construction contracts, loss of oil pipeline fees, loss of remittances from 6,000 Turkish workers in Iraq and Kuwait, and loss of outstanding credit from the Iraqis.

To understand the difficulty of the Turkish Government's decision, and to appreciate the sacrifices made by the Turkish people, we should keep in mind, that as a proportion of GDP, an equivalent burden for the United States economy would total over $300 billion.

These events refute the views of those who had argued that Turkey's strategic importance had evaporated at the end of the cold war. Anyone who had studied a map, should have realized that as the only NATO member bordering the volatile Middle East, Turkey's importance had in no way diminished.

Mr. Speaker, it would serve United States security interests best to take note of the positive actions taken by Turkey, to maintain a strong and mutually beneficial United States-Turkish relationship, and to provide the highest possible levels of aid to Turkey this year, and in the future.

If need be, and other solutions are not readily available to obtain full funding to meet the administration's request for Turkey, I would welcome and support an initiative to eliminate the 7:10 ratio. This arbitrary figure harms United States interests by simply making it more expensive to assist Turkey, a strong friend in the Middle East.

□ 2000

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

The gentleman knows that I have a great deal of respect for his concern for human rights throughout the world, and I have enjoyed working with him on this issue.

However, I do not want the record to stand that those of us who have been friends of Greece in the Congress of the United States are members of the hate-Turkey club. Certainly, Turkey is deserving of commendation for its role in the Persian Gulf crisis. That does not mean that those of us who differ with the gentleman do not have the United States of America's interest at heart. It does not mean that the Armenian genocide did not take place. It does not mean that the human rights of the Greek Cypriots have not been violated.

Clearly we have a disagreement on policy. It is the gentleman's time, and he has been gracious to yield, so I will not go into every difference of opinion. I can call my own special order for that.

But I would not like it to go in the RECORD unnoticed that there is in the Congress a definite difference of opinion historically about the Cyprus situation and about the Armenian genocide, and that is not in any way to undermine Turkey's friendship with the United States and Turkey's role in the Persian Gulf.

Mr. BURTON of Indiana. I would just say one thing briefly, and that is tonight we are honoring President Ozal's visit to the United States. I will not engage in a prolonged debate with the young lady on this, but I hope at some future time, in order to maybe illuminate my colleagues who are not maybe as well informed as maybe the gentlewoman and I are on this issue, maybe we could take a special order and come down and go through the historical events that happened during the so-called Armenian genocide and also the Cyprus issue so that our colleagues will really be as informed as possible when we debate the 7-to-10 ratio in the future.

Ms. PELOSI. I appreciate that. As I said to the gentleman. I did not rise to debate the policy with you except to say that a characterization of those of us who disagree would not actually be a hate-Turkey club.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, just for a second, I thank the gentleman from Indiana for yielding.

I want to join in with the gentlewoman from California in her remarks on that, particularly at this time. I, too, agree with the gentleman from Indiana [Mr. BURTON] that we should be grateful to Turkey for what they have done in their role with Iraq. We do still have some problems concerning Cyprus, and I think we should just make a note of that. I just wanted to join in with her remarks. I thank the gentleman very much for yielding.

□ 2010

Mr. BURTON of Indiana. Mr. Speaker, I know the Turkish-Americans around the country appreciate the hard work of Members on the Turkish people's behalf on behalf of the great relationship we have had with Turkey over all the years.

Mr. Speaker, I yield to the gentleman from the great State of Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to allow me time to change the subject a little bit, but I want to commend the gentleman from Indiana [Mr. BURTON] not only for his stalwartness in protecting freedom around the world and giving the devil its due, and honoring those that, especially those countries like Turkey that are great friends of the United States and have exhibited their friendship to the United States, but the gentleman from Indiana has also been a fiscal stalwart who has stood up for the rightness for the taxpayers in trying to protect the taxpayers of America, especially in this year and this budget crisis. The gentleman from Indiana is second to no one in the amount of time that he has spent working on the budget issue, and working on the issue to protect the American people from being assaulted with higher taxes and more spending by this Congress. I appreciate the gentleman, and if he will just bear with me just for a few minutes.

□ 2020

I would like to say, because we are headed for a train wreck on this coming Monday on October 1, and that train wreck being a sequester where $100 billion in cuts will automatically start happening on certain programs, especially discretionary spending and defense starting Monday, not all of the $100 billion on Monday, but those cuts initiated as a result of Gramm-Rudman-Hollings.

I thought it was important, and I talked to the gentleman from indiana that we needed to come down to the floor and discuss what has gone on and what our solutions are to the budget crisis. I have to take us back a whole year when we were in a crisis again last year faced with a Gramm-Rudman sequester and indeed we did experience small sequesters because of the Gramm-Rudman-Hollings process, but at that time the rhetoric started, and I especially wanted to go through a little bit of the history of what has brought us here because this Chamber, especially in recent days, has been called the House of Misrepresentation because of all the rhetoric that has been going on and the misrepresentation of what has happened.

First off, they started calling last year about this time that there was no way to fashion a budget for fiscal year 1991 without raising taxes. It was a systematic concerted effort to talk about raising taxes to continue the spending habits of Congress. They laid that out and continued to pound that home, that the President was wrong, that you had to raise taxes to continue spending and that spending was not out of control, that it was the result of the Reagan years, that it was Ronald Reagan and pumping up his defense spending over the years that he was in office that brought us to the deficit.

If the gentleman will just bear with me, it will take me about 2 minutes to read what I think is the most poignantly written piece on that history. It was written by Scott Hodge, a Grover M. Herman fellow in February budgetary affairs with the Thomas Averill Institute of Economic Policy Studies under the Heritage Foundation, and it is the most succinct straightforward presentation on what has happened over the Reagan years, why we have arrived at this juncture, why we have run out of smoke and mirrors and created financing, so we cannot play games anymore and we have to do something real to lower the deficit.

Mr. MOODY. Mr. Speaker, will the gentleman yield before he reads his statement, briefly?

Mr. DELAY. It is not my time.

Mr. MOODY. Will the gentleman from Indiana yield?

Mr. BURTON of Indiana. I yield to our colleague, the gentleman from Wisconsin.

Mr. MOODY. I am looking forward, Mr. Speaker, to hearing the statement. I am sure it is going to be very articulate.

It is not that Congress went on a spending binge. The fact is that in the 1981 sessions, which neither of us were here, as the gentleman knows, there were massive tax cuts. It is a question of restoring the tax base.

Spending did not go down in the Reagan years. Spending went up both as a percentage and in real terms, so it is not that Congress went on a wild spending binge. Congress spent less than the President asked the Congress to spend.

The fact is, and the record will clearly show that, the revenue base was cut and so the deficits mounted and mounted rapidly. The military spending went up more rapidly than social spending went down, and there is no question what side of the aisle promoted that.

Mr. BURTON of Indiana. Mr. Speaker, I do not want to be impolite, but I want to interrupt just a little bit because we have a little difference of opinion.

In 1981, the U.S. Treasury received $599 billion in tax revenues. In this fiscal year we are going to receive $1.2 trillion in tax revenues.

Mr. MOODY. Percentage terms are the only meaningful terms.

Mr. BURTON of Indiana. If I may keep my time, Mr. Speaker, that has doubled the revenue coming into the Treasury has doubled over the past 10 years. We are getting $80 billion to $90 billion a year in new tax revenues every year right now, so it is not a lack of revenues, and when you start blaming the Reagan tax cuts for the problems that we are confronting today, that in my view is incorrect. We have created because of those tax cuts 20 million new jobs.

Mr. MOODY. Those are blank checks.

Mr. BURTON of Indiana. And those 20 million new jobs have created additional tax revenues, that is, the $600 billion per year in new revenues we are getting over and above what we got 10 years ago; so with all due respect to my colleague the gentleman from Wisconsin with whom I share a great affinity and support for Turkey, I take issue because it is not the tax revenues coming into the Treasury that is the problem. It is the expenditures which have been made at the direction of the party that has controlled both the House and the Senate for all my lifetime, except 4 years, so I disagree, but I appreciate the gentleman's contribution.

Mr. DELAY. Mr. Speaker, if the gentleman will yield further, I just want to point out, and I know the gentleman would want to discuss this because I have talked to him before, to point out the gentleman's statement. You know, we can speculate about everything and we can guess at everything, but the figures speak for themselves, and you can speculate what kind of revenues we are going to have in the future and what kind of spending we are going to have in the future, but we can look back and see what kind of revenues we did receive and what kind of expenditures we did make. When you compare those to the President's request, that is another thing the Democrats continually harp on, that we always spend under the President's request. Time and time again, and it is in the CONGRESSIONAL RECORD, I have put in the real figures of how much we spent and how much the President has requested. From the year 1982 to 1990, we have overspent what the President has requested by $285 billion. Now, that is not TOM DELAY speaking. Those are figures put out by OMB, the Office of Management and Budget, along with the Council of Economic Advisors. Those are real numbers that anyone can check. We have overspent.

Now, what does happen, I serve on the Appropriations Committee and I know exactly what happens, usually what happens is that we pass our appropriation bills and specifically design these bills to spend money under the President's request. We never fund all the programs fully that we want to fund. What we do, we always come back later on in the year with supplementals and start pumping that money back in. I can demonstrate that with any Member who cares to discuss it with me. That is how the process works here, and that is why we are in the trouble that we are in.

If I may, and it will answer a lot of comments made by the gentleman from Wisconsin, this is the best piece I have seen on the history of defense spending, the kinds of spending we have made. These are real hard figures. These are not speculations or innuendo.

Advocates of higher taxes maintain that only new revenues can reduce the budget deficit. Experience teaches, however, that new revenues do not reduce deficits. From fiscal 1982 to fiscal 1991, for example, aggregate Federal tax revenues grew annually by roughly 3.3 percent—as the gentleman from Indiana pointed out—above the rate of inflation. Over this period, this brought in an extra $254 billion in revenues, after adjusting for inflation. What happened to this quarter-trillion dollars? Congress did not use it to reduce the deficit; Congress spent it dollar-for-dollar. During fiscal years 1982 to 1991, aggregate Federal spending grew annually by roughly 2.7 percent over the inflation rate, or an inflation-adjusted total of $255 billion.

Some critics charge that the budget deficit is the result of Ronald Reagan's rebuilding of the American arsenal, a policy now vindicated by the speed with which the United States is deploying massive forces to the Persian Gulf. Yet, defense spending accounts for only 18 percent, or $45 billion, of the 10-year, $255 billion real increase in spending. Since 1988, moreover, defense spending actually has gone down in real terms by 7.7 percent, a reduction of $23 billion. These savings were more than offset by real increases in nondefense spending. Excluding interest payments of the national debt, nondefense spending has risen in inflation-adjusted terms by $106 billion since 1988, an increase of nearly 17 percent.

The budget deficit thus has not been due to lack of revenue nor to high defense spending. New revenues have been rolling in for a decade. The problem has been that the Democrat controlled Congress spends every new dollar. And most of this is on wasteful pork barrel programs.

□ 2030

With the economy in deep recession, the Federal deficit jumped to $127 billion in fiscal 1982. This was 4.1 percent of gross national product, the greatest post-World War II share except for the 4.8 percent in 1948 and the 4.3 percent in 1976. Where is she at? The total spending in fiscal 1982 was at 23.8 percent of GNP, the highest level since 1944, and Federal taxes were at 19.7 percent of GNP, the third highest level since 1945.

As bad as that was, the United States could have lived with the 1982 level of spending. If Congress had controlled its spending habits that year and kept annual growth of Federal spending to the rate of inflation, the subsequent growth in tax revenues would have eliminated the deficit by fiscal 1988 and created a $92 billion surplus by fiscal 1991.

Obviously, the deficit was not erased by 1988. Instead, the deficit was $161 billion, the same inflation-adjusted deficit level it was in 1982.

By the way, parenthetically, I have left out the savings-and-loan expenditures that we have incurred.

Congress had a chance. Now, though Congress missed the opportunity in 1982 to cap spending at the rate of inflation, it had a second chance in fiscal 1988. Increased tax revenues since then would have reduced the deficit to $75 billion by fiscal 1991, only $1 billion above the Gramm-Rudman-Hollings deficit reduction target. This would have created a $13 billion surplus by fiscal 1994.

Instead, the inflation-adjusted fiscal 1991 deficit is expected to be about $162 billion, again roughly the same as the 1982 deficit and the 1988 deficit.

The hundreds of hours that budget negotiators have been spending in their summit deliberations this year could have been avoided had Congress not spent every dollar of new tax revenues generated by an economic expansion resulting from the Reagan tax cuts of 1981 through 1984. The only check on this 10-year spending spree has been the Gramm-Rudman-Hollings budget law which sets deficit targets each year and mandates automatic cuts if the targets are not met.

According to Heritage Foundation economist Daniel J. Mitchell, Federal spending today would be $300 billion greater than it is had Gramm-Rudman-Hollings not slowed the nominal 9.9 percent increase of congressional spending from 1980 to 1985. The annual pace of spending increases slowed to 4.8 percent after Gramm-Rudman-Hollings went into effect.

So where are we? Where we are is we have come this year to a point of a train wreck. How did we get here? We got here because the President saw that spending was going to continue, that the deficits were going to remain large and he had to get control of this budget.

So the President decided the only way to do this is to call for a summit and get the parties together and talk it through and try to reach some agreement. That was in May of this year, almost 5 months ago.

They came together, and they started meeting, and then the Democratic leadership of Congress told the President—went to the President on Monday or Tuesday morning and told him that if he did not put raising taxes on the table, they would walk. The President did that, to the great jeopardy of his political career.

He did it, and yet he was criticized for it. We saw the speeches in this well that the President had flip-flopped, the President now was for taxes, and many Members were yelling and screaming that t(ey were against taxes.

Then we went along for a while, and the President was negotiating with himself and continued to negotiate with himself because the negotiations were leaked out to the press when any sort of proposal was made. Then we came to the point right before the August recess. There was an agreement. By the way, during this whole time there were deadlines set but never met by the budgeteers.

So we continued along right before the August recess. There was an agreement between both sides that they would exchange proposals, sort of like exchanging prisoners of war. They would sit at the table and one would hold one proposal out like this and grab the other proposal and they would switch them.

The President made his proposal, and the Democrats did not come up with their proposal, yet criticized the President's proposal in the press.

That led us into the August recess. And after the August recess, we come in and we still are missing deadlines.

What I see coming, what I see coming in the agreement—I might also say that in this House of misrepresentation, a lot of rhetoric started before the August recess about capital gains being a tax cut for the rich. We can talk about that some more also.

But what we see coming is that we are going to get new taxes and we are going to get very little spending, just like the summits of old, and we are going to end up with continued deficits and there will be no serious deficit reduction.

The gentleman from Indiana [Mr. BURTON] and the rest of us, including Democrats, have been looking at alternatives. The gentleman from Indiana may want to point out his alternatives.

But what we were leading up to in this article by the Heritage Foundation is that if we would have put a cap on spending, to not increase spending to any more than the rate of inflation, we would then have a balanced budget today. Many of us are proposing that same approach, and I know the gentleman from Indiana does.

Mr. MOODY. Mr. Speaker, will the gentleman yield for a moment or two?

Mr. BURTON of Indiana. I yield to the gentleman from Wisconsin.

Mr. MOODY. I have examined these numbers. The gentleman from Texas and I had this conversation before.

I sent those numbers to the Budget Committee for their analysis, and now I remember what they told me.

What they told me is you use what you call congressional spending, which includes three components: appropriations, entitlements, and interest payments. That is right.

Now, I need to correct my statement.

What we did is not spend less than the President wanted, we appropriated less than the President wanted each year.

Mr. DELAY. That is not true.

Mr. MOODY. That is true.

The Budget Committee has given me those numbers.

What went up so fast is interest payments, they soared through the ceiling.

You can call that congressional spending, you can call it appetite; I call it meeting your obligations. If you borrow $3 trillion, you have to pay the interest on it. You can call that wild spending binge, but you have got to pay the interest if you borrow the money.

That is not congressional spending, that is a national obligation. To call

that that this House "is dying to spend" is a total mischaracterization of what happened.

On appropriations, we have appropriated less than what the President asked for on entitlements and on interest——

Mr. BURTON of Indiana. I want to reclaim my time. I do not want to be impolite, but the fact of the matter is, to go back to the basic premise that I used earlier, we were getting $599 billion per year in tax revenues in 1981, fiscal year 1981. This year we are going to get $1.2 trillion.

Mr. MOODY. We ran a $220 billion deficit in 1981.

Mr. BURTON of Indiana. $1.2 trillion annually now. It is increasing at $80 to $90 billion per year.

Now, that increase in revenues ought to satisfy even the most insatiable of appetites.

Mr. MOODY. The case load in social security.

Mr. BURTON of Indiana. I have to reclaim my time, Mr. Speaker.

The fact of the matter is that it is the spending appetite of the U.S. Congress that is the problem. It is not the American taxpayers' paying taxes into the Treasury. Those revenues, because of the stimulus of the 1982 tax cuts, have created 20 million new jobs, 20 million new taxpayers. Those new taxpayers are creating additional revenues for the Treasury. Those additional revenues for the Treasury ought to be more than enough to take care of the needs of this country.

Mr. MOODY. May I respond?

Mr. BURTON of Indiana. The problem is that the appetite for spending goes on unabated.

Mr. Speaker, I yield to my collegue from California.

Mr. COX. I thank the gentleman for yielding.

Just a couple of points. The gentleman mentioned what happened since 1981. If you look at the decade, the 10 years from 1979 through 1989, Federal revenues have more than doubled. I do not think any business in America would count itself as having done poorly if it could double its revenues over a decade.

As a matter of fact, the entire economy did not grow anything like that. We were growing Federal revenues at a rate much faster than the economy itself.

The trouble was spending increased faster still. It far more than doubled. That is where we are, where we find ourselves right now.

We have got to get a handle on spending, or we will not get anywhere.

This year, as all of us here know but the American people do not, the majority in this Congress have increased spending far beyond last year; domestic discretionary was up 14 percent when we adjourned just a little bit ago, and now it is probably up more.

Two other points: Capital gains, some people are saying capital gains is the sticking point in these budget negotiations. The fact is capital gains is not a sticking point between Democrats and Republicans. Capital gains is a sticking point between the Democratic leadership and the rank-and-file Democrats here in the Congress.

We already passed capital gains reduction in this House.

If our leadership would simply permit a majority vote of the Congress, we would have capital gains reductions. And if there were an up-or-down vote on capital gains by itself, we could take it out of the budget mix altogether.

□ 2040

Finally, with respect to this so-called bubble, there is no such thing as a bubble. It is disingenuous in the extreme to call it that.

There are some people around here allegedly concerned about a lack of symmetry in our marginal rates. They go from 28 to 33 percent and then back down again to 28 percent.

But look what happens. There is no 33-percent rate in the code. Literally there is no 33-percent rate in the code. What there is instead is a 5-percent surtax. That surtax applies to a fraction of a taxpayer's income for the sole purpose of more rapidly introducing that 28-percent rate.

Mr. Speaker, I will give my colleagues an example by saying, "If your income is $80,000 a year, you'd pay that 5-percent surtax on a fraction of your income. The consequence would be that your tax on the $80,000 would be 23½ percent. If you make enough money to reach $100,000, then that 5-percent surtax applies to a fraction of your income, and you'd pay 25½ percent, and on and on until you max out at 28 percent."

In simple terms the truth is this: No one in America pays more than 28 percent. The more money one makes, the higher tax they pay, and up to 28 percent, the more money they make, the higher rate they pay. Anyone who suggests otherwise is engaging in sheer demagoguery.

When people are talking about bursting the bubble, we ought to hear them for what they are saying. They are talking about raising taxes on everyone.

Mr. BURTON of Indiana. About 5 percent.

I would just like to make one observation, and that is that the summiteers and the Democratic leadership has been advocating approximately $130 billion in new taxes of one sort or another. Beer taxes; we have seen those Anheuser Busch commercials on television, cigarette taxes, gas taxes, luxury taxes, energy taxes, just on, and on, and on, but the total is $130 billion.

And this observation, my observation from this one Member of Congress, is that, if we take $130 billion in taxes out of the pockets of Americans buying power, that means they are not going to purchase $130 billion of products. And that means, when we do not purchase $130 billion of product, they are not going to produce those $130 billion of cars, refrigerators, and what else.

Mr. MOODY. Mr. Speaker, will the gentleman yield 1 second?

Mr. BURTON. of Indiana. I will be happy to in a minute. Let me make my point, and that what Ronald Reagan faced when he took office. The taxes were so high that people could not buy, and when we take that buying power away from American people, the production goes down, and they start laying people off, and it exacerbates the situation because for each 1 percent of unemployment, it takes $40 billion out of our Treasury.

So, Mr. Speaker, when we add taxes on the back of the American people, and we take away that buying power and the productivity that follows, then what we are doing is creating additional unemployment, and we are going to have $40 billion added for each 1 percent of unemployment. So, if we had an increase in unemployment we would have an additional tax burden or additional burden on our taxes of a $120 billion.

Conversely, conversely, if we passed a capital gains tax cut, which most of my colleagues keep talking about and depicting as a tax break for the rich, it would create an estimated 2½ million jobs over the next 5 years, and those 2½ million people would be getting a salary, and paying taxes and having purchasing power, and so what happens is we have more products purchased, the economic recovery continues or grows, and we do not face the recession we are talking about.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. That is why many of my colleagues, myself included, make the very salient point, I think, that a tax increase right now, with us on the precipice of a recession, will push us over the edge into a recession because a tax increase takes that buying power away from the American public.

I yield to the gentleman from Texas [Mr. DELAY], my colleague.

Mr. DELAY. Mr. Speaker, I had one other note that the gentleman said——

Mr. MOODY. The gentleman from Indiana [Mr. BURTON] said he would yield to me.

Mr. BURTON of Indiana. I will.

Mr. DELAY. Did not point out on capital gains, and he is dead right about the increase in jobs, but it would also reduce the deficit by $30 to $40 billion. But also, if we had a 15-percent capital gains tax, what it would do, it would increase property values, thereby lowering our exposure in the S&L crisis. So, we would also save on the S&L side. It just goes across the board in our economy where a capital gains cut is not for the rich. It is for everyone. It is a job creation program.

Mr. BURTON of Indiana. Mr. Speaker, I just want to yield to the gentleman from Wisconsin [Mr. MOODY], my colleague. I promised him I would.

Mr. MOODY. Mr. Speaker, I want to get back to what was said that tax increases take money out of people's pockets, and indeed they do. One of the purposes of taxes is to dampen consumption to avoid inflation. That has been a historic purpose of taxation, not to finance government only because government can print money or do other things.

The way the Government finances itself, if not through taxation is, of course, borrowing. So, I say to my colleagues, "You can take $30 billion out of people's pockets through taxation, or you can take it out through borrowing, and, if you advocate taxation off the roof, then you're advocating borrowing. Once you fix the level of spending, it is either borrowing or taxation——"

Mr. BURTON of Indiana. There is——

Mr. MOODY. Let me finish my sentence.

Mr. BURTON of Indiana. There is one other way to do it, and that is to cut spending.

Mr. MOODY. No, no. Of course. But once that level of spending is cut, the question is, "Do you cover it by taxes or borrowing," and the gentleman is saying a tax cut is better, or not covering by taxes is better. The gentleman is saying covering it by borrowing. He is entitled to his opinion——

Mr. BURTON of Indiana. I did not say that at all.

Mr. MOODY. But once we fix the level of spending, then we have only got two ways to finance it. Either way takes $30 billion out of people's pocket——

Mr. BURTON of Indiana. Well——

Mr. MOODY. And I say, "When you borrow $30 billion, you also take it out of their pockets."

Mr. BURTON of Indiana. Mr. Speaker, if I can reclaim my time——

Mr. MOODY. And we raise interest rates on top of it.

Mr. BURTON of Indiana. The point is we have raised each year over 1981 $600 billion in new revenues over the $599 billion that we are getting, and that ought to satisfy the most insatiable of appetites. The problem is not that we do not have enough revenues. The problem is we are spending too much, and now they want to load another $130 billion on the backs of the American people.

No.

Mr. Speaker, I yield to the gentleman from California.

Mr. COX. Mr. Speaker, I thank the gentleman for yielding.

I think that is precisely the point. We are not talking about a tax revenue cut. We are talking about a tax rate cut. We have got a lot of empirical experience with this.

People can theorize all they want in their economic laboratories with that econometric model, but we cut the rate of tax on capital gains in 1978. Revenues from capital gains taxes went up in 1979 and 1980, and we cut the rate further in 1981. Revenues went up in that year, and 1982, 1983, 1984, 1985, all the way until 1986, when we then raised the rate of tax on capital gains. We are now trying to reduce that rate of capital gains to increase, not reduce, revenues to the Federal Treasury, and empirical evidence shows that is precisely what will happen.

Mr. BURTON of Indiana. And create jobs. That is the only jobs creation program that we have talked about in this Congress.

Mr. COX. Well, there is no question, and, furthermore, there is no question that a majority of this Congress understands that.

Our colleague, who is now sitting in the chair, happens to be a Democrat, was a leader in the fight to get capital gains rate reduction passed by the House of Representatives. There is no question that a majority of the House of Representatives supports capital gains rate reduction. There is no question that a majority of the U.S. Senate supports it.

What is going on right now is that the leadership of Congress is preventing a majority from having its way. That is why we do not have a budget agreement, not because President Bush is doing anything. Everyone knows that the President cannot appropriate a penny. He can stand on the sidelines and cajole and so on, but the fact of the matter is that only the Congress can act, and our leadership is preventing us from getting this to the floor. They are literally standing in the way of fulfilling our legal obligation.

Most of us here know that the law requires that we have this budget to the floor for a vote by the end of June. The 1974 Congressional Budget Act requires that we complete our 13 annual appropriations bills by the end of June. Reconciliation must be completed by the end of June. That is a statutory requirement, and the fact is that the leadership of the Congress is breaking the law. When we break the law and violate the process, then we have financial chaos, and that falls squarely on the shoulders of——

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I would be happy to yield, but we only have about a minute——

Mr. MOODY. This will take 10 seconds.

Mr. BURTON of Indiana. That is what the gentleman said last time.

Mr. MOODY. Yes, it will take 10 seconds.

Mr. BURTON of Indiana. All right; I will give the gentleman from Wisconsin [Mr. MOODY] 10 seconds.

Mr. MOODY. First of all, the Treasury, the President's Treasury officials, agree that a tax cut, and the Republicans and the summiteers agree that a capital gains tax cut would cost, not gain, revenue. That is what they have all agreed.

No. 2, the gentleman from California I hope—why did he not bring the President's budget to a vote? Their side of the aisle refused to even give the President's budget a vote.

Mr. BURTON of Indiana. The 10 seconds of the gentleman from Wisconsin [Mr. MOODY] is up, but I appreciate his comments.

Let me just end up by saying that we all want to reach an agreement. We do not want to see the disaster that a sequester would cause the American people. But at the same time I hope my colleagues will not saddle the American people with $130 billion in additional taxes that will put us into a major recession, one from which we may not recover for some time.

Mr. HORTON. Mr. Speaker, I would like to begin by thanking the gentleman from Indiana [Mr. BURTON] for calling this special order today. As Turkish President Turgut Ozal visits the United States, it is fitting that we take this time to praise the nation of Turkey for its significant role in trying to resolve the Persian Gulf crisis.

It is all too common these days to find people and countries who are looking out for their own self interest. This is certainly not the case with Turkey. Turkey is a country which has requested tremendous sacrifice from its citizens for the good of the world community.

Turkey, as a frontline border state of Iraq, could have been reluctant to implement the United Nations sanctions against Saddam Hussein that threatened to cut into its lifeblood. The easy thing for Turkey to do would have been to continue its substantial trade with Iraq. Continuing trade with Iraq would have saved over 100,000 Turkish jobs and spared many others from economic hardship. A recent Wall Street Journal article estimated that Turkey will suffer $3 billion of economic damage as a result of the embargo on Iraq. The world community must also appreciate

the fact, of course, that joining the United Nations sanctions against Saddam Hussein placed all Turkish citizens at risk of military reprisal.

Turkey did not choose the easy way out. It stands as a model for the rest of the world. At first word of the United Nations embargo, Turkey terminated trade with Baghdad and shut off the twin pipelines carrying over 50 percent of Iraq's oil to world markets. Turkey has not shied away from the difficult decisions that had to be made.

Turkey, I might point out, has traditionally surmounted all of the challenges it has faced in contributing to a free and peaceful global community. Turkey maintains the second-largest armed force in the North Atlantic Treaty Organization [NATO] after the United States. Turkish servicemen served with distinction as part of the United Nations forces in the Korean war. Also, they have played an important role in protecting the southern flank of the NATO alliance.

Despite their defense commitments, Turkish officials knew that they had critical vulnerabilities. In the early 1980's, United States and NATO military planners had stipulated that the Turks needed $1.2 billion a year for 10 years from the United States to modernize and fully meet their assigned NATO role. Funding never came close to this amount, however, and the Turks continued to make costly repairs and upgrades on less capable World War II and Koren war vintage equipment.

The Turkish Armed Forces are currently facing an Iraqi Army equipped with state-of-the-art weaponry. Saddam Hussein has built up his army with a formidable array of conventional and special weapons. Both quantitatively and qualitatively, Iraqi ground and air forces possess superior equipment to most Turkish systems.

I suggest to my colleagues in the House that recent events in the Middle East require us to review our relationship to Turkey. Instead of cutting back on assistance to the Turks, we should be strengthening our commitment to these important allies. Let's provide the Turks with the capability to both defend themselves and to assist us in this volatile region.

Mr. CLEMENT. Mr. Speaker, I am pleased to join my colleagues in commemorating the visit to the United States of Turkish President Turgut Ozal.

President Ozal visits at a most auspicious and promising time in the relationship of our two countries. Faced with the challenges of an unstable and ever-changing geopolitical region, Turkey unhesitatingly joined with the United States in countering Iraq's invasion of Kuwait and the threat it posed to Saudi Arabia. True to its commitment as a NATO ally, Turkey acted decisively and in spite of the 200-mile border it shares with Iraq.

In showing such wherewithal, Turkey put at potential risk its economic well-being and its safety. More than anything, Turkey demonstrated by its actions its interest in the stability of the Middle East and the role it must and is willing to play in resolving the issues affecting that region of the world.

Of course, Turkey has never been shy in meeting its obligations as it sees them. And, having visited with Turkish Government officials and Turkish citizens, I know that there are times when its obligations and interests diverge from those of the United States. That is to be expected, just as when United States interests occasionally diverge from those of Turkey.

But today we commemorate not divergence, but cooperation and the fact that is it more than coincidence that United States-Turkish relations are strong and vibrant. President Ozal has worked hard to strengthen that relationship, just as have officials of our State Department and Commerce Department. All are to be commended.

On the occasion of President Ozal's visit, it is important that we celebrate the strong commercial and political ties that bind our two countries. Our relationship has matured, as it should. And, it will grow further, even as we realize that events and those who wish us ill may occasionally divide us. But, as in any mature relationship, if differences in perspectives or policy occur we will be able to talk, to iron out differences, and to use friendly persuasion. We may even agree to disagree. But at the core, the people of the United States and Turkey will always be friends who, as dynamic democracies, share similar values and dreams.

That is how it should be.

Mr. HERGER. Mr. Speaker, when the world was confronted with the blatant aggression of North Korean forces in Korea, not unlike Saddam Hussein's foray into Kuwait, one country came out ahead of the pack to join in the international effort to repulse the invaders.

That country which stood shoulder to shoulder with our men in Korea was Turkey. Without regard to what they would get out of it, the Turks sent several brigades which sustained heavy casualties and gained international acclaim for their fierce fighting ability.

Again, Turkey has stepped up to bat early in the current crisis with significant measures which have been pivotal to the effectiveness of the world response to Iraq's outrageous aggression. Through the strong leadership of the Turkish Government, twin pipelines carrying 60 percent of Iraqi oil output were turned off, despite threats of reprisals and a severe blow to the Turkish economy. Million of dollars in transit fees were lost by the Turks from this one action alone, along with up to 60 percent of the oil for their domestic needs which they had imported from Iraq.

With the formidable Iraqi Army arrayed opposite its 200-mile border with Iraq, a more reticent response could have been understandable on the part of the Turks. In fact, Turkish public opinion has questioned whether the Turks are being put on the firing line just for American and European oil interests.

As in Korea and as the staunch NATO ally they are, the Turks could not take a back seat as did some far more affluent and less heavily impacted countries. They responded with their traditional steadfast valor and stalwart defense of international principals. As a country with a predominately Muslim population, they were able to help defuse Saddam's attempts to portray his aggression as a holy war. As a bridge to the Middle East, they were able to rally key countries in the region around the sanctions.

Some who cannot see the forest for the trees would claim the irritants in our bilateral relations bespeak a faltering commitment to our security ties with Turkey. Any friendship has its minor disagreements and misunderstandings. Yet those built on a solid, common foundation endure and become stronger in the face of adversity. This is the kind of relationship we have with the Republic of Turkey.

The Turks have sent clear signals that despite irritants, such as the Armenians resolution in Congress, they put our common interests first. With a deep sense of the need for stability and continuity in the present crisis, they extended the current United States and Turkish defense and economic cooperation agreement without changes and fanfare last week, when it would have been easy to press for concessions.

For our part, we also need to demonstrate the qualities of friendship and steadfastness to the Turks. I stand here today to send a message to the people of Turkey and their leaders. Your tremendous sacrifices are recognized and admired, not only here in the united States, but around the world. Be assured that the United States stands behind its commitments to our friends in Turkey.

I would urge my colleagues to look at the issues which affect our bilateral relationship with Turkey, such as trade relations and security assistance, with a view toward sending a clear signal to the Turkish people and their leaders. Now more than ever, our friendship with Turkey is to be cherished, as they have so ardently demonstrated.

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay special tribute to a close American friend and ally, the Republic of Turkey. Many of us had the opportunity to meet with President Ozal during his visit yesterday. From this meeting and from examining the Persian Gulf crisis, Turkey's strategic importance has certainly been highlighted and its status as a dependable ally of the United States reconfirmed.

Turkey's friendship and support for the West go back many years. The Republic of Turkey has been a member of NATO since 1952. During the tense years of the cold war, Turkey countered the military threat of 45 Warsaw Pact divisions, hosting joint intelligence facilities, NATO headquarters, air bases, early warning sites, and communications facilities. Turkey was also one of the first nations to send troops to fight under the U.N. command in the Korean war. With great justification, General MacArthur, the U.N. commander, hailed the Turks as the "bravest of the brave."

Just a few months ago, lulled perhaps by the waning of the Soviet threat, Congress thought that it could safely cut security assistance to Turkey. Although the administration initially requested $545 million in FMS credits, the House Appropriations Foreign Operations Subcommittee recommended reductions in that amount providing only $400 million. When the administration protested, the sum was increased to $430 million by the full committee. Cold war justifications for military aid were no

longer considered convincing, especially in light of the incredible changes in Eastern Europe, and to a lesser extent in the Soviet Union.

However, in looking at the map, it is evident that the easing of superpower tension—while lessening the threat in some areas such as the Turkish-Bulgarian border—do not directly affect stability in other regions like Iran, Iraq, and Syria. Ethnic unrest across the border in the Soviet Union is also troubling.

The brutal Iraqi invasion of Kuwait on August 2, underscores the instability of the region and dramatically altered perceptions of Turkey's strategic value. The international embargo against Iraq had no chance of succeeding without Turkey, which shares a long border with Iraq and controls major oil pipelines coming out of that country. Although Turkey stood to lose billions of dollars by taking sides against Iraqi dictator Saddam Hussein, it did not hesitate to do so. The Turkish economy, which is not strong, will now have to absorb a drastic reduction in its shipping and trucking industries, loss of construction contracts, loss of oil pipelines fees, loss of remittances from the 6,000 workers in Iraq and Kuwait, and forfeiture of substantial Iraq debt. Preliminary estimates put the cost of Turkey's response to the crisis at $4 billion annually. As a proportion of GNP, an equivalent burden for the U.S. economy would be over $300 billion.

Turkey has also adopted measures to facilitate the multinational military effort in the gulf. The Government of Turkey agreed, for example, to extend their 5-year defense and economic cooperation agreement with the United States. Normally, the terms of such an agreement are subject to prolonged negotiation. Turkey, unwilling to disrupt the allied effort against Saddam Hussein, agreed simply to extend the existing agreement. Turkey has also facilitated the basing of United States Air Force F-111's along the Turkish-Iraqi border and Turkey has deployed military forces to that same region.

When the current crisis has been resolved, I hope we do not forget the contributions and support from Turkey. Turning our backs on the Turks would be ungrateful and unwise. Turkey, we must not forget, is the only predominately Moslem country in the Middle East with secular political institutions and a commitment to Western-style democracy. It is a dependable ally located in an uncertain but vitally important part of the world. History has shown that we can count on Turkey. Let history also show that Turkey can count on us. Real friendship is mutual.

Mrs. MEYERS of Kansas. Mr. Speaker, it gives me great pleasure to speak about the courageous actions taken by President Ozal and the people of Turkey in the face of Saddam Hussein's brutal aggression.

In the first days after the invasion of Kuwait, the Iraqi dictator sent his Deputy Prime Minister to Turkey hoping to keep his oil pipeline open. Despite the threat of Iraqi missiles with more than enough range to hit Turkey and the prospect of severe economic loss, Turkey sent the emissary back to Baghdad empty-handed with a message for Saddam to get out of Kuwait.

It was not easy to tell the neighborhood bully where to get off but, the Turks, with a lot more to lose than most of their neighbors, did just that and more. They were among the first to implement the U.N. sanctions fully, and they did it almost overnight. The international embargo had no chance of succeeding without Turkey's participation. Turkey's courageous early measures inspired others less severely impacted to come forward, and led the way to the most successful and united action in the history of the United Nations.

Of course, this is not the first time Turkey has participated in needed U.N. action against an aggressor. The Republic of Turkey was among the first Western nations to offer to send troops to fight under the U.N. command in Korea. The actions of the Turkish battalions and of the individual Turkish soldiers reflected an unusually high degree of courage and discipline. General MacArthur called the Turks under his command "the bravest of the brave." Turkish combat troops twice received the highest unit award that could be given by the United States, the Presidential Unit Citation, while fighting alongside American forces.

Turkey has remained a strong and steadfast friend of the United States. Since joining NATO in 1952, Turkey has had the important responsibility of defending NATO's southern flank from over 45 Warsaw Pact divisions. Turkey has maintained the largest military in NATO, second only to America; and has an outstanding record concerning burden-sharing with the United States.

Just a few months ago, with the Soviet threat receding, Turkey's friendship seemed less important. The House Appropriations Committee cut the administration's aid request for Turkey by over 20 percent. Saddam Hussein has demonstrated for even the most myopic the vital geopolitical importance of Turkey.

Mr. Speaker, the United States needs friends like Turkey in the Middle East. As one of the world's few secular, democratic Moslem States, it is an island of stability in that region. It shares our values and serves as an important role model for other countries wishing to move to democracy. We are fortunate to have an ally like Turkey. Here in Congress, we should do everything in our power to convince Turkey of our appreciation for that support.

Mr. LAUGHLIN. Mr. Speaker, I rise today to pay tribute to Turkey which, by its words and deeds, since the beginning of the gulf crisis, has proven itself to be a staunch friend and ally of the United States.

Only hours after the Iraqi invasion of Kuwait on August 2, the Turkish Government issued a statement, condemning the Iraqi invasion, and asking for unconditional withdrawal of Iraqi troops and restoration of the legitimate Kuwaiti Government.

Turkey, a secular democracy with a predominantly Moslem population, was the first regional state to support the August 6 U.N. trade sanctions on Iraq. A few hours after the U.N. resolution was announced, Turkey banned the loading of Iraqi oil at its Mediterranean jetties, effectively choking off more than one half of all potential Iraqi oil exports.

Turkey was also prompt in freezing Iraqi and Kuwaiti assets and in stopping all exports and imports to and from Iraq, although cutting off trade with Iraq will cost Turkey about $4 billion a year.

While a number of countries are now beginning to show signs of weakening in their resolve to enforce the embargo, Turkey continues to stand firm. On August 15, Turkey halted thousands of tons of food and other goods from entering Iraq. On August 29, it unequivocally denied a request by Iraq to allow shipments of medicine and food.

Turkey announced its support for the United States military operations in the gulf region without hesitation. The United States obtained permission from Turkey on August 7 to conduct training missions from Incirlik air base near the Iraqi-Syrian border. United States aircraft began arriving and flying training missions from Incirlik in Turkey only 5 days after Iraq invaded Kuwait.

Turkey has demonstrated its determination to stand firm against Iraqi aggression in many ways. On August 9, the Turkish Army increased its state of readiness, canceling all leaves and transferring F-16 and F-104 fighter aircraft to bases in southeastern Turkey. On August 12, the Turkish National Assembly granted the Government permission to declare war or send troops abroad in case of an attack from Iraq. On September 5, the National Assembly voted to give the Government the authority to allow the deployment of foreign troops in Turkey. Numerous statements from Turkish President Özal and the Turkish Government have made it abundantly clear that Turkey stands by its allies and the U.N. Charter, to which it was an original signatory.

Given Turkey's geographic and economic vulnerability to Iraq, and given its tradition of regional neutrality, one would have expected Turkey to be extremely cautious and slow in responding to the U.N. resolution and American appeals for support. Yet despite the enormous and adverse economic consequences of its actions, which some estimates show to be as high as $6 billion a year, and despite the fact that Turkey has to live with its neighbor Iraq long after other forces leave the region, Turkey, following its national commitments and sense of loyalty to its friends, has reacted courageously and swiftly in close cooperation with its allies.

Mr. Speaker, we should ask ourselves what we have done to deserve such loyalty? Last year, the Senate became involved in a long and bitter fight about the Armenian genocide resolution, a proposal extremely offensive to the Turks, and the passage of which is opposed by most responsible historians. Last April, President Bush, fulfilling a campaign promise, condemned the Turks for the massacre of the Armenians. Last June, the House Foreign Affairs Subcommittee cut about $115 million from the administration's request of $545 million security assistance for Turkey.

Mr. Speaker, I can only hope that the Turks continue to remain more loyal to the United States than we have been to them. We can start by continuing to persuade our friends and allies to provide economic assistance to Turkey to offset the tremendous burden imposed by adhering to the U.N. embargo.

Closer to home, we must ensure that security assistance is provided by Congress to meet the administration's request for Turkey for fiscal year 1991. This is no easy task at this tie of budget constraints, but Turkish needs in the gulf crisis mandate the breaking of the 7:10 ratio, an arbitrary balance, with absolutely no relevance to today's situation.

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MAINSTREAM ISSUES

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from Oklahoma [Mr. McCURDY] is recognized for 60 minutes.

Mr. McCURDY. Mr. Speaker, at this point I would like to recognize the gentlewoman from Connecticut [Mrs. KENNELLY], a member of the Mainstream Forum that meets on a regular basis to discuss mainstream issues and to bring those to light within the Congress and to the American people.

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. McCURDY] for recognizing me. I do not often come to Special Orders because I am aware that it is keeping other people here later in the day than is usually necessary, and it costs the taxpayers some money. But I have never felt as serious or seldom felt as serious as I felt tonight about exactly what is happening in the Congress of the United States. I just want to talk about it for a few moments, because I want to make sure that my constituents understand that I know what they are thinking about.

Mr. Speaker, in exactly 5 days the very, very, very serious situation of the Gramm-Rudman automatic cuts are due to go into effect. I do not feel that this is acceptable. I do not feel that sequestration, and that is the word we call it, is a substitute for governing. That is why I want to speak tonight.

I want to say to the negotiators, whom I feel have acted in definite good faith, both sides, Republican and Democrat, people that we have chosen as our leaders, I want to say to them tonight it is time now to stop negotiating. You have tried very hard. You have done your best, but it is time now to stop that negotiation and allow us, the Members of Congress, to do the job that we were sent here to do. You have tried, but it is just almost impossible to agree on revenue increases and budget cuts. That is what we are about.

But the fact of the matter is, if you do not stop negotiating and present a package to the Members of Congress, the rank and file Members like myself, we are going to have something happen here Monday that none of us want to happen. In fact, a constituent of mine said at lunch today that sequestration is like a nuclear weapon. It is the kind of weapon that you want in your arsenal, but you do not want to use it, because the results are so terrible.

Mr. Speaker, I have to say tonight that my constituents sent me to Washington to make decisions—not to sit idly by, as I have been sitting, because I had full faith that our negotiators would come forth with a package.

Mr. Speaker, what I am saying tonight is, I have faith in them. But the days are running out, and they have to act tonight, or at least by tomorrow morning. It is time to bring a package to this floor, and it is time to give us, the Members, both sides, Republicans and Democrats, time to let us vote.

If it is a deal, and that is the word I suppose I have to use, if a deal cannot be reached with the White House, then I think it is time for both sides to bring forth alternative packages and allow us to vote them up or down, until we can find something that we can agree on. Because none of us want to have happen what will be mandated by sequestration. Those cuts will be draconian.

Mr. Speaker, who really wants to cut the Coast Guard, air traffic controllers, meat inspectors, student loans? Who wants to make somebody's life very, very unhappy? Really to put our hand in and to hurt somebody. That is what we are doing with Federal workers. We do not want to do that.

So there is only one way to avert sequestration, and it is for our summiteers tonight or early tomorrow morning to put a package together so we can vote on it. If it is going to take a few more days to enact that package, then we will have to vote on a continuing resolution, because we cannot accept sequestration.

I heard the President tonight. I heard him on television, and he was blaming us, the Democrats, because there could not be a deal. I understand that. We are all politicians. He was at a political event. That is what happens when you go to political events, you become political. But I do not think our constituents age going to be understanding much longer.

Mr. Speaker, I just want to take a few minutes and read part of a letter from one of my constituents this very day, a woman named Jean Cahill, from Glastonbury, CT.

She said, "Dear Barbara, I haven't written for a long time. But I think the time has come to get down to business. Let's stop playing politics with the budget. Never mind worrying about the election. You all have a job to do. That's why we vote, so you all will do what's best for the country."

Mr. Speaker, I have been reading the press, like all of us read the press, we who are in the job that we are in. By the way, I asked for this job. I consider it a great honor to be the Congresswoman from the First Congressional District, from Hartford, CT, and the surrounding towns. I have asked for this job, and I think the people that sent me here believe I can do it. I believe when they do not think I can do it better than anyone else, they will stop sending me here.

But the press has been telling me there is an anti-incumbency mood out there, that anybody who is in, who has learned, worked, tried to get this job so it is understandable, that they should not be here.

Mr. Speaker, I have fought that. All the press says, "Oh, look at Massachusetts."

Well, that is a particular case. Massachusetts had a situation where they were terribly, terribly disappointed in the Governor, Governor Dukakis, and they felt that he had gone off and campaigned for President of the United States and their economy had gone down. They felt very strongly about that. They did throw out anybody connected with Governor Dukakis, though I think they blamed him almost too much. There was always enough blame to go around.

Then the press tells us, "Oh, look at Washington, DC." Well, unfortunately, the Mayor of Washington, DC smoked crack cocaine on television. Of course, they are going to throw him out. That is why he did not run again.

But that is not the whole country. Most of us in this body work very hard to do our job, so I have been arguing that should not be the feeling.

But let me tell Members something: If we sit here and allow the next 5 days to go by and do nothing, and let sequestration come in, then maybe the press is right. Maybe we should not have these jobs.

Jean Cahill said it is the way it is. Let us get down to business and do what we have to do.

Mr. Speaker, I stand here tonight and just urge the summiteers, who I think are in session once again, to do what you have to do. But the time has run out. By tomorrow morning, send us a package. We are the rank and file. We are the body of the people. We are the ones, that only us can go back and report to our constituents. Send us a package.

By the way, I remind the Federal workers who do not want sequestration, do not forget to stick up for some of us who are willing maybe to make that decision. We are going to have a package, and it is going to be tough and rough because we have spent too much. There can be no new spending. There is going to have to be a freeze on spending. There are going to have to be some cuts in very popular programs, but I think some of us are ready to make those tough decisions, rather than have sequestration. I

think many of us are standing here, and we have said it today and say it to each other and talk about it, we take our jobs very, very seriously. We know that everybody cannot be a leader. Everyone cannot be. That is why we have leaders.

Mr. Speaker, we have waited upon our leaders. We have waited for a proposal, but now we have no more time to wait. So I am saying, let us get about our job. Let us get a proposal, vote it up or down, but please do not let sequestration happen because it is not a viable alternative to governing. If we cannot resolve this, then I guess the press is right, we should go.

Mr. McCURDY. Mr. Speaker, I thank the gentlewoman from Connecticut [Mrs. KENNELLY] for her comments. I think she has eloquently stated the position for many of us. I have to concur with her totally.

Mr. Speaker, I think the key to what she says is that it is time to act. It is time to stop posturing. It is time to stop pointing the finger at one side or another.

Those of us who are involved in the Mainstream Forum, moderate and conservative Democrats, argue that there is ample blame, whether it is on the left or on the right. We saw earlier tonight a demonstration of why it is so difficult to reach an agreement.

We have a massive and great division in philosophy between not only the parties, but the people who are engaged in the debate here in the House of Representatives. But I agree with the gentlewoman from Connecticut [Mrs. KENNELLY], the time for negotiation is over. The time to act is now. We cannot allow a sequestration to go into effect.

Mr. Speaker, some people call it the impending train wreck. Some people refer to it like playing chicken back in the sixties, where two cars get on the same highway in opposite directions and come at each other, and at the last minute, they see who swerves or who blinks or who ducks.

□ 2100

Federal employees of this great Nation provide a valuable service. They are valuable employees, they are loyal, whether it is in the Department of Defense, the Social Security Administration providing social services, in the Agriculture Department, the Federal Aviation Administration, Health and Safety Environmental Protection. They entered into a contract with the Federal Government and we are not honoring that contract if we allow sequestration to occur.

One of the things that bothers me the most, and I am going to then yield to my colleague and friend from Alabama, is that earlier in the debate this evening my colleagues from Indiana, Texas, and California kept saying that the problem is not revenues, that the problem is overspending. They kept referring to the discretionary spending and how it has increased.

My colleagues and friends, I think it is important to again set the record straight. How is the budget constructed? As 45 to 46 percent of the Federal budget is made up of entitlements, whether that is Social Security payments, whether that is Medicare, whether that is other social services, Federal retirement, military retirement, those are mandatory, and I underscore the word "mandatory" outlays, unless the basic law that provided those is changed. Agriculture, Medicare, railroad pensions, Social Security payments, FHA assignments, those are areas that are required spending, and we do not know exactly how much those are. We project those into the year based on a certain class, a category of benefits and the people receiving those benefits, and it grows throughout the year. Those have increased, and yet I do not hear anyone on that side of the aisle saying that it is time we make those cuts in entitlements. No one over there is saying that we need to cut Social Security, and yet they say spending has increased. Forty-six percent of the budget is there.

Thirteen percent of the budget is interest on the debt. That again is one of those mandatory obligations that we as a Congress have to respond to. We do not determine the level. That is determined by the amount of debt that is accumulated over the past decade, and over the past 200 years of government. Again, we do not control that, but it is there. We have to pay the interest on the debt, either that or we violate the full faith and credit of the U.S. Government. See what happens and what kind of economic disaster results from that action.

Third, the Department of Defense. As a member of the Armed Services Committee, I am intimately aware of the amount of spending within the Department of Defense. It consumes about 24 percent of the Federal budget. That has increased in the mid-1980's, peaked in 1985 and since 1985 has been declining. There has not been the real increases or the growth that occurred between 1981 and 1985.

Lastly, the discretionary programs that affect so many people in this country. In reality, it is going to take a combination of cuts. It is going to take a combination of savings within entitlements. It is going to take a combination of cuts in defense and in discretionary programs.

There should be a freeze on spending. In 1984 or 1985 the gentleman in the chair and myself, and I guess we are the only two that had that opportunity to vote on that particular bill, and there were only I think 56 of us who voted, there were not any of our Republican colleagues who voted for that, and there were not many on the left of us who voted for that, but the center of our party said we were willing to freeze entitlements, we were willing to freeze defense, we were willing to freeze discretionary spending and even to raise some revenue in order to avoid the days of reckoning which are coming, which are here.

Monday that train wreck will occur. Monday we will tell Federal employees in this country that we no longer will live up to the obligation that we made and the contract that we initiated with them. That is crazy. That is bad policy. It is bad for the country, and I, like my colleagues, have said it is time to stop the negotiations. We ought to have a package out here to vote on which puts on record. And it is not going to be pleasant, but it is time to do it.

I voted for a constitutional amendment to balance the budget. I have voted in the past for a reduction in the capital gains tax, back in 1981, but we dropped it from 50 to 28 percent, and it did spur and add some stimulus at the time, but since then we have seen an accumulation of more and more debt.

I am appalled and outraged to think that a cut in the capital gains tax stands between an agreement on reductions and avoidance of this $100 billion mindless automatic cut in the Federal Government.

Those cuts are not just numbers. They are people, the people in my district who work for the Federal Government, whether it is at Tinker Air Force Base, or Fort Sill, or the Postal Technical Training Center. They balance their budgets on the paychecks they get, because they work for those benefits and those checks, and when we force them to take a 25-percent cut, then their livelihood is affected, their ability to feed their families, to make those car payments, to make those house payments are affected. There is no one else to blame other than this institution, the administration and the lack of leadership, and the inability to overcome partisan differences, the desire to gain partisan points at the expense of innocent men and women in this country.

The time to act is now. Mr. Speaker, I think we need to have a budget package this week. If we do not reach an agreement, if there is not an agreement reached by the negotiators, then I will tell you, I think it is going to be very difficult. I think it is going to be very difficult to reach an agreement when the President is making campaign swings throughout the country and taking the opportunity at political events to take shots at the Congress and at the negotiators.

I recall in the caucus in this very Chamber weeks ago, because some of us had come to this floor and spoken out against the imbalance and the unfairness that is implicit in this Tax Code, and that we believe that the rich should pay a higher percentage, and that they too should pay a fair share of the obligation of this Government because they enjoy the privileges and benefits of this great country, they too have rights and responsibilities, and the majority leader of the House, Mr. GEPHARDT, came to us and said: "During these negotiations we ask some restraint. We would appreciate if for the next few months that you not speak out because the Republicans are sensitive to that and they want us not to be out there talking about progressivity of the Tax Code or making changes."

We honored that request and we said yes, we will tone it down, we are not going to talk about that. We will wait and see what happens.

Well, my colleagues, that is over, that is gone. We are too close to the deadline to remain silent and allow the potshots to occur in the media but not have the truth said here on the floor of the House.

Mr. Speaker, it is an outrage. We have to act. We must stop it, and I hope that my colleagues will join in continuing to exert pressure not only on the leadership of this body but the administration as well.

I am willing to work. I think many in this body are willing to stay here as long as it takes to avoid this deadline. I have canceled my district trip. I would hope the President might consider canceling his campaign swing and come back to Washington and sit down and get a resolution on this issue. It is that important. If this is a crisis, and it appears all we are able to do these days is manage crises as opposed to looking long term and avoiding these situations, then we need to have him at that table. We need to act right now.

□ 2110

Mr. Speaker, with that, I yield to the gentleman from Alabama [Mr. BROWDER], who has, although relatively new to this body, considerable experience in management, in administration of government, and I think is very fiscally responsible and also understands the impacts that these potential cuts would have on Federal workers.

Mr. BROWDER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also want to commend our colleague, the gentlewoman from Connecticut, who spoke with such moving common sense a few minutes earlier. I commend my colleague, the gentleman from Oklahoma, for his leadership in setting up and leading the Mainstream Forum.

Those conversations that we have had, those meetings with our leadership and sessions out here on the floor, I think, have increased the amount of common sense that the American people are hearing, and I guarantee that we will be having more common sense of this sort coming from our Mainstream Forum.

The gentleman has done a good job with that, and I appreciate it, and I know the people of America appreciate it.

We are here tonight to talk about the budget crisis. I do not have a solution, but I know somebody who can singlehandedly lead us to that solution.

The problem, though, is that we have real disagreement in Congress. We have about 260 Democrats and about 175 Republicans here, so it is hard for one side to just point the finger at the other one. Most things that pass in here have to have support from both sides of the aisle. But we have real disagreement in Congress.

Whatever solution to this crisis we do reach it is going to have to have bipartisan support. It is going to have to have support from both Democrats and Republicans, and it is going to have to have support from both Congress and the White House.

I am confident that a budget can be passed which the people will accept. It will be a burden, but we can pass a budget with budget cuts and with that burden shared fairly across the American public.

The hangup, a I see it, is that congressional leadership has been working hard. They have been responsible, and we on this side of the aisle have pretty much stuck with them. We have given them our support, not our proxy, but our support in these negotiations. The hangup, as I see it, is that nobody is in charge on the other side.

I understand that our side has made offers from A to Z, budget cuts, maybe modified capital gains tax cut with compensating adjustments among the very wealthy who are going to benefit from that.

In my opinion, the President should have been sitting at that table. The President should have been participating personally in those budget negotiations. I felt that way from the start, and I think that it has hurt the process with the President not being there full-time at those negotiations.

Where does the buck stop? Well, you know, we can grandstand, we can finger-point, but the buck stops with both Congress and the White House, yes, the President.

Those who read and read the newspapers and watch television, listen to radio, study constitutional and statutory politics, keep up with the elections, know that this burden is shared by the Congress and the White House. Some people will point out that it is Congress, Congress' responsibility. Yes, it is. But, in reality, you know that that is shared. The President, the executive branch, advises us, presents a budget, and we respond to it.

I recall a couple of years ago in elections there was only one person in this country who said, "I want to represent all of the people of the United States." Other people in this Chamber and the other Chamber represent segments of the people of the United States. One person said, "I want to be the President of the United States, and I have a plan for balancing the budget, yes, with no new taxes." Some of us still subscribe to that.

But there is a definite responsibility for the President to participate in this process.

Where is the President? I would like to revisit him back on January 31, 1990, in his State of the Union Message in this Chamber, "And tonight, let me say again to all of the Members of Congress, the American people did not send us here to bicker. There is work to do. And they sent us here to get it done."

I would like to revisit the President again in this Chamber on September 11 of this year in a joint session when he said, "Most Americans are sick and tired of endless battles in the Congress and between the branches over budget matters. It is high time we pulled together and get the job done right. It is up to us to straighten this out."

Where is the President's budget plan? Nobody knows. It is a part of the public record that that was never presented here in Congress.

As the appropriate time, the President's party did not offer the President's own budget. As a matter of fact, and I will then ask my colleague from Oklahoma to correct me on this if I am wrong, at one point in the discussion one of the members of the party on this side of the aisle tried to bring up the President's budget for discussion so the American people could see what was in that budget, and I believe that the President's party objected.

Where is the President? Is he at the budget table tonight? Is he in Washington during these days, these dwindling days before we face that train wreck? No. In these days, the President is in Akron, Chicago, St. Paul, Cleveland, Detroit, all very nice places.

I have checked the schedule, the White House bulletin that comes out. I think tonight, or today, the President spoke at a Republican fundraising luncheon in a gubernatorial campaign in Ohio. Tonight he is speaking at a Republican dinner in a Senate campaign in Chicago; tomorrow, speaking at a Republican fundraiser

breakfast in a gubernatorial campaign in St. Paul; tomorrow at lunch speaking at a Republican fundraising luncheon in a gubernatorial campaign in Cleveland; tomorrow night, speaking at a Republican fundraising dinner for a Senate campaign in Detroit, MI.

□ 2120

I am not a rabid partisan. I am not a Presidential basher. I am not a congressisonal coddler. However, the fact is our Government has not done its job. Our Government has not spoken straight to the American people in identifying this problem, in helping the American public structure its priorities, our priorities, and in asking the American public to come in and help set those priorities.

Mr. Speaker, I am frustrated. The people of Alabama are frustrated. America is frustrated, and the words of the President are still ringing in our ears. Let me repeat his words. "It is high time we pull together and get the job done right." If there is one single message I could send to the President, it would be his own words: It is high time.

America tonight is calling out to the President, wherever he may be, with another message: Come home, come home. Sit down at the budget table in good faith, with Democrats and Republicans in good faith now, and let Members get the job done right.

Mr. McCURDY. Mr. Speaker, I thank the gentleman for his statement. The gentleman obviously has hit the nail on the head and raised a very serious challenge to Americans.

I think that the point he makes is pretty clear. There are those who, on both sides of the aisle, we have seen it in this Chamber, who have said, obviously people in the country have not appreciated the benefits and the services that are rendered by the Federal Government, and perhaps in order to get their attention, to let them know that there is a crisis, well, let sequestration occur. There ought to be a little pain in America. I do not think those people who make that statement seriously mean or understand the impact of those words. If they are talking about a Federal employee at Tinker Air Force Base in Oklahoma, they are talking about people who are providing logistical support to our men and women in uniform in Saudi Arabia and in the Persian Gulf. They are talking about men and women who work at the FAA who are training air traffic controllers, or the air traffic controllers themselves, or they are talking about the people who, at the National Weather Service, provide the weather information so those airlines may fly. If they are called off the job or receive a furlough, those services are shut down. They are altered. They are impaired. The safety and security of the country, I think, is impaired.

Some people who make those casual comments oftentimes just look at the numbers. They look at the economic statistics, and I studied economics in graduate school and I understand that sometimes there is a temptation in a certain distance that occurs, but we are not econometrics, we are talking about the lives of people, their ability to send their children to school, to provide greater opportunities for them to feed their families, to make their house payments and car payments, and just depend on the one thing that we as the Federal Government offer to them.

Federal employees make less than their counterparts of equal education and ability in the private sector. They hired on, knowing full well that the pay would probably not be equivalent. However, the one thing we asked and thought that the Federal Government would secure to them is a certain amount of stability and security, that the Federal Government in that contract would say, "We are going to be true to you, we are not going to violate your contract. We are going to not allow these kinds of events to affect your lives." That security has been violated.

The threat of this, year after year, because of the borrow-and-spend policy over the past decade, we have come to these artificial deadlines and have come to the brink. Most every year we have avoided it at the last minute, but those were years when we had a $10 billion deficit to rectify, or a $30 billion deficit, or a $60 billion difference. This year, the President's own budget submission and projection fell short when submitted by $100 billion. Now, that estimate is off by some $200 plus billion, and that is not counting the S&L debacle and the payoff on that. Just on the estimates.

The recession that I believe is impending, and the actions in the Persian Gulf have set into effect or set into motion events which clearly devastate the economy as we know it today. It is not time for further posturing. It is not time to try to save a little faith so that when the recession occurs that the President can go back and say, "Well, I tried, but they won't let me."

It is time for Members of Congress to say, "Well, it's all the President's fault." It is time that everyone here claims their share of the responsibility. There is not a single program of this Government that will be unaffected if a real and serious budget package is not agreed upon. Every single program, every person in this country will have to contribute something to the resolution of this crisis.

We in the Congress, we in the Congress are going to have to pay our share. Men and women, regardless of income and where they live, or their station in life, will have to. My constituents at home tell me all the time, "Congressman, we are willing to pay it, but we want to make sure that Donald Trump is paying his taxes, or that someone is not defrauding the Government, and that someone who is receiving welfare benefits, that they are truly needy." That the Department of Defense is not ripping off Americans because of duplicated weapons systems or weapons systems that do not work, or those that contractors are not performing their job. We can look at any program. I believe this truly and firmly, as long as the agreement that is reached is real, does not have the phony numbers of the first budget that came through this House a few months ago, phony economic assumptions, if it is real, if it is genuine, and is going to make a difference over 5 years and we are going to enforce it, and it is fair, then I believe the American public will support it. If it does not occur, and we allow sequestration to occur, let me tell Members that States across this country are going to have the same kind of ax that occurred in Oklahoma a few weeks ago when they saw limitations on terms, which I think is one of the most irresponsible ways to deal with Government and the frustration of dealing with Government because what it does, it turns over the Government to the bureaucrats, and the staff who really do become the real power in this country. They are not accountable to the American people. I am accountable to the constituents in my district. All Members are. We all are. Every 2 years we go back and have our contracts renewed. However, if we turn it over to the staff and the bureaucrats in the administration, there is no checks and balances.

I believe that violates the very sense of the Founding Fathers, when they created this form of Government. The Government, the budget process has not worked. It is time to review it, to change it, but more importantly, it is too late to do that between now and Monday. What we have to do now is, as we say in Oklahoma, "Suck it up, tighten up the belt." Go down there, get an agreement that makes sense. The President is going to have to give. He is going to have to give up on a tax cut, capital gains. I believe we on our side are going to have to take more spending cuts than perhaps some had thought. We are going to have to have a pay as you go system I believe in the future that we do not have new spending programs without a commensurate offset.

□ 2130

If we adopt those principles, I believe the American public will support it; but more importantly, we cannot forget who we represent and those

people who have worked for us, for the Federal Government, for all Americans who are loyal, honest, hard-working citizens, that we should not allow this sequestration to occur.

Mr. Speaker, as always, I appreciate the indulgence of the Chair. I believe that it is important that we continue to speak out on issues such as the budget and the importance of this.

The main stream forum is kind of an informal group of Members who believe that too often the center of the political spectrum has kind of sat back and allowed the extremists to articulate their positions and perhaps even scream their positions, and while because that personality or political views have not stood up and said, "Well, wait a minute. There is a little merit probably on both sides. No one has the absolute right position."

This system is based on compromise, whether we like it or not. Some people say strong compromise.

Let me tell you, if we did not have compromise, this system of government would not have survived as long as it has, and it is the best system. You can look around the world today at Eastern Europe, Central America, Latin America, Africa, people are crying for the freedoms that we enjoy, but with those freedoms we have a responsibility and the responsibility is to act.

I just want to close with one quote. Walter Lippman said it in 1940 when he was addressing the 30-year class reunion of the 1910 graduating class at Harvard. He said to that group:

> You took the good things for granted. You must earn the rest. It is written that for every right you cherish there is a duty that must be performed. For every hope you entertain, there is a task that must be fulfilled. For every good thing you wish would happen, you must sacrifice your comfort and ease, for there is nothing for nothing any longer.

Mr. Speaker, my colleagues, and my constituents and friends in this country, there is nothing for nothing any longer. He said that in 1940. In 1990 it is even more true. If we want services and benefits from the Federal Government, we have to pay for them. If we do not want those, then we cannot cry out, if we are not willing to pay for them we cannot cry out for more.

There are too many who have said, "I want the benefits, but I don't want to have the obligation."

That time is over. You cannot do that. I believe it is time for us to do what is right, to bring a package on to this floor, to vote on it, to take the tough choices, to make the cuts, to raise the revenue, do whatever is necessary in order to provide for the future security and stability and growth of this country. The time is now.

HUMAN RIGHTS IN CHINA

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 60 minutes.

Ms. PELOSI. Mr. Speaker, I have called this special order today to coincide with several events that relate to China. But before I go into that, I want to commend our colleagues from the Main Stream Forum for their very thoughtful presentation this evening on the budget. While I am not a member of Main Stream Forum, I do agree that this effort requires our fullest concentration and that of the President of the United States, and that we must come to an agreement. We owe it to the people of this country. As one speaking from the left of the Main Stream Forum, I would hope that the agreement will reflect a budget that will reflect our national values, one that says that the strength of our country should be measured in the health, education, and well-being of our children and our people, as well as our ability to defend ourselves internationally and to keep the peace internationally.

I had intended really for this special order to take place while we were still deep in discussion about the budget, but as we know, Mr. Speaker, that has been going on for months now. I thought at the end of the evening now, with the indulgence of the Chair, I would like to take a few minutes to refresh the memory of the Congress on a subject that is timely, I think, for this reason.

I called this special order to coincide with several events. Today, Mr. Speaker, marks day four of the Asian games taking place in Beijing. These games are by all account a major effort to restore the legitimacy of the Beijing regime in the eyes of the world which continues to decry the continuing systematic pervasive denial of basic human rights to the citizens of China.

In Washington today, Mr. Speaker, the World Bank and the International Monetary Fund are holding their annual meeting. This opportunity will most certainly be an occasion for a reexamination of World Bank policy toward China.

Yesterday the Ways and Means Committee reported a resolution to disapprove most-favored-nation status for China. They also reported out a resolution for conditional renewal of most-favored-nation status for China. The full House will consider this issue probably as early as next week. In light of these developments, it is essential that the Congress of the United States voice its continuing concern about violations of human rights and on the economic side the centralization of the economy in China.

The reason I believe that it is necessary to refresh the memory of others in our Government is because yesterday I saw a most startling letter sent by the State Department regarding dissidents in the United States, Chinese dissidents in the United States. The State Department has sent letters to several students seeking asylum in the United States. The letter from the State Department stated that based on current conditions in China, they have demonstrated no well-founded fear of persecution upon their return to China. The letter stated that there was no persecution in China on the basis of political opinion.

Hard to believe, but stated by the State Department.

My subsequent remarks will demonstrate the fallacy of this statement, and in light of this development I call upon my colleagues to cosign a letter to the Secretary of State asking him to disassociate himself, to disavow this letter, that it was probably a mistake, that it could not possibly be true, because in the letter, the letter based its finding on the United States country report on China. This country report which was released earlier this year stated that virtually all internationally recognized human rights are restricted in China, many of them severely.

This country report, as I say, little has changed since this country report was issued. It is hard to understand why our State Department would be saying that there is no well-founded fear of persecution on the basis of political opinion to a dissident who has spoken out for democracy in China while in the United States.

In fact, preparation for the Asian games has provided a backup for an intensified effort to crush dissent. Reporting on the Asian games, the New York Times of September 22, remarked that determining that nothing should go wrong, authorities arranged an enormous show of force and sent workers home this afternoon with the stern advice that they should stay off the street and watch the ceremonies on television. This is particularly ironic, given the fact that the workers have been forced to pay for shortfalls caused by the lack of corporate sponsors for the game. Workers who earn only $330 a year are being assessed 20 percent of their paychecks as voluntary donations to the games. Although the Asian games officials say that all donations are supposed to be voluntary, the Wall Street Journal reported that the same officials are saying they have no control over fundraising techniques.

Most alarming, perhaps is the number of executions that have taken place in recent months in order to rid the country of undesirable elements before the Asian games. In its report

issued September 13, Amnesty International stated:

Firing squads in China have executed more than 500 people so far this year in China's most severe crackdown on crime since 1983. Courts have been ordered to impose "severe and swift" sentences and the scope of the death penalty has been broadened. Those executed include people convicted during the pro-democracy rotest of June 1989. Almost all of the people sentenced to death have been tried under emergency regulations which give them virtually no change to prepare their defense. Under this "fast track" system, some people have been executed within two weeks of their arrest.

The report goes on to say that "Torture and ill-treatment continue to occur, particularly against detainees awaiting trial or held in administrative detention."

□ 2140

Given this documentation on torture in detention, I am very concerned about the hundreds of prodemocracy activists who continue to be detained in Chinese prisons or camps. Despite assurances to Congress by a group of Chinese mayors this summer, that most dissidents had been released, an Asian watch report to be released later this week lists hundreds of prisoners of conscience who are still being held today.

Mr. Speaker, although this is embargoed until Friday, the Asia watch report entitled "Repression in China Since June 4, 1989," lists over 1,000 detainees; in fact, some of those detainees who have since been executed. This is a report that our State Department has knowledge of and for them to say there is no persecution on the basis of political opinion sounds very, very foolish.

Despite such arrests, democracy demonstrations have continued to erupt throughout the country. In Xinjiang Province this April, 200,000 troops were called in to quell large-scale demonstrations. Airports in the Province were closed and reporters were ordered out. Over 100 people are reported to have died. Clearly, the Beijing regime is embattled.

Because this special order is taking place so late, some of my colleagues who had originally planned to participate are submitting their statements for the RECORD. I would like to refer to one of those statements, that of our colleague TED WEISS of New York. He has a program with Congressman JOHN MILLER of the State of Washington addressing the political prisoners in China.

He refers to the human rights organization, Asia Watch's report estimating that over 1,000 people remain in prison in China for political and religious activities.

The vast majority of those prisoners are being held without proper charges or trials and have been detained for nothing more than peaceful political expression.

The fate of these prisoners remains shrouded in secrecy. Although the Chinese Government claims that 881 people have been released since January of this year, the names of all but a few of these prisoners have not been released. What happens is they release some, they rearrest twice as many.

Representative JOHN MILLER and Congressman TED WEISS, as I mentioned, have initiated a congressional project in conjunction with Asia Watch to support these prisoners of conscience in China. The Chinese political prisoner adoption program is designed to ensure that the courageous men and women who remain imprisoned for their outspoken defense of freedom are not forgotten here in the United States.

The project is very simple: Using the model of the extremely effective congressional campaign on behalf of Soviet Jewry, we, our colleagues, have been invited to adopt an individual Chinese political prisoner. Members of Congress who are participating in the program have written letters to the Chinese Embassy, made statements on the House floor and raised the case with the Chinese officials.

So far we have had an impressive response. Over 70 Members of the House, both Democrats and Republicans, are already participating in the program. But with so many still imprisoned in China, there is much work to be done. For those of our colleagues who are not yet involved in the project, we invite you to join in.

One thing is very important for prisoners of conscience and those especially who are being tortured, is for them to know that word reaches them that they are not forgotten and that torturers cannot tell them that no oneknows what is happening. So this part of the program is very important.

I would like to turn now, Mr. Speaker, to concerns about the Chinese economy.

There is no question that China has moved away from the economic reforms of the 1980's.

As you know, Mr. Speaker, much of our policy regarding World Bank loans to China, most-favored-nation status to China, depends on the fact that countries that we have these relationships with are supposed to be countries with a free economy, not a centralized economy. Such is not the case in China.

After June 1989, Beijing reversed its policy of free-market pricing. It had been moving more in that direction. Centralized price controls were quickly reinstituted over large segments of the Chinese economy.

In 1989, plans to diversify corporate ownership by selling stock in state enterprises to employees was scuttled as a betrayal of socialism.

Over 2.5 million small businesses have gone bankrupt in China since the beginning of 1989 as the Beijing government adopted increasingly restrictive economic regulations.

Despite this trend toward economic centralization, the World Bank hopes to lend another $275 million to China in October. This comes at a time of increasing demand for World Bank capital from Eastern European market economies and from countries who are suffering economic hardship because of their support of the U.N. and United States policies in the Persian Gulf.

In addition, the President has extended the most-favored-nation status to China for another year. This comes in spite of the fact that the United States trade deficit with China has doubled in the last year and could exceed $10 billion this year, $10 billion from China alone.

So if we are going to have most-favored-nation trade status with China and if it is going to benefit China to the detriment of our businesses in the United States—in some cases trade with China is good for businesses in the United States—but a trade deficit of $10 billion is not good for our economy.

And then it is important that we stand by what we have said in the past about most favored nation and it should not be extended to countries which do not have a free economy and which do not respect the freedom of residents and the right to emigrate of its people.

Human rights are important in our political life, in our international life; if they are important with some countries, they should be important with China as well.

The facts lead up to only one conclusion, that despite administration assertions to the contrary, be it in the World Bank, in the trade policy or in the State Department letters denying political repression in China, little in China has changed economically or socially since the brutal repression of 1989. Yet the administration seems bent on restoring full commercial ties with the Beijing regime.

I fear, Mr. Speaker, that this may happen after Congress adjourns next month. So many of the administration's initiatives on China have taken place over the Fourth of July, when the first Scowcroft visit took place, when we were in recess after Thanksgiving last year; and the second Scowcroft visit, the second that we know of, that has been admitted to.

I fear when we go out of session that there will be other initiatives as well. The administration may make arguments that China has reemerged as a

responsible world player. It voted with the Security Council against Iraq and cooperated on a Cambodian peace plan. This is clearly what Beijing would like the world to think

While I welcome Beijing's cooperation on these issues, I want to stress that it is self-interest that propels this cooperation and a desire to end China's isolation without making internal changes toward democracy and a free economy. This is unacceptable.

Mr. Speaker, we must let the Chinese Government know that we have not forgotten and will not forget the courageous people who continue to suffer because of their commitment to democratic reform in China.

So in the next weeks, as we take up the issue of most favored nation or we have to vote on our IDA replenishment, of funding for the International Development Association, of which the World Bank funding is part, we must remember the basis for our relationship and not make exception for China.

Mr. Speaker, only one more point. I was dismayed to learn that while, as I mentioned to you, people earning $330 a month in China were assessed 20 percent of their income in order to help pay for the games because of the disappointing participation of other kinds of sponsorship, I was disappointed to learn that M&M's, the official sponsor of the Asian games, one of the official sponsors—and I am second to none in this body as a fan of chocolate—but I would hope that those who love freedom and who love chocolate will forsake M&M's at least as long as they continue to support a repressive regime in Beijing.

Thank you very much for your tolerance in staying so late here tonight.

On behalf of my colleagues who join with me in submitting statements for the record on China, both tonight and on an ongoing basis, until we have these votes, I am grateful for the opportunity you have given us to put some of these statements on the record. Again, every chance we get I want to speak out for freedom and democracy in China, for the protection of human rights throughout the world, to protect the rights of dissidents in the United States who have spoken out for freedom and democracy and again to identify the lone man before the tank. He will not be forgotten in the Congress of the United States.

□ 2150

Mr. Speaker, I wish to insert a letter from Mary von Briesen, Director of the Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs.

The letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, June 25, 1990.

Mr. DAVID N. ILCHERT,
District Director, Immigration and Naturalization Service, San Francisco, CA.

DEAR MR. ILCHERT: This is in response to your letter asking for an advisory opinion on the above applicant's request for asylum in the United States.

We have carefully reviewed the application. In our view, the applicant fails to demonstrate a well-founded fear of persecution upon return to People's Republic of China on the basis of race, religion, nationality, membership in a particular social group, or political opinion.

Our opinion is based on information about country conditions and other relevant factors available to the Department of State through its conduct of foreign affairs, together with the information specific to the applicant provided in the application. We do not have independent information about this applicant.

The strength of the application may be affected by your interview or hearing, or additional information subsequently presented by the applicant. Should you believe that any such additional information warrants further consideration, we will be happy to review the file again.

I trust that this advisory opinion will be helpful to you in reaching a decision in this case.

Sincerely,

MARY VON BRIESEN,
Director, Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs.

Mr. WEISS. Mr. Speaker, before I address the issue of our policy toward China, I would like to say a special word of thanks to Congresswoman NANCY PELOSI, the sponsor of this special order. Her leadership—especially on behalf of Chinese citizens here in the United States—provides yet another example of her commitment to human rights and social justice around the world. I commend her efforts to remind the Congress and the American people of this important issue.

Mr. Speaker, the leaders of China are now attempting to spruce up their nation's tarnished image. Even though only 15 months have passed since they ordered the massacre of hundreds of demonstrators in Beijing, they are actively courting international approval. They are cooperating with the United States in the Persian Gulf and Cambodia and, this week, they are playing host to the Asian games in Beijing.

But even though we may commend these steps toward reconciliation with the international community, we must not allow ourselves to forget the genuine human rights tragedy that continues to unfold in China.

Beneath the thin veneer of calm at the Asian games, a dark and systematic pattern of abuses persists. The Chinese leaders have launched a nationwide anticrime campaign to stem political unrest during the games. Chinese prisoners are being executed by the hundreds without adequate judicial procedures. And the police are evicting peasant migrant workers and barring those who lack special permission from entering the capitol city.

The human rights organization Asia Watch estimates that as many as 1,000 people remain in prison in China for political and religious activities. The vast majority of these prisoners are being held without proper charges or trials and have been detained for nothing more than peaceful political expression.

The fate of these prisoners remains shrouded in secrecy. Although the Chinese Government claims that 881 people have been released since January of this year, the names of all but a few of these prisoners have not been released.

Representative JOHN MILLER and I have initiated a congressional project in conjunction with Asia Watch to support these prisoners of conscience in China. The Chinese Political Prisoner Adoption Program is designed to ensure that the courageous men and women who remain imprisoned for their outspoken defense of freedom are not forgotten here in the United States.

Our project is very simple. Using the model of the extremely effective congressional campaign on behalf of Soviet Jewry, we have invited our colleagues to adopt an individual Chinese political prisoner. Members of Congress who are participating in the program have written letters to the Chinese Embassy, made statements on the House floor, and raised the case with Chinese officials.

So far, we have had an impressive response. Over 70 Members of the House—both Democrats and Republicans—are already participating in the program. But with so many still imprisoned in China, there is much work to be done. For those of our colleagues who are not yet involved in the project, we invite you to join us.

We must let the Chinese Government know that we have not forgotten—and will not forget—the courageous people who continue to suffer because of their commitment to democratic reform in China.

Again, I commend Ms. PELOSI for her leadership on this important issue and thank her for yielding me this time.

Mr. SCHEUER. Mr. Speaker, the Asian games kicked off this week in Beijing. Not in the Beijing of a year and a half ago. Not the vibrant Beijing that was alive with the hopes and dreams of peaceful democratic reform. Rather, in a sterile, oppressive Beijing. A Beijing purged of individual expression and heavily tainted by the memory of brutal repression.

Were we so intoxicated with the triumph of democracy in Eastern and Central Europe and in the Soviet Union that we allowed the ruthless leaders in Beijing to succeed? That we turned our back on a vast nation yearing to be included in the global movement toward democracy reflects shame on the American people.

Were we so enamored by business as usual that the bloody scenes of Tiananman Square caused but a modest stumble in our business relations from which we quickly gained our equilibrium?

Yes, Mr. Speaker, it appears we were.

The Chinese Government has perpetrated a campaign to impose a ruthless conformity throughout Chinese society. This government of aging despotic mandarins is trying to preserve a dictatorial Communist apparatus and ideology that has been relegated to the scrap heap of history by Poland, by Czechoslovakia,

by Hungary, by Bulgaria, by the Soviet Union—the list goes on.

And what has this administration done to oppose China's step backward? What has this administration done to show the Chinese people our resolve to continue the fight against despotism?

Next to nothing. Indeed, the Bush administration extended most-favored-nation status to China, sent his National Security Adviser and his Deputy Secretary of State to Beijing before the smoke had settled over Tiananmen Square, and quietly allowed business and even military cooperation to resume.

Only 2 months after Tiananman Square and in the midst of the roundup of tens of thousands of political prisoners, Chinese workers, officers, and engineers were back to work building fighter aircraft for China—not in China, but here in America.

Not only is U.S. policy contrary to everything this Nation stands for, but it is myopic and self-defeating.

The Chinese Government belongs in a museum. They are a despotic but enfeebled gerontocracy. They enjoy no popular support. The future leaders of China, the students, the intellectuals, the workers, and the peasants all oppose this Government. And they will achieve freedom—with or without our support.

When the inevitable comes, when the forces for democratic reform succeed as they are succeeding the world over, what kind of relations should we expect with the Chinese? What will they say of us? That we stood by disinterested, and apathetic in their time of need? That we passively supported an oppressive, murderous, Communist regime? A regime that deluges the genocidal Khmer Rouge with weapons, that destabilizes the Middle East with missiles, that massacres its own citizens, the best and brightest of China?

We have temporized with the Beijing tyrants in a pitiful betrayal of our heritage and our political beginnings. Our country deserves better, and the people of China deserve better of us.

Mr. MILLER of Washington. Mr. Speaker, I want to commend Representative PELOSI for holding this special order at this important time. As the Asian games begin, and with the Persian Gulf dominating the news, it is doubly important that we do not forget that human rights abuses continue to occur every day in China. A short attention span on human rights in China ensures a long prison term for the prodemocracy movement in China. That is why it is especially important that this special order is taking place, and we are refocusing attention on China.

Even as we commend China for participating in the worldwide trade embargo against Iraq, we cannot forget the thousands of political prisoners languishing in jails. We cannot forget the hundreds who have been executed in the last year. Mr. Speaker, we cannot forget the cause of freedom and democracy in China.

Amnesty International has reported the execution of over 500 people during the current "anticrime" campaign. This includes dissidents who were arrested for "counterrevolutionary activity. These defendants have had no opportunity to prepare a defense. In fact, some were executed only 2 weeks after their arrest.

I hope that even as the House considers all the other important legislation before it in the last months of this session, that we also act on legislation to encourage human rights in China. The Ways and Means Committee has reported out legislation to add human rights conditions to the immigration conditions already in law for MFN status for China. I have introduced legislation which establishes nine guiding principles for American businesses to follow while conducting business in China. I know other Members have introduced other pieces of legislation to address the human rights problem in China. The time to act is now.

The United States has the power to influence positively events in China. My bill, for example, uses the powerful tool of United States businesses in China to further the cause of freedom and democracy in China. It is in the long-term interest of United States companies to ensure trade with China which does not deny fundamental freedoms to the people of the People's Republic of China and Tibet. Companies, by conducting themselves in a manner which encourages reform in China, will be securing a stable and profitable market in the future. My bill does not punish China, it does not punish United States business. But it does ask U.S. companies to play their part in promoting human rights.

Though the prodemocracy movement in China has been replaced on the front pages, the hearts, minds and soul of the Chinese prodemocracy movement are irreplaceable. We should not wait until another massacre occurs to act. Rather we should act now to ensure that another massacre does not occur.

The United States must speak with a voice which is loud and clear against the continued oppression of the Chinese people, and for freedom and democracy.

GENERAL LEAVE

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this special order.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentlewomen from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SWIFT (at his own request) for September 25 and 26, on account of illness in the immediate family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. PASHAYAN, for 60 minutes, on October 2.

Mr. DOUGLAS, for 5 minutes, today.

Mr. HORTON, for 60 minutes, today.

(The following Members (at the request of Mr. TORRES) to revise and extend their remarks and include extraneous material;)

Mr. SKAGGS, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MOODY, for 5 minutes, today.

Mr. MFUME, for 60 minutes, today.

Mr. MCNULTY, for 60 minutes, on October 9 and 10.

Mr. OBEY, for 60 minutes, today, September 27, 28, 30; 60 minutes on October 1, 2, 3, 4, 5, 9, 10, 11, 12, 15, 16, 17, 18, and 19.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HARRIS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LOWERY of California, in general debate on H.R. 4450, in the Committee of the Whole today.

Mr. LIVINGSTON, prior to passage of Anderson en bloc amendment on H.R. 5314.

Mr. ROE, to include correspondence on H.R. 5314 in the Committee of the Whole, today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. SCHULZE.

Mr. DAVIS.

Mr. GEKAS.

Mr. SPENCE.

Mr. MCDADE.

Mr. DREIER of California.

Mr. GOODLING.

Mr. EMERSON.

Mr. PORTER.

(The following Members (at the request of Mr. TORRES) and to include extraneous matter:)

Mr. WAXMAN.

Mr. HAMILTON.

Mr. KANJORSKI.

Mr. FRANK.

Mr. EDWARDS of California.

Mr. JACOBS.

Mr. COLEMAN of Texas.

Mr. SOLARZ.

Mr. KILDEE in four instances.

Mr. MAZZOLI.

Mr. MORRISON of Connecticut in two instances.

Mr. WOLPE.

Mr. BOSCO.

Mr. DYSON.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organizations, and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 535. An act to increase civil monetary penalties based on the effect of inflation.

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, September 27, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3938. A letter from the Secretary of Agriculture, transmitting the animal welfare enforcement report covering fiscal year 1989, pursuant to 7 U.S.C. 2155; to the Committee on Agriculture.

3939. A letter from the Secretary of Health and Human Services, transmitting the 15th annual report on the status of handicapped children in Head Start Programs, pursuant to 42 U.S.C. 9835(d); to the Committee on Education and Labor.

3940. A letter from the Department of Health and Human Services, transmitting a letter informing the Congress of the progress on four reports pertaining to specific topics related to child abuse which were mandated by Public Law 100-294; to the Committee on Education and Labor.

3941. A letter from the Secretary of Health and Human Services, transmitting a copy of a report entitled, "The Health Benefits of Smoking Cessation"; to the Committee on Energy and Commerce.

3942. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3943. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a brief statement, covering the 12-month period ended June 30, 1990, on the activities of the Federal courts under the Equal Access to Justice Act of 1980, which will be included in the annual report of the Director, pursuant to 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

3944. A letter from the U.S. International Trade Commission, transmitting the 41st report on the operation of the U.S. trade agreements program during 1989, pursuant to 19 U.S.C. 2213(b); to the Committee on Ways and Means.

3945. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to repeal the annual limit on the temporary assistance that may be provided to U.S. citizens returned from foreign countries and to authorize acceptance of gifts for that program; jointly, to the Committee on Energy and Commerce and Ways and Means.

3946. A letter from the Secretary of Health and Human Services, transmitting the annual report on Medicare for fiscal year 1987, pursuant to 42 U.S.C. 139511(b); jointly, to the Committees on Ways and Means and Energy and Commerce.

3947. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to provide professional liability protection for certain military members ordered to active duty during military opeations; jointly, to the Committees on Judiciary, Energy and Commerce, and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee of conference. Conference report on S. 2104 (Rept. 101-755). Ordered to be printed.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5007. A bill to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office"; with amendments (Rept. 101-756). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5409. A bill to designate the post office building at 222 West Center Street, in Orem, Utah, as the "Arthur V. Watkins Post Office"; with amendments (Rept. 101-757). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5209. A bill to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements; with amendments (Rept. 101-758). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. House Concurrent Resolution 362. Concurrent resolution expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States; with an amendment (Rept. 101-759). Referred to the House Calendar.

Mr. WHEAT: Commitee on Rules. House Resolution 477. Resolution waiving all points of order against consideration of the conference report on S. 2104 and against its consideration (Rept. 101-760). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 478. Resolution providing for the consideration of H.R. 2039, a bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, (Rept. 101-761). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 479. Resolution providing for consideration of motions to suspend the rules of September 27, 1990 (Rept. 101-762). Referred to the House Calendar.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 5649. A bill, National Aeronautics and Space Administration Multiyear Authorization Act of 1990; with amendments (Rept. 101-763). Referred to the Committee on 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. STUDDS:

H.R. 5717. A bill to reauthorize the Coastal Barrier Resources Act, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Banking, Finance and Urban Affairs.

By Mr. WELDON:

H.R. 5718. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt law enforcement programs from reduction under sequestration orders issued under that act; jointly, to the Committees on Government Operations, the Judiciary, and Ways and Means.

By Mr. KOLTER:

H.R. 5719. A bill to require generators of hazardous waste to treat or dispose of their waste at the site on which the waste was generated; to the Committee on Energy and Commerce.

By Mr. ESPY (for himself and Mr. ANTHONY):

H.R. 5720. A bill to transfer the responsibility for operation and maintenance of the Highway 82 Bridge in Greenville, MS, to the States of Mississippi and Arkansas; to the Committee on Public Works and Transportation.

By Mr. MICHEL:

H.R. 5721. A bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. LEWIS of California, Mr. MCCOLLUM, Mr. WEBER, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. VANDER JAGT, Mr. WALKER, Mr. GUNDERSON, Mr. BARTON of Texas, Mr. UPTON, Mr. KYL, Mr. IRELAND, Mr. GRANDY, Mr. GOSS, Mrs. VUCANO-

VICH, Mr. LEWIS of Florida, Mr. SOLOMON, Mr. GALLO, Mr. HOLLOWAY, Mr. BATEMAN, Mr. ROBINSON, Mr. COMBEST, Mr. MCCANDLESS, Mr. FAWELL, Mr. PACKARD, Mr. ARMEY, Mr. BALLENGER, Mr. KASICH, Mr. MADIGAN, Mr. ROBERT F. SMITH, Mr. SMITH of New Hampshire, Mr. DOUGLAS, Mr. SMITH of Texas, Mr. ROHRABACHER, Mr. SMITH of Vermont, Mr. BUECHNER, Mr. STEARNS, Mr. ARCHER, Mrs. JOHNSON of Connecticut, Mr. INHOFE, Mr. FRENZEL, Mr. SCHULZE, Mr. BLILEY, Mr. ROBERTS, Mr. GILLMOR, Mr. PAXON, Mr. MILLER of Washington, Ms. MOLINARI, Ms. ROS-LEHTINEN, Mr. DELAY, Mr. HILER, Mr. JAMES, and Mr. HAMMERSCHMIDT):

H.R. 5722. A bill to provide for the temporary continuance of essential Government services for Americans; to the Committee on Government Operations.

By Mr. MINETA:

H.R. 5723. A bill to authorize the President to allocate supplies of crude oil, residual fuel oil, and refined petroleum products, and to limit the prices thereof, during a severe petroleum supply shortage or a threat thereof, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MRAZEK:

H.R. 5724. A bill to provide relief for U.S. taxpayers by providing for the establishment of a private firm consisting of highly qualified individuals to assist the U.S. Government, on a contingent fee basis and subject to regulations prescribed by the Attorney General of the United States, the Federal Deposit Insurance Corporation, the Oversight Board, and the Resolution Trust Corporation, in recovering assets from looted savings associations to help pay for the savings and loan resolution; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Ms. OAKAR (for herself, Mr. SHUMWAY, Mr. GONZALEZ, and Mr. WYLIE):

H.R. 5725. A bill to extend the expiration date of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHULZE:

H.R. 5726. A bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied and to defer the reduction in estate tax rates; to the Committee on Ways and Means.

By Mr. HUGHES:

H.J. Res. 657. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; to the Committee on the Judiciary.

By Mr. WAXMAN (for himself, Mr. STARK, Mr. PANETTA, Mr. DIXON, Mr. DURBIN, Mr. ROE, Mr. LAFALCE, Mr. MCDERMOTT, Mr. BATES, Mr. LEHMAN of Florida, Mr. MILLER of California, Mr. MOODY, Mr. ROYBAL, Mr. BORSKI, Mr. KASTENMEIER, Ms. PELOSI, Mr. GEJDENSON, Mr. CROCKETT, Mr. STOKES, Mr. BRENNAN, Mr. DONNELLY, Mr. FRANK, Mr. KLECZKA, Mr. PEASE, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. TORRES, Mr. PAYNE of New Jersey, Mr. MARKEY, Mr. BLAZ, Mr. FAUNTROY, Mr. WEISS, Mr. MINETA, Mr. DWYER of New Jersey, Mr. MOAKLEY, Mr. MAVROULES, Ms. OAKAR, Mr. OBERSTAR, Mr. STUDDS, Mr. SOLARZ, Mr. WYDEN, Mr. VENTO, Mrs. COLLINS, Mr. ANDERSON, Mr. BERMAN, Mr. MATSUI, Mr. RICHARDSON, Mr. MARTINEZ, Mrs. SCHROEDER, Mr. SCHEUER, Mr. LEHMAN of California, Mr. BEILENSON, Mr. DYMALLY, Mr. CARDIN, Mrs. BOXER, Mr. RAHALL, Mr. COYNE, Mr. ANNUNZIO, Mr. MRAZEK, Mrs. UNSOELD, Mr. SYNAR, Mr. DOWNEY, Mr. CONYERS, Mr. EVANS, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FOGLIETTA, Mr. HAYES of Illinois, Mr. GONZALEZ, Mr. TORRICELLI, Mr. MURTHA, Mr. SWIFT, Mr. BROWN of California, Mrs. PATTERSON, Mr. KENNEDY, Mr. SIKORSKI, Mr. WOLPE, Mr. KILDEE, Mr. MCNULTY, Mr. WASHINGTON, Mr. LIPINSKI, Mr. OWENS of New York, Mr. EDWARDS of California, Mr. FLAKE, Mr. SCHUMER, Mr. LEVINE of California, Mr. DEFAZIO, Mr. AUCOIN, Mr. WILLIAMS, Mr. CLAY, Mr. SAWYER, Mr. ATKINS, Mr. MFUME, Mr. SKAGGS, and Mr. STAGGERS):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress that the Congress should enact a national health program which will remove economic and other major barriers to the receipt of health care while encouraging the efficient delivery of effective, high quality services; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 5727. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for employment in the coastwise trade, Great Lakes trade, and fisheries of the United States for the vessel *Oh Baby At Last*; to the Committee on Merchant Marine and Fisheries.

By Mr. LEVIN of Michigan:

H.R. 5728. A bill for the relief of Janice and Leslie Sedore and Ruth Hillman; to the Committee on the Judiciary.

By Mr. MILLER of Washington:

H.R. 5729. A bill to authorize a certificate of documentation for the vessel *Syringa*; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 201: Mr. CHAPMAN, Mrs. COLLINS, Mr. FOGLIETTA, and Mr. SMITH of Florida.

H.R. 222: Mr. SAXTON.

H.R. 1292: Mr. HOCHBRUECKNER.

H.R. 1317: Mr. STENHOLM, Mr. HENRY, Mr. ESPY, Mr. PETRI, Mr. SMITH of New Jersey, Mr. IRELAND, Mr. GOSS, and Mr. HALL of Texas.

H.R. 1476: Mr. OLIN.

H.R. 2121: Mr. AUCOIN.

H.R. 2353: Mr. FEIGHAN.

H.R. 2531: Mr. GRANDY, Mr. TAUKE, Mr. MCCLOSKEY, Mr. STENHOLM, and Mr. ROWLAND of Georgia.

H.R. 2545: Mr. KOSTMAYER.

H.R. 2816: Mr. HARRIS.

H.R. 2911: Mr. TAYLOR.

H.R. 3252: Mr. WASHINGTON.

H.R. 3267: Mr. NEAL of Massachusetts.

H.R. 3546: Ms. SLAUGHTER of New York.

H.R. 3734: Mr. RITTER.

H.R. 3914: Mr. GUARINI.

H.R. 3929: Mr. NAGLE.

H.R. 4209: Mr. KANJORSKI and Mr. CONDIT.

H.R. 4231: Mr. CLINGER.

H.R. 4269: Mr. ROTH, Mr. LAGOMARSINO, Mr. STUDDS, and Mr. HOCHBRUECKNER.

H.R. 4319: Mr. BUECHNER, Mr. EMERSON, and Mr. FRANK.

H.R. 4344: Mr. MACHTLEY.

H.R. 4424: Mr. HERGER.

H.R. 4690: Mrs. COLLINS, Mr. TAUKE Mr. BRUCE, Mr. UPTON, and Mr. COLEMAN of Texas.

H.R. 4761: Mr. QUILLEN.

H.R. 5008: Mrs. LOWEY of New York.

H.R. 5054: Mr. ATKINS.

H.R. 5224: Mr. KOLTER, Mr. MOLLOHAN, Mr. SLATTERY, Mr. CLINGER, Mr. BRUCE, Mr. YATRON, Mr. COYNE, Mr. BORSKI, Mr. GOODLING, Mr. MANTON, and Mr. MURTHA.

H.R. 5244: Mr. TALLON.

H.R. 5356: Ms. SLAUGHTER of New York.

H.R. 5361: Mr. DAVIS, Mr. HERTEL, Mr. SAXTON, and Mr. JONES of North Carolina.

H.R. 5367: Mr. LENT, Mr. MURPHY, Mr. GILMAN, Mr. SCHUMER, Mrs. VUCANOVICH, Mr. FLAKE, Mr. MILLER of California, and Mr. MARKEY.

H.R. 5377: Mr. KOLTER, Mr. JONTZ, Mr. RICHARDSON, Mr. BORSKI, Mr. SABO, Mr. FROST, Ms. SLAUGHTER of New York, Mr. WOLF, Mr. UPTON, Mr. DOUGLAS, Mr. SIKORSKI, Mr. BROOMFIELD, Mr. GOODLING, Mr. HYDE, Mr. MOORHEAD, Mr. INHOFE, Mr. HILER, Mr. ENGEL, Mr. SCHUMER, and Mr. SYNAR.

H.R. 5416: Mr. LAGOMARSINO, Mr. MILLER of Washington, Mr. HANCOCK.

H.R. 5423: Mr. MCCURDY, Mr. WILLIAMS, Mr. BATES, Mrs. LLOYD, Mr. MATSUI, and Mr. COYNE.

H.R. 5426: Mr. UPTON.

H.R. 5428: Mr. OWENS of Utah, Mr. CRANE, and Mr. MADIGAN.

H.R. 5443: Mr. SHAYS, Mr. ROWLAND of Connecticut, Mr. BRENNAN, and Mr. MARKEY.

H.R. 5528: Mr. WISE and Mrs. COLLINS.

H.R. 5544: Mr. LIPINSKI, and Mrs. BOXER.

H.R. 5579: Mr. YOUNG of Alaska and Mr. MARLENEE.

H.R. 5583: Mr. SLATTERY.

H.R. 5584: Mr. COLEMAN of Texas, Mr. BATES, Mr. BONIOR, Mr. FUSTER, Mr. MADIGAN, Mr. DEFAZIO, Mr. ENGEL, Mr. LIPINSKI, and Mr. SPENCE.

H.R. 5587: Mr. HOLLOWAY, Mr. SLAUGHTER of Virginia, and Mr. SMITH of Texas.

H.R. 5601: Mr. MADIGAN.

H.R. 5622: Mr. DOWNEY.

H.R. 5625: Mr. CHAPMAN, Mr. BRUCE, Mr. VENTO, Mr. THOMAS A. LUKEN, Mr. WALGREN, Mr. BRENNAN, Mr. SIKORSKI, Mr. SANGMEISTER, Mr. KLECZKA, Mr. MCCLOSKEY, and Mr. MOODY.

H.R. 5671: Mr. STARK, Mr. MRAZEK, and Mr. OLIN.

H.R. 5677: Mrs. JOHNSON of Connecticut.

H.J. Res. 48: Mr. INHOFE.

H.J. Res. 214: Mrs. MORELLA and Mr. CARDIN.

H.J. Res. 248: Mr. FAWELL, Mr. GUARINI, Mr. MACHTLEY, Mr. NAGLE, and Mr. PALLONE.

H.J. Res. 579: Mr. SAXTON and Mr. SMITH of New Jersey.

H.J. Res. 602: Mr. GONZALEZ.

H.J. Res. 613: Mr. PARKER, Mr. FIELDS, Mrs. VUCANOVICH, Mr. HAMMERSCHMIDT, Mr. MILLER of California, Mrs. UNSOELD, Mr. DEWINE, Mr. TRAXLER, Mr. FAWELL, Mr. LANTOS, Mr. NIELSON of Utah, Mr. GAL-

LEGLY, Mr. PORTER, Mr. MADIGAN, Mr. MOORHEAD, and Mr. DAVIS.

H. Con. Res. 249: Mr. FROST and Mr. FISH.

H. Con. Res. 288: Mr. ESPY.

H. Con. Res. 329: Mr. FISH and Mr. TALLON.

H. Con. Res. 371: Mr. CHAPMAN and Mr. CONYERS.

H. Res. 380: Mr. DONALD E. LUKENS and Mr. COSTELLO.

PETITIONS, ETC.

Under clause 1 of rule XXII,

235. The SPEAKER presented a petition of the City Council of Chicago, IL, relative to African-Americans; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2039

By Mr. CONDIT:

—Page 6, line 3, strike out "and", and after line 5 insert the following:

(D) by striking "or" at the end of subparagraph (E); and

(E) by inserting before the period at the end of subparagraph (F) the following: "; or (G) is a migrant or seasonal farmworker who either meets the requirements of clause (B) or whose total family income for the 12-month period prior to application for the program involved meets the requirements of clause (B)";

H.R. 5314

By Mr. TORRICELLI:

—At the end of section 3(a)(18)(A)(ii) of the bill, insert the following: "As such, the main diversion tunnel shall be extended approximately six and one-half miles to outlet in Newark Bay, the nine levee systems in Bergen, East Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded from the project, and no dikes or levees shall be constructed or necessitated along the Passaic River in Bergen County in connectin with the project. With the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded nine levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, shall be prohibited. The Secretary shall certify to the House of Representatives Committee on Public Works that no detrimental flood impact, as a result of the project, shall accrue in Bergen County.".