Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. COHEN (for himself and Mr. PRYOR):

S. Res. 44. A resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. ROTH:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. DOLE):

S. Res. 46. A resolution making majority party appointments to the Ethics Committee for the 104th Congress; considered and agreed to.

S. Res. 47. A resolution designating the Chairpersons of Senate committees for the 104th Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. GRAMM, Mr. GRASSLEY, and Mr. NICKLES:

S. 191. A bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the act, to protect against economic losses from critical habitat designation, and for other purposes; to the Committee on Environment and Public Works.

THE FARM, RANCH, AND HOMESTEAD PROTECTION ACT OF 1995

Mrs. HUTCHISON. Mr. President, for generations American farmers have worked to provide food, clothing, and shelter to their families. Farmers and ranchers in Texas and throughout the United States have tilled the soil and cleared the rangeland—and, if they had a good year, they might try to put any money left over back into the land to buy more property.

This land is their wealth—their property, which our Government was formed to protect, just as it protects our homes from burglary and our money in banks from theft.

Our founding fathers acknowledged that private property rights were important. They fought foreign rulers to protect it. The Bill of Rights, drafted after that struggle, says that private property shall not be taken for public use, without just compensation. But, through overly zealous environmental enforcement, this constitutional protection is being watered down.

Last year, the U.S. Fish and Wildlife Service, which enforces the Endangered Species Act, proposed that up to 800,000 acres from 33 Texas counties be designated as critical habitat for the golden-cheeked warbler. This action held up land transfers, construction, home and business lending. With about 300 species in Texas being considered for listing as endangered or threatened, including 8 flies and 12 beetles, landowners in my State may face a very grave problem again soon.

Recent reports about the U.S. Fish and Wildlife's latest Balcones Canyonlands Conservation Plan in Austin, TX, are discouraging. Yesterday, the Interior Department proposed that owners of single-family lots in Travis County that were subdivided before the golden-cheek warbler was listed as an endangered species can apply for a permit to construct a single family home for a fee of $1,500. Developers are expected to pay even more—up to $5,500 an acre—to build on land that has not been subdivided yet.

The permit fees, plus $10 million from Travis County, would be used to add to the 21,000 acres in existing wildlife refuges. Well, the Travis County residents have voted against spending more money on refuges, in 1993 and the Travis County officials were blindsided. They were not even consulted about this proposal to spend $10 million of Travis County's money, when the people have just voted not to put any more money into wildlife refuges.

Rather than assuring fair compensation for private property when there is a Government taking, the Service's plan would require landowners to pay ransom to the Federal Government—ransom to the Federal Government—for the privilege of building on a lot which they have already bought to build a house—perhaps the house they have been dreaming of for years. Interior Secretary Bruce Babbitt has stated in the past that he believes private property is an outmoded concept. The Fish and Wildlife Service would say, by regulation, that his views are right. This would essentially repeal the fifth amendment to our U.S. Constitution.

Today, Senators LOTT, GRAMM, GRASSLEY, NICKLES, and I are introducing legislation to stop Government overreaching until we have had time to revise the Endangered Species Act. Congressman LAMAR SMITH is introducing a companion bill in the House.

My bill puts a moratorium on the listing of new endangered and threatened species until reauthorization. Right now the Fish and Wildlife Service is proposing to list a species in the panhandle of Texas—the Arkansas River shiner—that is used for fish bait. Water is scarce in the panhandle; we cannot afford to give fish bait more protection than people. But once the shiner is designated, it will have more right to the water than the panhandle farmers and ranchers and the people of Amarillo, TX. The people have to have a voice.

The bill also puts a moratorium on the designation of critical habitat so that property owners will not lose control of their land. Designating critical habitat puts unjust limits on the use, market value, and transferability of property. The stigma of critical habitat should not be imposed by a government that claims to protect property as a constitutional right.

Finally, the bill puts a moratorium on the requirement that all government agencies consult with the Fish and Wildlife Service before taking actions, providing permits, or providing funding that may affect an endangered species. This will prevent the Fish and Wildlife Service from further expanding use of the Endangered Species Act to deny FHA or VA mortgages, crop insurance, crop support payments, farm erosion studies, or SBA loans. To be fair, they have not done this yet; so far, it has only been used on large Government projects. But until this year they had not proposed to designate an area larger than the State of Rhode Island as critical habitat. But they did it last year in Texas.

Property owners should not have to fight the Government to build a new home on their land. They should not have to hire lawyers to tell what their rights are or convince bureaucrats that their farming is in compliance with regulations. Farmers in my State should not live in fear of being treated like the farmer in California who was arrested in a Government raid for allegedly harming a kangaroo rat while he was plowing his field. This rat is designated as an endangered species for one reason—its feet are a millimeter longer than other, similar species. There are other alternatives. Instead of seizing land and arresting farmers, we should encourage private landowners to protect species and habitat with tax incentives, and whenever possible relocate threatened species to park lands so it does not encroach on the private property rights nor the ability of a farmer or a rancher to feed his or her family.

Opponents of compensation for takings of property argue the National Government cannot afford it. That argument acknowledges what is happending is in fact unconstitutional. If we want to protect the critical habitat of endangered species, we have to pay for it. James Madison, in the Federalist Papers, made it clear that the purpose of government is to protect private property. He said, ''government is instituted no less for protection of property than of the persons of individuals.''

If opponents of compensation are truly opposed to this principle, they have a remedy. They can propose an amendment to the Constitution. But until they do and until it is passed, these acts are unconstitutional. We are sworn to uphold the Constitution. Mr. President, we must do it. The actions on this bill will provide the means to do it.

We need to make the real effect of the Endangered Species Act clear to the rulemakers in Washington. Many of them have not even set foot on a farm since their third grade class field trip. It is no wonder that so many of our people spoke in November that ''we cannot take the Government harassment.'' It is no longer about protecting our treasured natural resources from harm. It is about Government taking control of people's land. We must put a

stop to it, until we have the opportunity to give the Fish and Wildlife Service a new direction.

That is something I hope this Senate will do very quickly before untold damage is done, like what is happening right now in Austin, TX.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 192. A bill to prohibit the use of certain assistance provided under the Housing and Community Development Act of 1974 to encourage plant closings and the resultant relocation of employment, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE PROHIBITION OF INCENTIVES FOR RELOCATION ACT OF 1995

● Mr. FEINGOLD. Mr. President, I introduce with my colleague from Wisconsin, Senator KOHL, a bill designed to proscribe the use of community development block grant, and other HUD funds for assisting businesses in moving jobs from one State to another. This measure is similar to a bill I introduced in the 103d Congress, the Prohibition of Incentives for Relocation Act of 1994, and is based upon legislation authored during the 103d Congress by U.S. House Representatives, GERRY KLECZKA and TOM BARRETT of Wisconsin, which was approved in the House-passed HUD reauthorization legislation, H.R. 3838.

Mr. President, the importance of this issue remains a critical one to this day for Wisconsin's economic future, as well as the future of other States like ours that possess labor intensive industries.

Our concern was generated by an announcement made in 1994 by a major employer in Wisconsin, Briggs and Stratton, that a Milwaukee plant would be closed, and 2,000 workers would be permanently displaced. The actual economic impact upon this community is even greater since it is estimated that 1.24 related jobs will be lost for every one of the 2,000 Briggs jobs affected. The devastating news was compounded by the subsequent discovery that many of these jobs were being transferred to plants, which were being expanded in two other States, and that Federal community development block grant [CDBG] funds were being used to facilitate the transfer of these jobs from one State to another.

This is a totally inappropriate use of Federal funds, which this legislation is designed to end. The CDBG Program is designed to foster community and economic development; not to help move jobs around the country. Obviously, during a period of permanent economic restructuring, which results in plant closing, downsizing of Federal programs and defense industry conversion, there is tremendous competition between communities for new plants and other business expansions to offset other job losses. State and local communities are doing everything they can to attract new business and retain existing businesses. But it is simply wrong to use Federal dollars to help one community raid jobs from another State. There is no way to justify to the taxpayers in my State that they are sending their money to Washington to be distributed to other States to be used to attract jobs out of our State, leaving behind communities whose economic stability has been destroyed. Thousands of people whose jobs are directly, or indirectly lost as a result of the transfer of these jobs out of our State are justifiably outraged by this misuse of funds.

Mr. President, this legislation is very similar to a provision of the Housing and Community Development Act of 1974, which prohibited urban development action grants [UDAG] from being used for projects intended to move jobs from one community to another. Section 5318(h) of Title 42 of the United States Code prohibits the use of UDAG if the funds are, ''intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another,'' unless it is determined that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.'' Similarly, this legislation provides that no assistance through CDBG and other related HUD programs shall be used for any activity that is intended, or is likely to facilitate the closing of an industrial or commercial plant, or the substantial reduction of operations of a plant; and result in the relocation or expansion of a plant from one area to another area. Similar antipiracy provisions are included in SBA programs, Economic Development Administration programs and the Economic Dislocated Workers Adjustment Act.

Mr. President, this is an issue of fundamental fairness, and sound public policy. Federal funding for economic development projects should be directed toward projects that expand employment opportunities and economic growth, not simply move jobs from one community to another. This legislation is designed to ensure that community development funds are appropriately used for that purpose. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 192

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

SECTION 1. PROHIBITION OF USE OF CERTAIN ASSISTANCE TO ENCOURAGE PLANT CLOSINGS AND RESULTANT RELOCATION OF EMPLOYMENT.

(a) AUTHORIZATIONS.—Section 103 of the House and Community Development Act of 1974 (42 U.S.C. 5303) is amended—

(1) by inserting ''(a)'' before ''The Secretary''; and

(2) by adding at the end the following new subsection:

(b) PROHIBITION OF USE OF ASSISTANCE TO ENCOURAGE PLANT CLOSINGS AND RESULTANT RELOCATION OF EMPLOYMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, no amount from a grant made under section 106 shall be used for any activity that is intended or is likely to—

''(A) facilitate the closing of an industrial or commercial plant or the substantial reduction of operations of a plant; and

''(B) result in the relocation or expansion of a plant from one area to another area.

''(2) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to implement this subsection. Such notice shall be published as a proposed regulation and take effect upon publication. The Secretary shall issue final regulations, taking into account public comments received by the Secretary.''.

(b) SPECIAL PURPOSE GRANTS.—Secton 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by adding at the end the following new subsection:

''(g) PROHIBITION OF USE OF ASSISTANCE TO ENCOURAGE PLANT CLOSINGS AND RESULTANT RELOCATION OF EMPLOYMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, no amount from a grant made under this section shall be used for any activity that is intended or is likely to—

''(A) facilitate the closing of an industrial or commercial plant or the substantial reduction of operations of a plant; and

''(B) result in the relocation or expansion of a plant from one area to another area.

''(2) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to implement this subsection. Such notice shall be published as a proposed regulation and take effect upon publication. The Secretary shall issue final regulations, taking into account public comments received by the Secretary.''.

(c) ECONOMIC DEVELOPMENT GRANTS.—Section 108(q) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(q)) is amended by adding at the end the following new paragraph:

''(5) PROHIBITION OF USE OF ASSISTANCE TO ENCOURAGE PLANT CLOSINGS AND RESULTANT RELOCATION OF EMPLOYMENT.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, no amount from a grant made under this subsection shall be used for any activity that is intended or is likely to—

''(i) facilitate the closing of an industrial or commercial plant or the substantial reduction of operations of a plant; and

''(ii) result in the relocation or expansion of a plant from one area to another area.

''(B) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to implement this paragraph. Such notice shall be published as a proposed regulation and take effect upon publication. The Secretary shall issue final regulations, taking into account public comments received by the Secretary.''.●

By Mr. CAMPBELL:

S. 193. A bill to establish a forage fee formula on lands under the jurisdiction of the Department of Agriculture and the Department of the Interior; to the Committee on Energy and Natural Resources.

THE FEDERAL FORAGE FEE ACT OF 1995

Mr. CAMPBELL. Mr. President, I am sending legislation to the desk that

changes the way ranchers pay to graze their livestock on Federal rangelands. I introduced this bill last Congress, with 14 of my colleagues including my friend who is across the floor today, the Senator from Idaho [Mr. CRAIG]. This bill was not acted on but we think it is an important bill that should be reintroduced.

The formula included in this proposal was developed by several economists who worked at land grant colleges in the West. The formula abandons the old Public Rangelands Improvement Act formula, which has been much maligned, in favor of a formula that sets a realistic value on the opportunity to graze livestock on public lands. It will result in a fee that is about 23 percent higher than the current fee.

Having been very active on this issue for many years, I know congressional debate about grazing fees has been polarized. Opponents of the current fee argue that ranchers do not pay fair market value, while some ranchers would like to maintain the status quo. On the other hand, ranchers in many cases think the fee should not go up at all. But many of us who have worked on it believe ranchers are the family farmers of the West. The establishment of a fair and equitable grazing fee formula is still necessary to ensure their survival. I also think the rancher is key to the rural Western economy. Not only does this add billions to the Nation's economy, in much of the West, it is the single largest source of economic activity and tax revenue. Every Western ranching job creates as many as four jobs on Main Street. If those ranchers go under, so will the tractor, truck and automobile dealers, the gas, grocery and feed store owners, the veterinarians, doctors, and dentists, and many others who make up the commercial and social fabric of rural Western towns.

A fee not based on sound science and careful study will destabilize the entire livestock industry and the rural Western economic infrastructure it supports. The new formula is based on a principle: on the private forage market. It reflects the higher operational costs and lower returns derived from Federal lands. This results in a formula that provides economic parity between producers who use Federal land and private livestock producers.

Secretary of the Interior Babbitt has already said that he intends to drop his efforts to raise grazing fees. He also said that he intends to finalize his regulations within the next 6 months for how our public lands should be managed for grazing.

It is clear to me that environmentalists care about management issues, that is, the Department's ability to effectively steward the resources it manages. To cattlemen, however, the single most important issue is the fee. If it is too high, ranchers go out of business. The ranchers I have talked to realize they will eventually have to pay more for the privilege of grazing on public lands, but as business people, they need stability—stability that can only be provided if a bill passes to lock a higher fee into place.

Many Western Senators believe that the issue of grazing fees should be separated from management reforms. This has been done, but it does not mean that our Government has forgotten that a commitment was made 2 years ago by the ranching industry to pay their fair share.

Reintroducing this bill is an attempt to keep our end of the bargain.

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

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

S. 193

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

That this Act may be cited as the ''Federal Forage Fee Act of 1993''.

SECTION 1. FINDINGS.

(a) FINDINGS.—Congress finds and declares that—

(1) it is in the national interest that the public lands are producing and continue to produce water and soil conservation benefits, livestock forage, wildlife forage and recreation and other multiple use opportunities;

(2) rangelands will continue to be stabilized and improved long term by providing for cooperative agreements, private, public partnerships and flexibility in management programs and agreements;

(3) to assure sound management and stewardship of the renewable resources it is imperative to charge a fee that is reasonable and equitable and represents the fair value of the forage provided;

(4) the intermingled private-public land ownership patterns prevailing in much of the west create a strong interdependence between public and private lands for forage, water, and habitat for both wildlife and livestock;

(5) the social and economic infrastructure of many rural communities and stability of job opportunities in many areas of rural America are highly independent on the protection of the value of privately held production units on Federal lands.

SEC. 2. ENVIRONMENTAL AND LAND USE REQUIREMENTS.

Unless contrary to this statute, all grazing operations conducted on any Federal lands shall be subject to all applicable Federal, State, and local laws, including but not limited to:

(1) Animal Damage Control Act (7 U.S.C. 426–426b).

(2) Bankhead-Jones Farm Tenant Act (50 Stat. 522) as amended.

(3) Clean Air Act (42 U.S.C. 7401–7642) as amended.

(4) Endangered Species Act of 1973 (16 U.S.C. 1531–1544) as amended.

(5) Federal Advisory Committee Act (86 Stat. 770), as amended.

(6) Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3).

(7) Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136–136y), as amended.

(8) Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(9) Federal Water Pollution Control Act (33 U.S.C. 1251 1387), as amended.

(10) Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600–1614).

(11) Granger-Thye Act (64 Stat. 82).

(12) Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701), as amended, title V.

(13) Multiple Use Sustained Yield Act of 1960 (16 U.S.C. 528–531).

(14) National Environmental Policy Act of 1969 (42 U.S.C. 4370a), as amended.

(15) National Forest Management Act of 1976 (16 U.S.C. 1600, 1611–1614).

(16) Public Rangelands Improvement Act of 1978 (92 Stat. 1803).

(17) Taylor Grazing Act (48 Stat. 1269), as amended.

(18) Wilderness Act (78 Stat. 890), as amended.

SEC. 3. FEE SCHEDULE.

(a) For the purpose of this section the terms:

(1) ''Sixteen Western States'' means WA, CA, ID, NV, NM, WY, CO, KS, SD, ND, NE, OR, OK, AZ, UT and MT.

(2) ''AUM'' means an animal unit month as that term is used in the Public Rangeland Improvement Act (92 Stat. 1803);

(3) ''Authorized Federal AUMs'' means all ''allotted AUMs'' reported by BLM and ''permitted to graze AUMs'' reported by USFS.

(4) ''WAPLLR'' means the weighted average private land lease rate determined by multiplying the private land lease rate reported by the Economic Research Service for the previous calendar year for each of the sixteen Western States by the total number of authorized Federal AUMs, as defined in section 3(a)(3), in each State for the previous, fiscal year, then that result divided by the total number of authorized Federal AUMs for the sixteen western States. These individual State results are then added together and divided by 16 to yield a weighted average private land lease rate for that year.

(5) ''Report'' means the report titled ''Grazing Fee Review and Evaluation Update of the 1986 Final Report'' dated April 30, 1992 and prepared by the Departments of the Interior and Agriculture.

(6) ''Nonfee cost differential'' means a value calculated annually by the Secretaries by multiplying the weighted difference in nonfee costs per AUM between public land and private land by the Input Cost Index (ICI) determined annually by the Department of Agriculture. The weighted difference in nonfee costs is a factor of 0.552 determined by deducting the private AUM nonfee costs (as outlined on page 58 of the report) from the public AUM nonfee costs for cattle times 4, added to the result of deducting private AUM nonfee costs from public AUM nonfee costs for sheep times 1, then that result divided by 5.''

(7) ''Net production differential'' is the percentage calculated annually by dividing the cash receipts per cow for Federal permittee livestock producers by the cash receipts per cow for western non-Federal livestock producers in the sixteen Western States as surveyed by the Economic Research Service in annual cost of production surveys (COPS).

(8) ''PLFVR'' means the private lease forage value ratio determined by dividing the average of the 1964–1968 base years' private land lease rate into the forage value portion of the private land lease rate of $1.78 as determined in the 1966 western livestock grazing survey.

(b) The Secretaries of the Department of Agriculture and the Department of the Interior shall calculate annually the Federal forage fee by calculating the average of the WALLPR for the preceding three years; multiplying it by the PLFVR; then deducting from that result the nonfee cost differential;

and multiplying that result by the net production differential. For each year that this calculation is made, all data used for calculating this fee shall come from the calendar year previous to the year for which the fee is being calculated unless specified otherwise in the above calculations.

(c) The Federal forage fee shall apply to all authorized Federal AUMs under the jurisdiction of the United States Department of Agriculture and the United States Department of the Interior.

(d) For the first year that the Secretaries calculate the Federal forage fee, the fee shall not be greater than 125 percent, or less than 75 percent of the fee calculated for the previous year pursuant to Executive Order 12548 dated February 14, 1986. For each year after the first year that the Secretaries calculate the Federal forage fee, the fee shall not be greater than 125 percent, or less than 75 percent of the Federal forage fee calculated for the previous year.

(e) The survey of nonfee costs used to calculate the nonfee cost differential shall be updated periodically by the Secretaries so as to reflect as accurately as possible the actual nonfee costs incurred by the cattle and sheep industry that utilizes public lands in the sixteen Western States. The results of the updated survey shall be incorporated into the calculation of the Non Fee Cost Differential as they become available.

FEDERAL FORAGE FEE FORMULA—NARRATIVE DESCRIPTION

The Federal Forage Fee Formula is based on the premise that the western public lands grazing permittee should pay the fair value of the forage received from federal lands.

Two objectives were met in determining the formula for a forage value-based grazing fee: (1) Identification of the value of raw forage as a percentage of the private land lease rate (Private Lease Forage Value Ratio); and (2) an adjustment which reflects the lower animal production derived from federal lands compared to private lands (Net Production Differential), and the additional costs of doing business on federal lands compared to private lands (Non Fee Cost Differential) (e.g., additional infrastructure and operational costs). Because the costs associated with cattle production vary from those of sheep production, sheep costs are figured into the Non Fee Cost Differential (80% cattle, 20% sheep). Simply put, the federal forage fee formula is based on the private forage market while reflecting the unique costs of production and relative inefficiencies of harvesting federal forage compared to private land operations. A reasonable grazing fee must reflect the higher operational costs and lower animal production derived from federal lands and, as such, would promote similar economic opportunity between federal land and private land livestock producers.

The private land lease rate is weighted by the proportional number of federal AUMs in each of the 16 western states. The rolling three year weighted average of the private land lease rate is used in order to minimize the high and low extremes of the lease scale. This lease rate is calculated on a weighted average of private lease rates for non-irrigated native rangelands.

The value of the forage component of private land leases, as determined in a comprehensive 1966 grazing fee study and carried through in the 1992 update of the Grazing Fee Review and Evaluation report is 48.8% of the total private land lease rate. The remaining 51.2% of the private lease rate includes infrastructure and services associated with a private land lease.

The Non Fee Cost Differential of the federal forage fee formula is based on the updated analysis of non-fee costs adjusted annually for inflation. This number indicates that for 1991 it cost $1.60 more per AUM to operate on federal lands than private lands.

The Net Production Differential of the formula is based on Economic Research Service comparisons of cash livestock receipts from both western federal land ranches and nonfederal land ranches which show that, overall, the federal lands generate 12.1% less revenue per animal unit than private lands (thus, the 87.9% figure). Every figure in the federal forage fee formula is derived from economic data compiled and updated by federal agencies.

Research using historical data reveals that the Federal Forage Fee yields more predictable fee than PRIA, which has fluctuated from a high of $2.41 to a low of $1.35 (a 78% variance) over its 15 year life. A 25% cap on any increase or decrease in the fee from year to year, starting with the current fee is maintained. Additionally, the federal forage fee formula adheres to the guidelines Congress established for determination of federal grazing fee policy as outlined by the Federal Lands Policy Management Act of 1976, the Independent Offices Appropriations Act of 1952 and the Taylor Grazing Act of 1934.

FIGURES

Weighted average private land lease rate [WAPLLR]: $8.77

Derived from 16 state weighted average private land lease rate as surveyed by the U.S. Department of Agriculture's Economic Research Service (ERS) and adjusted for the number of federal AUMs in each state. The calculation is a rolling average of the three most recent years' data.

Private land forage value ratio [PrLFVR]: 48.8 percent

Grazing Fee Review and Evaluation, DOI & USDA 1992, pgs. 18 and 22. Determines the forage component of the WAPLLR.

Non fee cost differential [NFCD]: $1.60

Grazing Fee Review and Evaluation, DOI & USDA 1992, pg. 58, Appendix A.1; Updated by Input Cost Index (ICI) for currency. Deduction to reflect additional costs per AUM incumbent with federal land grazing.

Net production differential [NPD] 87.9 percent

Grazing Fee Review and Evaluation, DOI & USDA 1992, pg. 53, ''Equity Among Livestock Producers.'' Adjustment to reflect lower animal production derived from federal grazing lands.

Formula/calculations

[((WAPLLR PrLFVR)—NFCD) NPD=FFF]

Weighted average private land lease rate [WAPLLR]	$8.77
Private lease forage value ratio [PrLFVR] (percent)	×48.8
Private lease forage value	4.28
Non fee cost differential [NFCD]	−1.60
Net production differential [NPD] (percent)	×87.9
Federal forage fee (grazing fee) [FFF]	2.36

The effective Federal Forage Fee would be $2.33 in the first year after applying the 25 percent cap to the current grazing fee.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mr. CRAIG, Mr. HATCH, Mr. HELMS, Mr. ROBB, Mr. MCCONNELL, and Mr. COATS):

S. 194. A bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes; to the Committee on Finance.

MEDICARE/MEDICAID DATA BANK LEGISLATION

● Mr. MCCAIN. Mr. President, I am pleased to reintroduce this bill, which would eliminate a large and unjustified administrative burden imposed on employers by an ill-considered piece of legislation passed 2 years ago. Specifically, it would repeal the Medicare and Medicaid Coverage Data Bank, section 13581 of OBRA 1993, a law that is extremely expensive, burdensome, punitive, and in my view, entirely unnecessary.

This data bank law requires every employer who offers health care coverage to provide substantial and often difficult-to-obtain information on current and past employees and their dependents, including names, Social Security numbers, health care plans, and period of coverage. Employers that do not satisfy this considerable reporting obligation are subject to substantial penalties, possibly up to $250,000 per year or even more if the failure to report is found to be deliberate.

According to the law that created the requirement, its purported objective is to ensure reimbursement of costs to Medicare or Medicaid when a third party is the primary payor. This is a legitimate objective. However, if the objective of the data bank is to preserve Medicare and Medicaid funds, why is it necessary to mandate information on all employees, the vast majority of whom have no direct association with either the Medicare or Medicaid Program?

Last year, I introduced S. 1933 to repeal the Medicare and Medicaid Coverage Data Bank. Unfortunately, this bill did not pass in the 103d Congress, in part because of a questionable Congressional Budget Office analysis that estimated that the data bank would save the Federal Government about $1 billion. As a result of this scoring, we would have had to raise the same amount in revenues to offset these purported ''savings.'' However, the General Accounting Office found that ''as envisioned, the data bank would have certain inherent problems and likely achieve little or no savings to the Medicare and Medicaid programs.'' Still, due primarily to the fiction that the data bank would save money, S. 1933 was not enacted last year.

When it was clear that I did not have the votes to repeal the data bank law, I worked with several other Senators to ensure that no funding was appropriated for the data bank in fiscal year 1995. Due to our efforts, the Labor and Human Resources Appropriations report contained language prohibiting the use of Federal funds for developing or maintaining the data bank. However, this provision by itself did not revoke the requirement that covered entities must still provide the required information on the health coverage of current and former employees and their families. This would have resulted in the bizarre situation in which covered employers would have had to report the information, but there

would have been no data bank to process or retrieve it.

Finally, in response to the public outcry about this Federal mandate and the sentiments of Congress, the Health Care Financing Administration [HCFA] indicated that it will not be enforcing the data bank's reporting requirements in fiscal year 1995. It stated that in light of the refusal of Congress to fund the data bank, ''we have agreed to stay an administrative action to implement the current requirements, including the promulgation of reporting forms and instructions. Therefore, we will not expect employers to compile the necessary information or file the required reports. Likewise, no sanctions will be imposed for failure to file such reports.''

This is a major step in the right direction. However, the data bank and its reporting requirements are still in the law and are still scheduled to be implemented in the next fiscal year. Consequently, there is still a great need to repeal the data bank law.

There are those who will argue that, in order to repeal the data bank, we still must propose $1 billion in budget offsets. However, as I indicated earlier, the GAO found that the data bank would not save money. Specifically, it testified before the Senate Governmental Affairs Committee that ''the data bank will likely achieve little or no savings while costing millions. Rather, we believe that changes and improvements to existing activities would be a much easier, less costly, and thus preferable alternative to the data bank process. This is largely because the data bank will result in an enormous amount of added paperwork for both HCFA and the Nation's employers.''

In addition, the GAO report on the data bank law found that employers are not certain of their specific reporting obligations, because HCFA has not provided adequate guidance on these obligations. Much of the information which is required is not typically collected by employers, such as Social Security numbers of dependents and certain health insurance information. Some employers have even questioned whether it is legal for them under various privacy laws to seek to obtain the required information.

The GAO report also found that employers are facing significant costs in complying with the reporting requirements, including the costs of redesigning their payroll and personnel systems. It cites one company with 44,000 employees that would have costs of approximately $52,000 and another company with 4,000 employees that would have costs of $12,000. Overall, the American Payroll Association estimated last year that this requirement will cost between $50,000 and $100,000 per company.

I would add that the reporting requirement applies only to employers that provide health insurance coverage to their employees. It is unconscionable that we are adding costs and penalties to those who have been most diligent in providing health coverage to their employees. The last thing that the Federal Government should do is impose disincentives to employee health care coverage, which is one of the unintended consequences of the data bank law.

Perhaps the most disturbing aspect of the data bank law is that its enormous costs have little or no corresponding benefit. The GAO report concluded that ''The additional information gathering and record keeping required by the data bank appears to provide little benefit to Medicare and Medicaid in recovering mistaken payments.'' This is in part because HCFA is already obtaining this information in a much more efficient manner than that required under OBRA 1993.

For example, OBRA 1989 provides for HCFA to periodically match Medicare beneficiary data with Internal Revenue Service employment information—The Data Match Program. Also, HCFA directly asks beneficiaries about primary payor coverage. To the extent that the data bank duplicates these efforts, any potential savings will not be realized. It is clearly preferable to require HCFA to use the information it already has than to require the private sector to provide duplicative information.

The GAO report found that ''the data match not only can provide the same information [as the data bank] without raising the potential problems described above, but it can do so at less cost.'' It also recognized that both the data match and data bank processes rely too much on an after-the-fact recovery approach, and recommended enhancing up-front identification of other insurance and avoiding erroneous payments. In this regard, it documented that HCFA has already initiated this prospective approach.

Mr. President, the Federal Government is again imposing substantial financial burdens on the private sector without fully accepting its share of the burden to implement a program. We should once again expect the worst case scenario to occur: employers will provide the required information at substantial administrative burden, there will be no data bank in which to make use of it, and even if a data bank were funded and established, the information stored could not be used efficiently to save Medicare or Medicaid funds.

I do not want this bill to be construed, in any way, as opposition to HCFA obtaining the information it needs to administer the Medicare and Medicaid Programs efficiently, and obtaining reimbursement from third party payors when appropriate. To assure that HCFA has the information it needs, the bill also requires the Secretary of HHS to conduct a study and report to Congress on how to achieve the purported objectives of the data bank in the most cost-effective manner possible.

The Secretary's study would have to take into consideration the administrative costs and burden on the private sector and the Government of processing and providing the necessary information versus the benefits and savings that such reporting requirements would produce. It must also consider current HCFA reporting requirements and the ability of entities to obtain the required information legally and efficiently.

Too often, Congress considers only the cost savings to the Federal Government of legislation while ignoring costs to other parties. The Medicare and Medicaid Data Bank is a case in point. Congress required information on millions of employees to save the Federal Government money. Yet, it will cost employers more money to comply than the government saves. Congress must stop passing laws that impose large, unjustified administrative burdens on other entities. It must consider the impact of its actions on the whole economy and not just on the Government.

In summary, the reporting requirement for the Medicare and Medicaid Data Bank is duplicative, burdensome, ineffective, and unnecessary. The GAO has characterized it as creating ''an avalanche of unnecessary paperwork for both HCFA and employers.'' It penalizes employers who provide health care benefits to their workers—exactly the opposite goal we should be pursuing. The data bank should be repealed and a more cost-effective approach should be found to ensure that Medicare and Medicaid are appropriately reimbursed by primary payors.

Mr. President, last year when I introduced this bill, I included a statement by the Coalition on Employer Health Coverage Reporting and the Medicare/Medicaid Data Bank and several representative letters from employers and employer groups in the RECORD. These groups continue to demand repeal of this law, and I will not request that their statements and letters be published again at taxpayer expense. However, their message continues to be clear. The Federal Government must stop imposing unjustified burdens on businesses.●

By Mr. MURKOWSKI:

S. 195. A bill to amend section 257(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the treatment of losses from asset sales; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

THE ASSET SALE BUDGET RULES ACT OF 1995

● Mr. MURKOWSKI. Mr. President, I introduce legislation that would modify the budget rules governing the sale of Federal assets. It is my hope that Congress this year will review many of the perverse and unintended effects of

our budget rules and consider including this legislation in a budget process reform package.

Under current law, the sale of an asset does not alter the deficit or produce any net deficit reduction in the budget baseline. My legislation maintains this principle. Although an asset sale would not be counted in calculating the deficit, future revenue generated by the asset which the government would have received if the asset had not been sold could be offset by the revenue generated from the sale. I want to emphasize that this rule is narrowly crafted so that revenue gained from an asset sale could not be used to offset a separate revenue losing provision.

Mr. President, the current budget rules governing asset sales make it nearly impossible for the Federal Government to sell assets. For example, during the last several years, both the Bush and Clinton administrations have sought to sell the Alaska Power Administration [APA]. The Department of Energy [DOE] has entered into sale agreements and negotiated a price of more than $80 million for these electric generating assets.

Unfortunately, legislation needed to implement this sale has been delayed for several years, in part because of the budget rules governing asset sales. Since the APA takes in approximately $11 million per year from the sale of electricity, under our pay-as-you-go rules, the sale is scored by the Congressional Budget Office [CBO] as losing the Federal Government $11 million annually. In other words, even though the Federal Government will receive upfront more than $80 million by selling the APA, our budget scoring rules require that the sale proceeds be ignored, but that the stream of lost future revenues be counted.

The end result of these rules is that for the sale to proceed, the lost $11 million per year must be offset by other unrelated spending reductions. This is Alice-in-Wonderland accounting that has no relationship to the real world. Presumably, the Department of Energy negotiated what it believed was a fair price for the APA assets. Certainly DOE factored in the amount of revenue that will no longer be coming to the Federal Government as a result of the sale as well as the fact that the Federal Government will no longer have to staff and maintain these operations. Yet when it comes to congressional budget scoring rules, all that is counted is the lost stream of future revenues.

The legislation I am introducing today would rationalize the asset sale rules by allowing the price the Federal Government receives from the asset sale to offset future revenue lost as a result of the transfer of the asset from the Government to private parties. Thus, in the APA example, if over the next 5 years, it is assumed that electricity sales from APA would generate $11 million per year—$55 million over 5 years—for purposes of the Budget Act, the $83 million sale price could offset the $55 million loss of revenue to the Government. And I want to emphasize that under my legislation, the remaining $28 million associated with the sale could neither count toward deficit reduction, nor could it be used to increase spending in any other program.

I look forward to working with the members of the Budget Committee to resolve the current asset sale anomaly. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 195

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

SECTION 1. OFFSETTING LOSSES FROM ASSET SALES.

Section 257(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the semicolon at the end thereof and inserting the following: ''. Effective beginning fiscal year 1996, the proceeds from the sale of an asset may be applied to offset the loss of any revenue or receipts resulting from such sale.''.●

By Mr. MCCAIN:

S. 196. A bill to establish certain environmental protection procedures within the area comprising the border region between the United States and Mexico, and for other purposes; to the Committee on Foreign Relations.

THE UNITED STATES-MEXICO BORDER ENVIRONMENTAL PROTECTION ACT

● Mr. MCCAIN. Mr. President, today, I introduce the United States-Mexico Border Environmental Protection Act.

Our Nation shares a 2,000-mile border with Mexico. Numerous American and Mexican sister cities link hands across that border, binding our two nations in friendship. As friends and neighbors, the United States and Mexico have profound responsibilities to one another. Chief among those duties is to respect and safeguard the natural resources our citizen's must share along the international boundary. No activities or conditions occurring on one side of the border must be permitted to adversely impact the health of people or the environment on the other.

Passage of the United States-Mexico Border Environmental Protection Act will help us meet our environmental responsibilities successfully. It will do so by providing the resources necessary to protect American lives and property from environmental hazards which may arise unabated south of the border—an important Federal responsibility.

Specifically, the bill seeks to establish a $10 million border environmental emergency fund under the auspices of the Environmental Protection Agency. The fund would make moneys readily available to investigate occurrences of pollution, identify sources and take immediate steps to protect land, air and water resources through cleanup and other remedial actions.

While the EPA can address many problems along the border, some issues involving the protection of surface waters are under the jurisdiction of the International Boundary and Water Commission. The Commission was created by a treaty with Mexico in 1944 to control floods, manage salinity and develop municipal sewage treatment facilities along international streams.

In my home State, the IBWC has constructed international wastewater treatment facilities in Nogales and Naco, AZ. The Commission's authority, however, to respond to emergency situations involving the pollution of surface waters is a matter of some doubt. This measure provides the IBWC with explicit authority and resources to protect American lives and property from emergency conditions and establishes a $5 million fund to do the job. In addition, the Secretary of State is directed to pursue agreements with Mexico for joint response to such events.

Mr. President, I'd like to offer an example of why this legislation is needed. A few years ago, the breakage of a sewer main combined with heavy rains and carried raw sewage into Nogales, AZ via an international stream. The contamination resulted in a high incidence of hepatitis, harmed wildlife, and degraded public and private property, prompting the declaration of a State emergency. No definitive and comprehensive action was taken to stem the flow of sewage for several weeks due to concerns about the availability of funds and trepidation about the legal authority necessary to take action.

Had the emergency fund and response authority I'm proposing been in place, perhaps we could have prevented much of the sickness and suffering visited upon the residents of Nogales. Passage of this legislation will ensure prompt and effective response in the future.

Some of my colleagues may remember this measure from last Congress, or if they have been here long enough, they may even remember it from the 102d Congress. During this 4-year period this measure has been reported by the Senate Foreign Relations Committee, adopted by the Senate on voice vote to the Foreign Authorization Act and passed by the Senate as part of the Foreign Authorization Act. Nevertheless, it has never become law.

I want my colleagues to realize that should an incident similar to the one in Nogales occur again, we have the opportunity to alleviate the suffering of many people and protect further damage to the environment. We have had that opportunity for several years but, we have chosen to close our eyes and ignore the plight of Americans living in the border region.

I would like to note that certain provisions related to the IBWC in this bill are virtually identical to those in the Rio Grande Pollution Correction Act which was signed into law in 1987. Like the bill I'm introducing, the Rio Grande legislation authorized the

IBWC to conclude agreements with Mexico to response to surface water contamination. The United States-Mexico Border Environmental Protection Act expands the Rio Grande bill to include the entire border, as a matter of fairness and necessity.

In addition to funding field investigations and rapid emergency response, the legislation recognizes the importance of communication between Mexico and the United States and among Federal, State, and local authorities her at home. The bill seeks to establish an information sharing and early warning system so that Mexican and American officials at all levels will be apprised of environmental hazards and risks in a timely and coordinated fashion, so that response and remedy, likewise, will be timely and coordinated.

Some of my colleagues may be under the impression that this measure may conflict with the environmental side agreement to the North American Free-Trade Agreement [NAFTA] or the provisions of the bill may already be addressed by the side agreement. Neither of these statements are true.

Nevertheless, I wrote to Ambassador Kantor last year during the debate on the Foreign Operations appropriations bill requesting that he review the measure to ensure that it was not in conflict with the side agreement. The letter from the Ambassador's office reads ''We see nothing in your proposal that would be in conflict with the Agreement.'' He went further to say ''in fact, what you propose appears to be fully supportive of the Side Agreement.''

Mr. President, there is no doubt of our obligation to be a responsible neighbor to Mexico, nor of Mexico's obligation to us. Considering the enactment of the NAFTA treaty which I strongly supported, now more than ever, it's important that we commit ourselves to a clean and healthy border environment for the safety and enjoyment of Americans and Mexicans who inhabit the region. Enactment of this legislation is an important step to that end.

I urge the Senate to consider and swiftly pass this vital legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 196

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

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the ''United States-Mexico Border Environmental Protection Act''.

(b) PURPOSE.—The purpose of this Act is to provide for the protection of the environment within the area comprising the border region between the United States and Mexico, as defined by the Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area, signed at La Paz on August 14, 1983, and entered into force on February 16, 1984 (TIAS 10827) (commonly known as the ''La Paz Agreement'').

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BORDER ENVIRONMENT ZONE.—The term ''Border Environment Zone'' means the area described in section 1(b).

(3) BORDER SANITATION EMERGENCY.—The term ''border sanitation emergency'' means a situation in which untreated or inadequately treated sewage is discharged into international surface rivers or streams that form or cross the boundary between the United States and Mexico.

(4) COMMISSION FUND.—The term ''Commission Fund'' means the United States International Boundary and Water Commission Fund established by section 10(c).

(5) ENVIRONMENTAL FUND.—The term ''Environmental Fund'' means the United States-Mexico Border Environmental Protection Fund established by section 3.

(6) UNITED STATES COMMISSIONER.—The term ''United States Commissioner'' means the United States Commissioner, International Boundary and Water Commission, United States and Mexico.

SEC. 3. ENVIRONMENTAL FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be used to investigate and respond to conditions that the Administrator determines present a substantial threat to the land, air, or water resources of the Border Environment Zone. The fund shall be known as the ''United States-Mexico Border Environmental Protection Fund'' and shall consist of—

(1) such amounts as are transferred to the Environmental Fund under subsection (b); and

(2) any interest earned on investments of amounts in the Environmental Fund under subsection (d).

(b) TRANSFER TO ENVIRONMENTAL FUND.—From amounts made available to the Department of State, the Secretary of State shall transfer to the Secretary of the Treasury for deposit into the Environmental Fund $10,000,000. The Secretary of the Treasury shall deposit amounts received under this subsection into the Environmental Fund.

(c) EXPENDITURES FROM ENVIRONMENTAL FUND.—

(1) IN GENERAL.—Subject to this subsection, upon request by the Administrator, the Secretary of the Treasury shall transfer from the Environmental Fund to the Administrator such amounts as the Administrator determines are necessary to carry out field investigations and remediation of an environmental emergency declared by the Administrator under section 4.

(2) COST-SHARING PROGRAMS.—Amounts in the Environmental Fund shall be available for use by the Administrator for cost-sharing programs that carry out the purpose described in paragraph (1) with—

(A) the Government of Mexico;

(B) any of the States of Arizona, California, New Mexico, or Texas;

(C) a political subdivision of any of the States referred to in subparagraph (B);

(D) a local emergency planning committee;

(E) a federally recognized Indian tribe; or

(F) any other entity that the Administrator determines to be appropriate.

(3) METHODS OF DISTRIBUTION OF FUNDS.—In carrying out the purpose described in paragraph (1), the Administrator may expend amounts made available to the Administrator from the Environmental Fund directly or make the amounts available through grants or contracts.

(4) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Environmental Fund shall be available in each fiscal year to pay administrative expenses necessary to carry out the purpose described in paragraph (1).

(5) AVAILABILITY OF FUNDS.—Amounts in the Environmental Fund shall be available without fiscal year limitation.

(d) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Environmental Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments, obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Environmental Fund may be sold by the Secretary of the Treasury at the market price.

(4) CREDITS TO ENVIRONMENTAL FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Environmental Fund shall be credited to and form a part of the Environmental Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Environmental Fund under subsection (d) shall be transferred at least monthly from the general fund of the Treasury to the Environmental Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 4. DECLARATION OF ENVIRONMENTAL EMERGENCIES.

(a) IN GENERAL.—

(1) DETERMINATION BY THE ADMINISTRATOR.—Subject to paragraph (3), if the Administrator determines that conditions exist that present a substantial threat to the land, air, or water resources of the area comprising the Border Environment Zone, the Administrator may declare that an environmental emergency exists in the Zone.

(2) PETITION OF GOVERNOR.—Subject to paragraph (3), in addition to the authority under paragraph (1), the Administrator, upon the petition of the Governor of the State of Arizona, California, New Mexico, or Texas, or the governing body of a federally recognized Indian tribe, may declare that an environmental emergency exists in the Zone.

(3) LIMITATION.—The Administrator may not declare a condition to be an environmental emergency under this section if the condition is specifically within the sole jurisdiction of the International Boundary and Water Commission.

(b) CONSULTATION WITH AFFECTED PARTIES.—In responding to emergencies, the Administrator shall consult and cooperate with affected States, counties, municipalities, Indian tribes, the Government of Mexico, and other affected parties.

(c) AUTHORITY TO RESPOND.—The Administrator may respond directly to an emergency declared under this section or may coordinate the response with appropriate State or local authorities.

SEC. 5. INFORMATION SHARING.

(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of State, the Governors of the States of Arizona, California, New Mexico, and Texas, the governing bodies of federally recognized Indian tribes

located within the Border Environment Zone, and the appropriate officials of the Government of Mexico, may establish a system for information sharing and for early warning to the United States, each of the several States and political subdivisions of the States, and Indian tribes, of environmental problems affecting the Border Environment Zone.

(b) INTEGRATION INTO EXISTING SYSTEMS AND PROCEDURES.—The Administrator shall integrate systems and procedures established under this section into any systems and procedures that are in existence at the time of the establishment under this section and that were established to provide information sharing and early warning regarding environmental problems affecting the Border Environment Zone.

SEC. 6. REPORTS TO CONGRESS.

(a) IN GENERAL.—After consultation with the Secretary of State, appropriate officials of the Government of Mexico, the Governors of the States of Arizona, California, New Mexico, and Texas, and the governing bodies of appropriate federally recognized Indian tribes, the Administrator shall submit an annual report to Congress describing the use of the Environmental Fund during the calendar year preceding the calendar year in which the report is filed, and the status of the environmental quality of the area comprising the Border Environment Zone.

(b) NOTICE OF AVAILABILITY.—The Administrator shall publish a notice of the availability of the report in the Federal Register, together with a brief summary of the report.

SEC. 7. INTERNATIONAL AGREEMENTS.

(a) AUTHORITY.—The Secretary of State, acting through the United States Commissioner, may enter into agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting border sanitation emergencies.

(b) RECOMMENDATIONS.—Agreements entered into under subsection (a) should consist of recommendations to the Governments of the United States and Mexico of measures to protect the health and welfare of persons along the international surface rivers and streams that form or cross the boundary between the United States and Mexico, including recommendations concerning—

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the costs of plans, construction, operation, and maintenance of the facilities;

(3) formulas for the sharing of costs between the United States and the Government of Mexico; and

(4) a time schedule for the construction of facilities and other measures recommended by the agreements entered into under this section.

SEC. 8. JOINT RESPONSES TO BORDER SANITATION EMERGENCIES.

(a) CONSTRUCTION OF WORKS.—The Secretary of State, acting through the United States Commissioner, may enter into agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of joint response to correct border sanitation emergencies through the construction of works, repair of existing infrastructure, and other appropriate measures in Mexico and the United States. The United States Commissioner shall consult with the Governors of the States of Arizona, California, New Mexico, and Texas in developing and implementing agreements entered into under this section.

(b) HEALTH AND WELFARE.—Agreements entered into under subsection (a) should consist of recommendations to the Governments of the United States and Mexico that establish general response plans to protect the health and welfare of persons along the international surface rivers and streams that form or cross the boundary between the United States and Mexico, including recommendations concerning—

(1) types of border sanitation emergencies requiring response, including sewer line breaks, power interruptions to wastewater handling facilities, breakdowns in components of wastewater handling facilities, and accidental discharge of sewage;

(2) types of response to border sanitation emergencies, including acquisition, use, and maintenance of joint response equipment and facilities, small scale construction (including modifications to existing infrastructure and temporary works), and the installation of emergency and standby power facilities;

(3) formulas for the distribution of the costs of responses to emergencies under this section on a case-by-case basis; and

(4) requirements for defining the beginning and end of an emergency.

SEC. 9. CONSTRUCTION, REPAIRS, AND OTHER MEASURES.

(a) BORDER SANITATION EMERGENCIES.—The Secretary of State, acting through the United States Commissioner, may respond through construction, repairs, and other measures in the United States to correct border sanitation emergencies. The Secretary of State may respond directly to a border sanitation emergency or may coordinate the response with appropriate State or local authorities.

(b) CONSULTATION WITH AFFECTED PARTIES.—In responding to a border sanitation emergency, the Secretary shall consult and cooperate with the Administrator, affected States, counties, municipalities, federally recognized Indian tribes, the Government of Mexico, and other affected parties.

SEC. 10. TRANSFER OF FUNDS.

(a) TRANSFER AUTHORITY.—The Secretary of State, acting through the United States Commissioner, may include as part of the agreements entered into under sections 7, 8, and 9 such arrangements as are necessary to administer the transfer to another country of funds assigned to 1 country and obtained from Federal or non-Federal governmental or nongovernmental sources.

(b) COST-SHARING AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no funds of the United States shall be expended in Mexico for emergency investigation or remediation pursuant to section 7, 8, or 9 without a cost-sharing agreement between the United States and the Government of Mexico.

(2) EXCEPTION.—

(A) IN GENERAL.—Funds may be expended as described in paragraph (1) without a cost-sharing agreement if the Secretary of State determines and can demonstrate that the expenditure of the funds in Mexico would be cost-effective and in the interest of the United States.

(B) REPORT.—If funds are expended as described in paragraph (1) without a cost-sharing agreement, the Secretary of State shall submit a report to the appropriate committees of Congress that explains why the costs were not shared between the United States and the Government of Mexico and why the expenditure of the funds without cost-sharing was in the interest of the United States.

(c) COMMISSION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''United States International Boundary and Water Commission Fund''. The Commission Fund shall consist of—

(A) such amounts as are transferred to the Commission Fund under paragraph (2); and

(B) any interest earned on investment of amounts in the Commission Fund under paragraph (4).

(2) TRANSFER TO COMMISSION FUND.—From amounts made available to the Department of State, the Secretary of State shall transfer to the Secretary of the Treasury for deposit into the Commission Fund $5,000,000. The Secretary of the Treasury shall deposit amounts received under this paragraph into the Commission Fund.

(3) EXPENDITURES FROM COMMISSION FUND.—

(A) IN GENERAL.—Subject to this paragraph, upon request by the Secretary of State, the Secretary of the Treasury shall transfer from the Commission Fund to the Secretary of State such amounts as the Secretary of State determines are necessary to carry out this section and sections 7, 8, and 9.

(B) METHODS OF DISTRIBUTION OF FUNDS.—In carrying out the purpose described in subparagraph (A), the Secretary of State may expend amounts made available to the Secretary of State from the Commission Fund directly or make the amounts available through grants or contracts.

(C) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Commission Fund shall be available in each fiscal year to pay administrative expenses necessary to carry out the purpose described in subparagraph (A).

(D) AVAILABILITY OF FUNDS.—Amounts in the Commission Fund shall be available without fiscal year limitation.

(4) INVESTMENT OF FUNDS.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Commission Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments, obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Commission Fund may be sold by the Secretary of the Treasury at the market price.

(D) CREDITS TO COMMISSION FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Commission Fund shall be credited to and form a part of the Commission Fund.

(5) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the Commission Fund under paragraph (4) shall be transferred at least monthly from the general fund of the Treasury to the Commission Fund on the basis of estimates made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 11. ADMINISTRATION.

(a) IN GENERAL.—The Secretary of State and the Administrator shall carry out this Act in a manner that is consistent with the environmental provisions of the North American Free Trade Agreement, so long as the United States applies the North American Free Trade Agreement to Mexico.

(b) DEFINITION.—In this section, the term ''North American Free Trade Agreement'' means the agreement between the United States and Mexico (without regard to whether Canada is a party to all or part of the agreement) entered into on December 17, 1992, and approved by Congress pursuant to

section 101(a) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3311(a)). The term includes any letters exchanged between the Government of the United States and the Government of Mexico with respect to the agreement and any side agreements entered into in connection with the agreement.

SEC. 12. EFFECT ON OTHER LAW.

Nothing in this Act shall amend, repeal, or otherwise modify any provision of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499) and the amendments made by the Act, or any other law, treaty, or international agreement of the United States.

SEC. 13. TERMINATION OF AUTHORITY.

The authority provided by this Act shall terminate on the date that is 5 years after the date of enactment of this Act.●

By Mr. BUMPERS:

S. 197. A bill to establish the Carl Garner Federal Lands Cleanup Day, and for other purposes; to the Committee on Energy and Natural Resources.

THE CARL GARNER FEDERAL LANDS CLEANUP ACT

● Mr. BUMPERS. Mr. President, several years ago I introduced legislation which resulted in the creation of the Federal Lands Cleanup Act. This law designates the first Saturday after Labor Day of each year as Federal Lands Cleanup Day and requires each Federal land managing agency to organize, coordinate, and participate with citizen volunteers and State and local agencies in cleaning and maintaining Federal public lands.

I was inspired to introduce this legislation by a talented and dedicated public servant by the name of Carl Garner. Carl is the resident engineer with the Army Corps of Engineers at the Greers Ferry Lake site in Arkansas. In 1970, he organized a group of about 50 volunteers to clean up trash that had accumulated along the shoreline of the lake. The Greers Ferry Cleanup Day was such an overwhelming success that eventually it was expanded to other Corps of Engineers-operated lakes and other Federal and State lands in Arkansas and became known as the Great Arkansas Cleanup. The cleanup has become so popular that last year more than 24,000 Arkansans participated in it at more than 100 sites.

Carl Garner recognized that we must instill in our citizens a greater sense of ownership, pride, and responsibility for the care and management of our State and public lands. His efforts and the phenomenal success of the Arkansas Cleanup Program inspired me to introduce the Federal Lands Cleanup Act of 1985.

Today, I am introducing legislation that will rename the Federal Lands Cleanup Act and the day in honor of Carl Garner. This bill was approved by the Senate in the 103d Congress but was not considered by the House. I am introducing it again so that future generations who enjoy and treasure our Nation's forests, national parks, and waterways to know that it was the vision and leadership of Carl Garner that was responsible for creating this national cleanup effort.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 197

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

SECTION 1. THE CARL GARNER FEDERAL LANDS CLEANUP ACT

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i–169i–1) is amended by striking ''Federal Lands Cleanup Day'' each place it appears and inserting ''Carl Garner Federal Lands Cleanup Day.''●

By Mr. CHAFEE (for himself, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mr. KOHL, and Mr. DORGAN):

S. 198. A bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes; to the Committee on Finance.

EXTENSION OF THE MEDICARE SELECT PROGRAM

● Mr. CHAFEE. Mr. President, I am pleased today to join with Senators FEINSTEIN, HUTCHISON, KOHL, and DORGAN in introducing legislation to extend the Medicare Select Program permanently and to make it available in all 50 States.

Based on legislation that I introduced in 1990, Medicare Select is a demonstration project operating in 15 States with more than 400,000 participants. Under this program, Medicare beneficiaries have the option to purchase Medicare supplemental insurance policies—often referred to as Medigap policies—through managed care networks.

This program has been a huge success and admirably serves those beneficiaries lucky enough to participate. Recent data continues to show that Medicare beneficiaries who purchase Medicare Select products pay premiums 10 percent to 37 percent less expensive than traditional Medigap products. Moreover, consumer satisfaction with these products is extremely high. Of the top 15 Medigap products ranked by Consumer Reports magazine in its August 1994 issue, eight were Medicare Select products. Unfortunately, under current law, current Medicare Select carriers will have to halt enrollment in July 1995.

Almost all the major health care reform plans introduced during the past session of Congress included provisions to expand the Medicare Select Program to all 50 States. While none of these health care reform efforts succeeded, my colleagues and I worked at the end of the last session to extend the demonstration program until July of this year, until we could introduce a bill to extend the program permanently and to expand it to all 50 States. As I indicated, the current demonstration program expires in July of this year—before we will be able to take any actions on health care reform.

Therefore, we need to enact legislation that will allow the current successful program to become a permanent option for Medicare beneficiaries and to expand to all States. This bill will do just that, and I urge my colleagues to give it their support.●

● Mrs. FEINSTEIN. Mr. President, I support Senator CHAFEE's proposal to extend the Medicare Select Program, which currently provides Medigap health benefits to roughly 400,000 older Americans by using a managed care model.

Like many of the other original cosponsors of this legislation, I come from one of the 15 States where the Medicare Select demonstration program has proved its popularity during the last 3 years.

Medicare Select, which currently provides 100,000 Californians with low-cost Medigap insurance using a managed care model, was enacted in 1990 as a 3-year demonstration program and has proved to be extremely popular, enrolling 400,000 seniors in 15 States.

This program used a network of providers to cut premium costs by 10–30 percent over fee for service Medigap products—those services and costs not covered by Medicare—according to several reports.

In California, roughly 100,000 seniors have signed up for the program, and Blue Cross of California alone is enrolling an additional 2,200 per month. These Medicare enrollees are signing up because the Medicare Select Program can provide low-cost, high-quality health benefits, while still retaining a high degree of choice over their physician.

The reason for the program's popularity are simple. In order to save money or receive added benefits, more and more older Americans are enrolling in managed care plans.

In fact, Consumer Reports lists many Medicare Select products as its highest rated values, and extension of the Medicare Select Program is strongly endorsed by California Insurance Commissioner Garamendi, as well as the National Association of Insurance Commissioners.

In addition, the Mainstream plan—and nearly every other health reform proposed this Congress—provided for a continuation and expansion of Medicare Select and other forms of managed Medicare.

Certainly, managed Medicare programs like Medicare Select must be implemented carefully, in order to ensure that Medicare enrollees are appropriately informed of the benefits of this program, provided with high-quality services, and ensured access to highly trained physicians. In addition, managed care programs must be shown to provide lower costs to the Federal Government in addition to consumer discounts.

However, without the extension of the Medicare Select Program, which

has already proven its initial success, new enrollments will be cut off in July 1995—before additional health care reform will have been enacted.

In the absence of national health care reform, I believe that this successful and popular managed Medicare program should be allowed to continue.●

By Mr. KYL (for himself and Mr. MCCAIN):

S. 199. A bill to repeal certain provisions of law relating to trading with Indians; to the Committee on Indian Affairs.

REPEAL OF INDIAN TRADING LAWS

Mr. KYL. Mr. President, I rise today with my colleague from Arizona, JOHN MCCAIN, to introduce legislation to repeal the outdated Trading with Indians Act.

Originally enacted in 1834 with a legitimate purpose in mind, the Trading with Indians Act was intended to protect native Americans from being unduly influenced by Federal employees.

But that act is no longer needed, and is in many cases unnecessarily punitive and counterproductive, in 1995. It is wreaking havoc on hard-working employees and their families, and it is bad for reservation economies.

The act establishes a virtually absolute prohibition against commercial trading with Indians by employees of the Indian Health Service and Bureau of Indian Affairs. The prohibition extends to transactions in which a Federal employee has an interest, either in his or her own name, or in the name of another person, including a spouse, where the employee benefits or appears to benefit from such interest.

The penalties for violations are severe: a fine of not more than $5,000, or imprisonment of not more than 6 months, or both. The act further provides that any employee in violation be terminated from Federal employment.

This can result in an employee being subject to criminal penalties and termination, not for any real or perceived wrongdoing on his or her own part, but merely because the person is married to another enterprising individual on an Indian reservation. The nexus is enough to invoke penalties. It means, for example, that an Indian Health Service employee, whose spouse operates a law firm on the Navajo Nation, could be fined, imprisoned, and/or fired. It means that a family member can't apply for a small business loan without jeopardizing the employee's job.

The protection that the Trading with Indians Act provided in 1834 can now be provided under the Standards of Ethical Conduct for Government Employees. The intent here is to provide adequate safeguards against conflicts of interest, while not unreasonably denying individuals and their families the ability to live and work—and create jobs—in their communities.

Both Health and Human Services Secretary Donna Shalala and Interior Department Assistant Secretary for Indian Affairs Ada Deer have expressed support for the legislation to repeal the 1834 act. As Secretary Shalala pointed out in a letter dated November 17, 1993, the Department ''agree(s) with the position that the Standards of Ethical Conduct, along with the criminal statutes at 18 U.S.C. 201–211, provide adequate safeguards against conflicts of interest involving Federal Government employees.''

Secretary Shalala went on to note that, ''in addition, the bill could improve the ability of IHS to recruit and retain medical professional employees in remote locations. It is more difficult for IHS to recruit and retain medical professionals to work in remote reservation facilities if their spouses are prohibited from engaging in business activities with the local Indian residents, particularly since employment opportunities for spouses are often very limited in these locations.

Mr. President, I urge Members of the Senate to join me in this effort to promptly repeal an outdated and counterproductive law, and I ask that the text of my bill be reprinted in the RECORD at this point:

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

S. 199

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

SECTION 1. REPEAL.

Section 437 of title 18, United States Code, is repealed.

By Mr. BRADLEY (for himself, Mr. KOHL, and Mr. SIMON):

S. 200. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of any projectile that may be used in a handgun and is capable of penetrating police body armor; to the Committee on the Judiciary.

COP KILLER AMMUNITION BAN ACT

Mr. BRADLEY. Mr. President, I rise today to introduce a measure designed to ban any handgun bullet capable of piercing body armor, regardless of the bullet's physical composition.

Mr. President, this legislation grows out of the recent controversy over the Black Rhino bullet, which allegedly penetrates tightly woven fibers of bulletproof vests and, upon impact with human tissue, purportedly disintegrates much more rapidly than a conventional bullet, causing massive damage.

Mr. President, Federal law currently outlaws cop-killer bullets based on the physical description of the bullet. For example, under the Violent Crime Control and Law Enforcement Act of 1994, Federal law currently bans cop-killing ammunition that is: constructed from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper or depleted uranium; or is larger than .22 caliber with a jacket that weighs no more than 25 percent of the total weight of the bullet. The Black Rhino bullet is allegedly made of ground powdered plastic and coated with a plastic polymer. Based on its alleged physical characteristics, this bullet would evade the Federal ban.

Mr. President, the Bureau of Alcohol, Tobacco and Firearms [ATF] has not tested the Black Rhino bullet; thus, I am not sure that this ammunition can do what the manufacturer claims. Indeed, ATF has not even been given sample ammunition to test. Therefore, I am not certain that this ammunition even exists. However, even if these bullets do not perform as advertised, it is clear that with the downsizing of the military and the resulting application by the defense industry of military defense technology for use in the private sector, it is only a matter of time before ammunition that can pierce body armor will be developed utilizing construction material that does not fall within the current Federal ban.

Mr. President, every year about 60 sworn police officers are shot to death in the line of duty. By industry estimates, body armor has saved over 500 officers from death or serious injury by firearm assaults. Most police officers serving large jurisdictions report they have armor and wear it at all times when on duty. Mr. President, because body armor saves lives, the development of armor-piercing bullets that sidestep the Federal ban—whether it be the Black Rhino bullet or any other bullet employing high-technology material—will serve one purpose and one purpose only—to put the lives of American citizens and those in blue sworn to defend American citizens in jeopardy.

As a result, Mr. President, I introduce this bill which will establish a performance standard such that any ammunition that is designed to penetrate body armor will be banned irrespective of its physical characteristics. The bill specifically directs the Department of the Treasury and the Justice Department to promulgate a uniform performance standard for testing a bullet's capacity to pierce armor within 1 year of the enactment of the bill. The manufacture, importation, and sale of any ammunition that fails to pass the performance standard to be promulgated will be banned.

Mr. President, cop-killing ammunition that has no purpose other than penetrating bulletproof vests has no place in our society. At a time when gun violence is becoming a national epidemic, the last thing we need is ammunition expressly designed to terrorize our police and instill fear in neighborhoods across New Jersey and this country. I therefore introduce this legislation to ensure that the 24,000 annual deaths attributable to handgun use do not senselessly increase.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 200

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cop Killer Ammunition Ban Act of 1995''.

SEC. 2. REGULATION OF THE MANUFACTURE, IMPORTATION, AND SALE OF PROJECTILES THAT MAY BE USED IN A HANDGUN AND ARE CAPABLE OF PENETRATING POLICE BODY ARMOR.

(a) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ''; or''; and

(3) by adding at the end the following:

''(iii) a projectile that may be used in a handgun and that the Secretary determines, pursuant to section 926(d), to be capable of penetrating body armor.''.

(b) DETERMINATION OF THE CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 of such title is amended by adding at the end the following:

''(d)(1) Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate standards for the uniform testing of projectiles against the Body Armor Exemplar, based on standards developed in cooperation with the Attorney General of the United States. Such standards shall take into account, among other factors, variations in performance that are related to the length of the barrel of the handgun from which the projectile is fired and the amount and kind of powder used to propel the projectile.

''(2) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Secretary, in cooperation with the Attorney General of the United States, determines meets minimum standards for protection of law enforcement officers.''.

By Mr. WARNER (for himself and Mr. ROBB):

S. 201. A bill to close the Lorton Correctional Complex, to prohibit the incarceration of individuals convicted of felonies under the laws of the District of Columbia in facilities of the District of Columbia Department of Corrections, and for other purposes; to the Committee on the Judiciary.

LORTON CORRECTIONAL COMPLEX CLOSURE LEGISLATION

● Mr. WARNER. Mr. President, today I join with my colleague Senator ROBB in introducing legislation that will address the problems that exist at the Lorton Correctional Complex.

Lorton Correctional Complex is an outdated, deteriorating, overpopulated, and undermanaged facility.

For years, I and others have worked to provide funds to build a prison within the District of Columbia so it could house its own prisoners. Our efforts have been blocked in the District of Columbia and our efforts to enhance safety and curb illegal drugs and guns at Lorton have been to no avail.

Every day, the local newspapers are filled with appalling reports of violence and drug use among the inmates and the place has been called a graduate school for drug merchants. Lorton's problems may not be unique among Federal prisons, but surely they are among the worst.

There is no option but to close Lorton.

The legislation we are introducing today would relocate 7,300 prisoners presently incarcerated at Lorton to other Federal facilities over a 5-year period. Once the legislation is passed, all new District of Columbia felons will be immediately incarcerated in Bureau of Prisons facilities. The District of Columbia Department of Corrections will still have responsibility for juveniles, misdemeanants, and pre-trial detainees.

A second important provision of the legislation is the establishment of a commission to be known as the Commission on Closure of the Lorton Correctional Complex. The commission will be comprised of locally appointed representatives to help devise a plan for the closure of Lorton. The involvement of the local community is essential in establishing a transition that ensures that local residents will have all their concerns heard.

I have been informed by a representative of the Federal Bureau of Prisons that at this time the Bureau is not taking a position on the legislation. The 7,300 prisoners at Lorton will be a stress on the Federal prison system. Sixty percent of the prisoners at Lorton will require being transferred to a maximum security prison. Also, several new prisons will need to be constructed to house the prisoners along with the additional personnel needed to operate and maintain the prisons.

It is in the interest of Fairfax County, the Commonwealth of Virginia, the District of Columbia, and the Federal Government to cooperate in resolving the problems at Lorton Prison. As partners, contributing to the reform of this system, these goals can be accomplished.●

● Mr. ROBB. Mr. President, I am pleased to join Senator WARNER in introducing the Lorton Correctional Complex Closure Act. This legislation provides a vital solution to the problem associated with the Lorton Correctional Complex, located in Virginia.

Originally, Lorton was designed as a workcamp and dormitory for misdemeanants and drunkards. Today, Lorton's facilities are outmoded and overburdened. The same dormitories which were designed to hold nonviolent, minimum security prisoners now house D.C.'s most dangerous felons. In its strapped fiscal state, the District is ill-equipped to improve the facility at Lorton.

Part one of our proposal will direct new D.C. felons into Federal correction facilities, providing an immediate remedy for increased overcrowding. Then, within 5 years, all remaining felons at Lorton will be turned over to the control of the Director of the Federal Bureau of Prisons, enabling final closure of the facility. The D.C. Department of Corrections will retain responsibility for juveniles, misdemeanants, and pretrial detainees.

Part two of the bill sets up a commission of locally appointed representatives from the District of Columbia, Fairfax County and Prince William County to help devise a plan for closure of the facility, disposal of the property, and future land use. This creates a process that maximizes community involvement, input and participation in inherently local decisions.

Under this plan, northern Virginians will have safer communities and will be able to participate in the development of future land use proposals for the affected area.

Since the land is owned by the Federal Government and the facility is operated by the District, local officials and residents in northern Virginia have had limited means of impacting the decisions relative to Lorton. That's why I included a provision giving local residents and officials a voice in expansion proposals during last year's crime bill. But limiting expansion just isn't enough—I've come to the conclusion that the Federal Government must accept its responsibility and devise a longterm solution.

We have before us an honest and open attempt to provide a vital remedy for the longstanding problems at Lorton. Closing this facility will not be easy—but I look forward to working with the Virginia delegation and the District to develop a reasonable and sound solution to the problems posed by the Lorton facility in its present condition. I urge quick consideration and passage of this measure.●

By Mr. KENNEDY (for himself and Mr. WELLSTONE):

S. 203. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage, to establish a Commission to conduct a study on the indexation of the Federal minimum wage, and for other purposes; to the Committee on Labor and Human Resources.

AMERICAN FAMILY FAIR MINIMUM WAGE ACT

Mr. KENNEDY. Mr. President, much has been said and written about the decline in real wages suffered by the majority of working Americans, the troubling rise in income equality, and the emergence of what Secretary of Labor Reich has so aptly described as ''the anxious class.''

Today, I am introducing legislation which is an important part of the initiatives we must undertake if we are serious about addressing these problems—legislation to increase the Federal minimum wage.

The minimum wage should be a living wage. That principle served this Nation well for more than 40 years. From the enactment of the first Federal minimum wage law in 1938 through the end of the 1970's, Congress addressed the issue six times. And six times bipartisan majorities—with the

support of both Republican and Democratic Presidents—reaffirmed the nation's commitment to a fair level of the minimum wage for America's workers.

But in the 1980's, that commitment was abandoned. From 1981 through 1989, the minimum wage was allowed to fall, in real terms, to the lowest value in its 50-year history. The modest increases enacted in 1989—which brought the minimum wage up from $3.35 to $3.80 in 1990 and to $4.25 in 1991, provided some measure of relief to low-wage workers. But those increases restored only about half of the purchasing power lost during the 1980's

It is unacceptable in this country today that a person who works full-time, year round at the minimum wage—even with the expanded earned income tax credit—does not earn enough to bring a family of three above the poverty line. Despite the increases that went into effect in 1990 and 1991, the current minimum wage is still a poverty wage. At $4.25 an hour, a person working 40 hours a week at the minimum wage earns just $170 a week—before taxes and Social Security are deducted.

The legislation I am introducing today will raise the minimum wage by 50 cents a year over the next 3 years—to $4.75 this year, $5.25 in 1996, and $5.75 in 1997.

The first 50-cent increase will merely restore the minimum wage, in real terms, to the value it had in 1991 when the last increase went into effect. In the past 4 years the purchasing power of the minimum wage has already declined to the point that a 50-cent increase is needed just to recover the ground lost since 1991.

The second 50-cent increase, in 1996, will bring the minimum wage, in real terms, up to the level where Congress sought to put it in the legislation passed by both Houses of Congress which President Bush vetoed in 1989.

The third 50-cent increase will put the wage, in real terms, within reach of what ought to be our ultimate goal—to restore the minimum wage to a level roughly equal to half the average hourly wage, the level that prevailed for decades until the 1980's when it was allowed to drastically decline.

Finally, the legislation I am introducing creates a Commission to study and make recommendations on two important issues: First, the best means by which we can achieve the goal of restoring the minimum wage to its historic level, and second, the best means by which we can provide regular, periodic adjustments to the wage, in order to avoid long periods of stagnation such as occurred during the 1980's.

As we begin this effort to increase the minimum wage, it is likely that we will be confronted by opponents with the same sky-is-falling predictions of job loss and damage to the economy that have been made every time the minimum wage has been increased since 1938. The textbook economic theory that increases in the minimum wage necessarily result in job losses has never had solid empirical support. Recent studies by leading economists who examined the results of the most recent increases in both State and Federal minimum wages have shown the theory to be at odds with reality.

Economists Lawrence Katz of Harvard University and Alan Krueger and David Card of Princeton University studied the impact of those increases on employment. According to their findings, those increases did not have the negative employment effects predicted by opponents. In fact, their findings included evidence indicating a positive impact on employment.

A survey designed to measure the effects of the recent increase in the New Jersey minimum wage to $5.05 found that employment in New Jersey if anything actually expanded with the rise in the minimum wage, and similar results were found in a studies conducted in Texas and California.

Krueger and Card's analysis of the impact of the 1990 and 1991 increases in the Federal minimum wage also found that those increases did not adversely affect teenage employment, and that increases in the minimum wage were not offset by reductions in fringe benefits.

The increases proposed in this bill will bring long overdue help to millions of workers in America. I urge my colleagues to sponsor this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 203

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Family Fair Minimum Wage Act of 1995''.

SEC. 2. MINIMUM WAGE INCREASE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section not less than—

''(A) $4.25 an hour during the period ending on August 31, 1995;

''(B) $4.75 an hour during the year beginning on September 1, 1995;

''(C) $5.25 an hour during the year beginning September 1, 1996; and

''(D) $5.75 an hour during the year beginning September 1, 1997;''.

SEC. 3. ESTABLISHMENT OF COMMISSION ON THE MINIMUM WAGE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on the Minimum Wage (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—The Commission shall be composed of 9 members to be appointed not later than 180 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the Secretary of Labor.

(2) Three members shall be appointed by the Secretary of Commerce.

(3) Three members shall be appointed by the Secretary of Health and Human Services.

(c) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall conduct a study of, and make recommendations to Congress on—

(A) means to restore the minimum wage to the level relative to the average hourly wage that existed when the Congress adjusted the minimum wage during the period 1950 through 1980; and

(B) means to maintain such level with minimum disruption to the general economy through regular and periodic adjustments to the minimum wage rate.

(2) REPORT.—Not later than September 1, 1993, the Commission shall prepare and submit a report to the appropriate committees of Congress that shall include the findings of the Commission and the recommendations described in paragraph (1).

(d) COMPENSATION OF MEMBERS.—

(1) PAY.—The members of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rate authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 30 days after the date on which the Commission submits the report under subsection (c)(2).

(f) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—Except as provided in subsections (d) and (e), the provisions of the Federal Advisory Committee Act shall apply to the Commission.

● Mr. WELLSTONE. Mr. President, I just wanted to acknowledge the work of Senator KENNEDY in crafting this important legislation which we are introducing today to increase the Federal minimum wage.

I had introduced a similar bill in the last Congress, which would have increased the minimum wage even further than is provided for in this bill, and have been a long-time supporter of making sure that low-income people are paid a decent and just minimum wage. I may be reintroducing that bill later this year, because in addition to a higher target wage, it also provided for indexing of the Federal minimum wage—a key element of any minimum wage increase legislation, in my view.

This measure provides for modest, incremental increases over 3 years in the Federal minimum wage, and then for a study to be ready at the end of the third year to address other key issues like indexation. I am delighted to join as an original cosponsor of this measure.●

By Mr. MOYNIHAN:

S. 204. A bill to provide for a reform of the public buildings program, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL BUILDINGS REFORM ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to reform the way the Federal Government builds. Ever since my election to Congress, I have attempted to improve our unwieldy and often wasteful public building program. I do so again this Congress. Building appropriately and well is as fundamental a sign of the competence

of government as will be found. Recently, however, we have chosen increasingly to rent, avoiding the up-front costs of buildings and the hard decisions requisite in their construction.

The result is that now we house over 40 percent of the Government in leased space. Not temporary space. Eternal space. And the cost? Now, $2.2 billion a year and rising. There will be nothing to show for this money when the lease is up, only the prospect of another lease.

The point is that we can no longer afford to sidestep the problem by renting; we must face up to the task of building. And to do this, we must reform our public building program. We must plan out rationally just what buildings we need, we must build them in the right place, we must build them at the right time, we must build them to the degree of permanence appropriate to their mission, and finally, we must build them for a fair price. We are not really that distant from the time it fell to me as a young member of the Kennedy administration to draw up the ''Guiding Principles for Federal Architecture,'' which President Kennedy put forth on June 1, 1962. But in our time the fear of taxpayer resentment of the cost of public buildings has been compounded with an almost ideological alarm at the implications of building itself.

Building, however, is still cheaper than renting. We are deceiving the taxpayer to say otherwise. Recently, the GSA came to the Environment and Public Works Committee asking for 11th-hour approval of an office space lease at a yearly cost of $21 million. To build would have cost $70–$100 million. This, however, was a lease in name only, cast as such to avoid up-front scoring for the budget. The building had yet to be designed, the GSA had not fully planned the space, and yet they were asking approval for an expenditure over the term of the lease of $420 million. Several times the cost of building and nothing to show for it after 20 years but a file full of rental receipts.

Nevertheless, the decision to stop hiding behind leases is beyond the scope of the legislation I introduce today, which aims simply to ensure that what is built is built responsibly and worthy of the Nation. Building or leasing is the larger question, and it remains to be seen whether this Congress will accept the responsibility or, as is so often the case, put off resolution to the end of a 20-year lease term, when few, if any of us, will be here still.

By Mrs. BOXER:

S. 205. A bill to amend title 37, United States Code, to revise and expand the prohibition on accrual of pay and allowances by members of the Armed Forces who are confined pending dishonorable discharge; to the Committee on Armed Services.

LEGISLATION RELATING TO THE PAY OF DISHONORABLY DISCHARGED MEMBERS OF THE ARMED FORCES

● Mrs. BOXER. Mr. President, if I were to tell you that the Pentagon pays full salary to convicted child molesters, rapists, and murderers, you would probably think I was making it up. But I'm not.

Each month, the Pentagon pays the salaries of military personnel convicted of the most heinous crimes, while their cases are appealed through the military court system—a process than often takes years. During that time, these violent criminals can sit back in prison, read the Wall Street Journal, invest wisely, and watch their taxpayer-funded nest eggs grow. While in prison, many military criminals even get cost of living raises.

I cannot think of a more reprehensible way to spend taxpayer dollars. No explanation could ever make me understand how the military could reward rapists, murders, and child molesters—the lowest of the low—with the hard-earned tax dollars of law-abiding citizens. This policy thumbs its nose at taxpayers, slaps the faces of crime victims, and is one of the worst examples of Government waste I have seen in my 20 years of public service.

Congress must act now to end this practice. According to data provided by the Defense Finance Accounting Service and first published in the Dayton Daily News, the Department of Defense spent more than $1 million on the salaries of 680 convicts in the month of June, 1994, alone. In that month, the Pentagon paid the salaries of 58 rapists, 164 child molesters, and 7 murders, among others.

The individual stories of military criminals continuing to receive full pay are shocking. In California, A marine lance corporal who beat his 13-month-old daughter to death almost 2 years ago still receives $1,105 each month—about $25,000 since his conviction. He spends his days in the brig at Camp Pendleton, doesn't pay a dime of child support.

I spoke with the murdered child's grandmother who now has custody of a surviving 4-year-old grandson. She is a resident of northern California. She was outraged to learn that the murderer of her grandchild still receives full pay. ''No wonder the Government is out of money,'' she told me.

Another Air Force sergeant who tried to kill his wife with a kitchen knife continues to receive full pay while serving time at Fort Leavenworth. He told the Dayton Daily News, ''I follow the stock market; I buy Double E bonds.''

And believe it or not, Francisco Duran, who was arrested last October after firing 27 shots at the White House was paid by the military while in prison after being convicted of aggravated assault. According to DOD records, Duran was paid $17,537 after his conviction for deliberately driving his car into a crowd of people outside a Hawaii bowling alley in 1990. Some of that money may well have paid for the weapon he used to shoot at the White House.

This policy is crazy, and it has got to stop.

At a time when the Republican Contract With America calls for more dollars for the Pentagon, let's not go back to the days of throwing money at the military as long as this kind of wasteful spending continues.

This legislation will immediately halt pay to all military personnel who have been sentenced to confinement and dishonorable discharge.

This legislation will save the taxpayers money—millions of dollars each year. It will put an end to this egregious waste of taxpayer dollars, and it will treat military criminals as they deserve to be treated—as criminals—to be punished, not rewarded.

It is my hope that this legislation can be acted upon quickly. I have discussed this matter with Edwin Dorn, Undersecretary of Defense for Personnel and Readiness, and he agreed that we must correct the Department's obviously flawed policy.

I received a copy of a memorandum from Secretary Dorn today advising me that he has convened an internal working group on this issue, and I trust that we can work cooperatively to end this outrageous practice immediately. We must not drag out the process while criminals continue to reap unjust rewards.

There is no need to take a long time to study this issue. We know the problem, and this legislation offers a workable solution.

I will soon discuss the issue with Senator THURMOND and Senator NUNN and I trust that they will agree that this legislation deserves to move forward.

In the course of my investigation into this issue, I have learned of several other aspects of the military justice system that merit further investigation. For example, the military has no system in place for providing restitution or other needed compensation to victims or to families of military criminals. These are important problems and I will continue to work with my colleagues and the Department to find the best solution.

I ask unanimous consent that two news articles discussing this issue be inserted in the RECORD.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 205

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

SECTION 1. PAY AND ALLOWANCES.

(a) REVISION OF PROHIBITION.—(1) Section 804 of title 37, United States Code, is amended to read as follows:

"§ 804. Prohibition of accrual of pay and allowances during confinement pending dishonorable discharge

"(a) PAY AND ALLOWANCES NOT TO ACCRUE.—A member of the armed forces sentenced by a court-martial to a dishonorable discharge is not entitled to pay and allowances for any period during which the member is in confinement after the adjournment of the court-martial that adjudged such sentence.

"(b) RESTORATION OF ENTITLEMENT.—If a sentence of a member of the armed forces to dishonorable discharge is disapproved, mitigated, or changed by an official authorized to do so or is otherwise set aside by competent authority, the prohibition in subsection (a) shall cease to apply to the member on the basis of that sentence and the member shall be entitled to receive the pay and allowances that, under subsection (a), did not accrue to the member by reason of that sentence.".

(2) CLERICAL AMENDMENT.—The item relating to section 804 in the table of sections at the beginning of chapter 15 of such title is amended to read as follows:

"804. Prohibition of accrual of pay and allowances during confinement pending dishonorable discharge.".

(b) PROSPECTIVE APPLICABILITY.—The amendment made by subsection (a)(1) does not apply to pay periods beginning before the date of the enactment of this Act.

[From the Dayton Daily News]

WHITE HOUSE SHOOTER'S PAST—EX-SOLDIER DURAN KEPT HIS PAY WHILE IN PRISON IN 1991

(By Russell Carollo)

Two years before he opened fire on the White House, Spc. Francisco M. Duran was on the U.S. Army's payroll

Not as a soldier, but as a prison inmate.

On Aug. 9, 1990, Duran deliberately drove his red Nissan sedan into a crowd of people who had chased the drunken soldier from the bowling alley at Schofield Barracks on Oahu in Hawaii.

Cecilia Ululani Ufano, 49, was tossed in the air and fractured her skull when she landed.

Duran was convicted of aggravated assault on Feb. 15, 1991, and sentenced to five years in prison, but the military kept paying him until June 1992. In all, he earned, $17,537 after his conviction.

A military court had ordered his pay to stop, but Duran wrote to a commander hearing his appeal, pleading for a paycheck to help his family.

"Rent is outrageous in Hawaii * * *," he wrote. "We still owe on our car."

The commander allowed Duran to keep some of his pay.

His five-year sentence would have kept him in prison until 1995, but a commander suspended all but 42 months of his sentence.

By Sept. 3, 1993, he had been discharged from the service and released from prison early for good behavior.

Last month, Duran, 26, was charged with trying to assassinate President Clinton. He faces life in prison if convicted.

He was arrested Oct. 29 after he, allegedly fired 27 rounds from a semiautomatic rifle at the White House. Authorities reportedly recovered from his truck a map with the words "Kill the (prez)" written on it.

While the Army paid Duran, it gave Ufano nothing. Insurance didn't pay all of her medical bills.

"I'm angry about it," she said during a telephone interview. "I'm still under medication. * * * I can't smell, and it's been four years."

[From the Dayton Daily News, Dec. 18, 1994]

CASHING IN BEHIND BARS—U.S. MILITARY BELIEVES IN PAYING SOLDIERS, SAILORS IT SENDS TO PRISON

(By Russell Carollo and Cheryl L. Reed)

Andre D. Carter choked and raped a cocktail waitress in his Colorado Springs apartment. He went to prison but still was paid $20,788.

James R. Lee sodomized three teen-age boys in Illinois, and he was paid even more: $85,997.

Rodney G. Templeton molested a 4-year-old girl in the basement of a Dayton church, where the two had gone to hang choir robes. He was paid $148,616.

Carter, Lee and Templeton were paid by U.S. taxpayers.

They didn't work for the money.

They didn't need to. They committed their crimes while members of the U.S. armed forces.

They are among hundreds of murderers, rapists, child molesters and other criminals paid by the armed services long after being locked away.

A *Dayton Daily News* examination of payments to military convicts found that in just one month, June, the military spent more than $1 million in pay and benefits to more than 665 prisoners in military jails and prisons. Some even got pay raises behind bars.

Most of Congress was unaware the military paid prisoners. Even the military had no idea exactly how much it paid, but the newspaper calculated payments by using military computer records.

"Any type of pay to convicted criminals is wrong," said District Attorney John Wampler of Altus, Okla., after learning a service member from his area was paid despite a 1992 involuntary manslaughter conviction. "It offends me that the federal government would compensate the person after they've been sent to prison."

Had Carter, Lee or Templeton worked for nearly any other public or private employer, they would have been fired and lost their salaries. But the U.S. military, supporting a tradition dating to the old West, believes if it sends soldiers or sailors to prison it should, in many cases, pay them.

Their victims aren't so lucky. Several were left without a dime to pay medical expenses, while their attackers got paychecks to pay bills, start a business or even buy stocks.

While the military kept paying Carter, the waitress's boss cut off her pay because she could not muster the courage to return to her job, where she met Carter.

"No, they shouldn't get paid, but what can you do about it?" she said, adding that she has yet to see a counselor.

Ret. Gen David Brahms, former chief military attorney for the Marine Corps and technical adviser for the movie, *A Few Good Men*, said victims should get something.

"Unfortunately, that isn't the way it is now," Brahms said. "Maybe the Congress should address that question."

BEHIND THE WALLS

At the military maximum-security prison at Fort Leavenworth, Kan., 405 prisoners, or 30 percent of the prison population, were allowed by military courts to keep their pay up to several years.

Besides the pay, the military gave to the dependents of those inmates, and to the dependents of others throughout the country, free medical coverage and 20–30 percent discounts at base stores.

Those who got checks included 164 child molesters and child rapists, 58 other rapists, 11 convicted of attempted murder and seven convicted murderers.

They include people such as Air Force Sgt. Rossel Jones.

Jones chased his wife around their apartment at Holloman Air Force Base, N.M., with a knife, stabbing her several times as she warded off the swinging blade with her hands.

"That's how my fingers and hands were cut," Deborah Jones told an Air Force investigator the day after the Oct. 7, 1991, attack. "When Rossel stabbed me in the neck, I managed to bend the knife and take it away.

". . I fell down and passed out. When I awoke, Rossel was hitting me in the head and body with a table leg."

Jones was convicted nearly three years ago, but the Air Force still pays him $1,152.90 a month.

From inside the prison, Jones watches his government pay grow.

"I follow the stock market," said Jones, who reads stock and mutual fund listings in the *Wall Street Journal* and *USA Today*. "I buy Double E Bonds."

A SYSTEM FROM THE OLD WEST

Paying convicted criminals is just one of the many anomalies in the military justice system.

At a court-martial, the military's version of a trial, a defendant is not judged by peers; he's judged by superiors, mostly officers.

Panel members don't elect a foreman; it's the highest-ranking officer.

And just about every step in the justice process is subject to approval of the defendant's commanding officer, who often is not a lawyer.

No one knows exactly how long the military has paid criminals.

Col. Charles Trant, a military law historian and the Army's chief criminal attorney, said the first formal summary of the policy was written in 1880. Soldiers served in remote outposts and when they were sent to jail, their families needed money to return home and resettle.

"The rationale is the same one we use today," said Trant, who conceded the practice is outdated. "It was quite a different Army then."

Generally, civilians, even ones working for the government, lose their jobs when they cannot report to work. Some lose their pay even without an arrest.

"That's one of the starkest differences between the military and civilian systems: We tend to treat them more generously," Trant said.

On Aug. 16, Dayton police officer Danial Bell was suspended without pay—even though not arrested or charged—when a urine test detected cocaine in his system after he struck and killed a pedestrian.

Most state and federal benefits, so-called entitlements, are cut to people in prison. The federal government cuts the bulk of a defendant's Social Security benefits at conviction. It even cuts off workers compensation to federal employees convicted of felony crimes.

The military cuts off pay, too, when an employee is jailed by civilian authorities.

When Colorado Springs police arrested Carter for rape and held him pending action by military authorities, the Army stopped his pay.

But after Carter was transferred to an Army jail, his pay started again, as if he were back on duty.

Not all governments pay their military prisoners. With rare exception, the Canadian military stops checks the moment a soldier is arrested by anyone. If a soldier's family requests help, the military will only give them as much as they could receive from government welfare.

"This rule would apply even if they haven't been tried," said Maj. Ric Jones,

spokesman at Canadian Defence Headquarters in Ottawa.

A CHECK FOR EVERY CELL

On Nov. 9, 1991, a mother told military police at Wright-Patterson Air Force Base that Sgt. 1st Class Claudio Smith-Esminez molested her 7-year-old daughter several times while baby-sitting.

The military's investigation took 20 months, during which time Smith-Esminez earned his full pay of about $2,000 a month, plus housing and food allowances.

''We had all these pre-trial meetings. She had to keep talking about it,'' said the girl's mother, who lives in Dayton.

On July 12, 1993, Smith-Esminez was convicted of molesting the girl four times, and his rank was reduced to the lowest in the military, E–1, with a salary of about half of what he was earning.

Still, Smith-Esminez got all his pay because military convicts receive full pay until their first appeals are decided by commanders. Smith-Esminez first appeal wasn't decided until March 1994, eight months after his conviction and 28 months after authorities began their investigation.

Of the 367 inmates arriving at Leavenworth during the past 12 months, 270, or 73.6 percent, were awaiting decisions by commanders on their first appeals.

Even the military is questioning the practice. A Pentagon spokesman, Lt. Col. Doug Hart, confirmed that the military is studying whether to stop pay at conviction, but he offered no details.

''At this point, we really don't have anybody who is willing to be interviewed on the subject.'' Hart said.

CONVICTS GET PAID FOR YEARS

Smith-Esminez's pay didn't stop after his first appeal.

In fact, Leavenworth records show he could get paid until Dec. 14, 1995, when his enlistment expires.

In the military, whether people are paid after first appeals is determined by their sentences. The court can order that some, all or none of the prisoners' pay be cut.

The court cut Smith-Esminez's rank, but it didn't take away any of his pay, so he continues to receive more than $800 a month, the amount entitled to him under his new, lower rank.

Inmates can have their paychecks sent to the bank or address of their choice.

Enlisted service members can be paid a few days to several years after conviction, either until their enlistment dates expire or their final appeals and discharges are decided, whichever occurs first.

Officers get paid even longer, until the secretary of their service discharges them after their final appeals.

SEVERITY NOT A FACTOR

The severity of the crime—with the exception of murder—seemed to matter little in determining who got paid.

Army Lt. Timothy L. Jenkins lost all his pay and was fined $15,000 at a court-martial at Leighton Barracks, Germany, last year. His crime: writing thousands of dollars worth of bad checks.

Senior Airman Samuel J. Carter sold drugs and was picked up for attempted theft. At a court-martial at Bergstrom Air Force Base, Texas, he lost all his pay, too.

Col. Lee, however, kept his pay, despite a conviction last fall for seven counts of sodomy and 21 counts of indecent acts with teen-age boys from Illinois. More than a year after his conviction, Lee still receives $6,618.30 a month, more than what 98 percent of all Ohio families earned in 1990.

Sgt. Edward Higgins kept his pay, too.

He was convicted in 1992 of five counts of molesting young women who came to his Air Force recruiting office in Youngstown, Ohio.

''He asked me if I had been checked for scoliosis,'' an 18-year-old woman told a military court in 1992. ''. . . He told me to drop my pants three-to-four inches below from where they were from my waist and bend over and pull up my shirt.''

Higgins told another 18-year-old to take off her jump suit, and then he ran ''his hand up and down her back from her neck to her buttocks,'' the woman told military authorities.

''He said he had to get a measurement of my body fat,'' the woman said during an interview. ''We all felt so stupid because we fell for this guy.

''Why should he get paid? . . . That's ridiculous. I can't believe it.''

Since he was convicted and sentenced to four years in prison, Higgins has earned $25,499 pay from the Air Force.

FAMILY MATTERS

In his appeal for pay and a light sentence, Higgins' attorney asked the court to consider ''his family, his wife, his three young children . . . all the Saturdays that his boys wouldn't be able to go to McDonald's for this special time with their father.''

The prosecutor made a different plea. ''While he's in jail, he shouldn't be paid. He's no longer a productive member of the Air Force . . . It's not the Air Force's responsibility to take care of his family.

''It was Sgt. Higgins' responsibility. And when he decided to do what he did over that period of time, he reneged on that responsibility.''

The court sided with Higgins.

The Dayton Daily News examined dozens of court-martial files and found that in every case defendants who received pay had families.

Although jurors award pay based on family needs, they're not supposed to.

''There's nothing in the Code of Military Justice that allows that,'' said Nelson, who is now administrator of North Dakota's court systems.

Paying any convicted criminal regardless of the reason, is a questionable practice, said Nelson, a military attorney for 33 years. ''In crime, one is accountable for their own acts.''

Civilian families often get nothing when loved ones go to prison.

Mark Putnam went to prison in 1990 for strangling an informant in Kentucky while working for the FBI. His family was forced to ask for welfare.

''You can't expect the FBI to pay benefits to me and my children because my husband committed a crime,'' said Putnam's wife, Kathleen, who now lives in Connecticut. ''I can't see how anyone should pay him when my husband committed a crime.''

LITTLE OVERSIGHT

Although the military often pays its inmates to help their families, it often can't ensure the families get the money or need it.

At Sgt. Terry H. Cox's trial at Ellsworth Air Force Base, S.D., last year, the 7-year-old girl he raped stood in front of a jury of adults wearing uniforms and pointed to the part of her body Cox touched.

''Right here,'' the girl said.

The testimony was enough to help convict Cox of nine separate acts of rape, sodomy and other indecent acts on the girl, but it wasn't enough to stop his pay.

The military decided to keep paying Cox after he asked the court: ''Please help me put a stop to my family's suffering and mine.''

Three months after his March 1993 conviction, Cox still had not given his wife written permission to pick up his check. Although he received more than $1,700 a month, he didn't send regular support payments to her.

The military also often doesn't verify a family needs the money before granting pay.

Unlike in civilian courts, sentencing begins immediately after conviction in courts-martial, leaving little time for the prosecutors to verify a defendant's claim of needing money to support his family.

''The government virtually never goes back and tries to rebut that,'' said Col. Trant, who spent 6½ years as an Army judge before becoming the service's chief criminal attorney.

Even though his wife earned $17,000 a year and even though his family had four cars, two boats, a motorcycle and lived in a $110,000 home, the military paid Lt. Col. Templeton.

Templeton, who helped oversee a $28-billion weapons program at Wright-Patterson, pleaded guilty in March 1992 to 10 acts of child molestation involving girls, including the Dayton child.

In his plea for clemency, Templeton asked the court to consider his family's financial needs. Since he confessed three years ago, Templeton has earned $148,616 and he still gets $4,739.40 a month, which includes a pay raise of $102 a month he received in January. His family is supposed to get about $1,800 of it for support.

The Canadian military stops pay to people like Templeton.

In Canada, an ''assisting officer'' ensures the family needs money. The family's need and other sources of income also are investigated by provincial welfare officials, who recommended an amount the military should pay.

''So if you're not entitled to anything under the welfare system. . . .you're not entitled to anything under our system either,'' said Maj. Jones, the Canadian military spokesman.

PAYING FOR MISTAKES

Even when a military court is so outraged by a crime that it cuts all pay, even when the convict has no living relative to support, a service member still can earn his full military paycheck for years.

The military didn't want Army Sgt. Ronald Webster to get paid, but he got his money anyway. In 1982, Webster was convicted of rape, burglary, assault, resisting arrest and 10 other charges involving an attack on a fellow soldier in her barracks at Fort Story, Va.

He was sentenced to lose his pay, $965.70 a month, but four years after his conviction, Webster said, the military found an error in his case.

The error did not earn Webster a new trail, or prove his innocence, but it did earn him the right to resubmit his case for clemency. So the military, he said, paid him four years of back pay.

''I think it was about $38,000 to $40,000 after taxes,'' said Webster, who was released from Leavenworth Nov. 18 and now lives in Cincinnati.

Military members who win certain types of appeals, even years after trails, can receive full back pay for the time it took to appeal the case.

If a defense attorney can't find a reason to appeal a case, lawyers working for the highest court for military appeals will try to find one for them. Unlike other civilian appeals courts in the country, the military's highest appeals court pays lawyers to search cases for legal errors, even when appeals are not filed.

And in case both a defense attorney and the appeals court can't find errors, convicts at Leavenworth can search for themselves, using the prison's 6,000-volume law library.

''Lawyers have told us we have a better library than they have in their offices,'' Army spokesman Staff Sgt. Alvah Cappel said as he showed off the prison's facilities during a tour this fall.

Webster said he invested some of the money he won in his case.

''I think I had $5,000 in stocks. You can invest in anything you want (in prison). You just can't form a business in there.

''All you do is get a broker. You stay in contact with your broker and do it over the phone. They accept collect calls.''

He also used the money to start a demolition company in Cincinnati.

''I think I deserve the money,'' Webster said. ''That's the way the system works. They've been doing it for years. It's a whole different kind of system.''

Below is a breakdown of military prisoners receiving government paychecks in June. Many were convicted of serious offenses, including murder, rape and child molestation.

PAY AND BENEFITS GIVEN TO MEMBERS OF THE ARMED SERVICES IN JAILS AND PRISONS

Branch of service	Number of prisoners	Amount for June 1994
Marines	268	$323,461
Army	225	233,016
Air Force	137	146,706
Navy	34	64,678
Coast Guard	1	1,458
Total	[1] 665	769,319
Total including benefits to prisoners and dependents	.....	1,015,662

[1] One or more services may have included types of convicts not counted by other services.

Source: Dayton Daily News computer analysis of records from U.S. Defense Finance and Accounting Service and the military prison at Leavenworth, Kan. The U.S. Coast Guard and civilian health insurance consultants, Dept. of Defense records on military benefits. ●

By Mr. DASCHLE (for himself and Mr. EXON):

S. 208. A bill to require that any proposed amendment to the Constitution of the United States to require a balanced budget establish procedures to ensure enforcement before the amendment is submitted to the States; to the Committee on the Budget and the Committee on Governmental Affairs, jointly.

RIGHT TO KNOW ACT

Mr. DASCHLE. Mr. President, I have the honor of introducing today on behalf of Senator EXON, the distinguished ranking member of the Budget Committee, and other Democratic Senators, the Right to Know Act.

The proposal is straightforward. It demands that American taxpayers know what the impact of a constitutional balanced budget amendment will be before State legislatures vote on ratification of the constitutional amendment. It also ensures that we take immediate steps to balance the budget by the year 2002—the express goal of the constitutional amendment.

Our proposal says that, upon passage of a balanced budget amendment by Congress but before States must ratify, we would give States and the American people the information they need to make this important decision. Second, under our approach, the actual deficit reduction required to balance the budget would begin immediately.

No State would be required to vote on the amendment until Congress passes a concurrent budget resolution committing to actual deficit reduction and outlining, through reconciliation instructions to committees, how the budget would be balanced by the year 2002.

It is critically important that Americans understand that passing a constitutional amendment to balance the budget does not reduce the national debt by one penny. Nor does passage of a balanced budget amendment provide the slightest detail of how the budget could or should be balanced. Only if Congress acts on legislation that accomplishes a balanced budget will the precise ramifications be known.

We simply cannot afford to wait until 2001 to start complying with the balanced budget amendment. By doing so, we will be adding a far greater burden to our national debt, which already has reached nearly $4.7 trillion. Even if we pledge our commitment to continued deficit reduction today, we will still need about $1.2 trillion of cuts over the next 7 years to balance the budget by the year 2002. Failure to make these cuts will simply add to the $4.7 trillion debt.

If we delay even 1 year, the national debt will increase by over $150 billion as a result of that delay, and the interest on the debt will be approximately $50 billion greater. Each year we delay adds another enormous sum of our already-astronomical national debt, and increases the percentage of our budget that must be dedicated to servicing that debt.

In the last congress, we passed a deficit reduction package that will reduce the budget deficit by nearly $500 billion. Given the magnitude of our existing debt, it would be irresponsible and profoundly illogical not to continue striving toward a balanced budget this year, not next year or the year after.

Mr. President, senators on both sides of the aisle are divided on the issue of a constitutional balanced budget amendment. We all want to bring budget deficits under control, but reasonable people disagree on the way to accomplish that goal, both in terms of budget priorities and in terms of the proposal to amend the Constitution.

The Right to Know Act offers an approach that senators on both sides of the constitutional amendment issue and on both sides of the aisle could—indeed should—support.

Senators who support a constitutional amendment to require a balanced budget—and I am one—should know that this proposal is wholly consistent with that position. In fact, if we are serious about balancing the budget, we must be prepared to work with our colleagues to ensure that the deficit reduction resumes immediately. We also must be prepared to explain to the American people and the States exactly how we are going to achieve our goal.

Senators who may oppose a constitutional amendment, but who believe we need to take serious steps toward deficit reduction and an actual balanced budget, should also find this proposal wholly consistent with that position. The Right to Know Act simply ensures that the balanced budget amendment, if it passes, will not become a gimmick or a hollow promise.

I strongly urge all of my colleagues, regardless of their position on the underlying balanced budget amendment issue, to study this proposal carefully.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 208

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Right to Know Act''.

SEC. 2. PROPOSAL OF AMENDMENT.

No article proposing a balanced budget amendment to the Constitution shall be submitted to the States for ratification in the 104th Congress until the adoption of a concurrent resolution containing the matter described in section 2 of this Act.

SEC. 3. CONTENT OF REQUIRED CONCURRENT RESOLUTION.

(a) CONTENTS.—The concurrent resolution referred to in section 1 shall set forth a budget plan to achieve a balanced budget (that complies with the article of amendment proposed by that section) not later than the first fiscal year required by the article of amendment as follows:

(1) a budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by the article of amendment) containing—

(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

(B) totals of new budget authority and outlays for each major functional category;

(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

(D) an allocation of Federal revenues among the major sources of such revenues;

(2) a detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change; and

(3) reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.

(b) RECONCILIATION.—The directives required by subsection (a)(3) shall be deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions from committees under subsection (a)(3), each Committee on the Budget shall combine all such submissions (without substantive revision) into an omnibus reconciliation bill and report that bill to its House. The procedures set forth in section 310 shall govern the consideration of that reconciliation bill in the House of Representatives and the Senate.

(c) CBO SCORING.—The budget plan described in subsection (a) shall be based upon Congressional Budget Office economic and

technical assumptions and estimates of the spending and revenue effects of the legislative changes described in subsection (a)(2).

By Mr. SIMON:

S.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States to allow the President to reduce or disapprove items of appropriations; to the Committee on the Judiciary.

PRESIDENTIAL LINE-ITEM VETO

● Mr. SIMON. Mr. President, every day our budget deficit grows larger and larger. In this time of crisis, we need to use every available weapon in our arsenal to fight the growing national deficit. It takes a constitutional amendment that requires Congress to pass a balanced budget; and it also takes a constitutional line-item veto amendment, which I introduce today.

This line-item veto amendment takes as its model the amendment that appears in the Constitution of my home State of Illinois. According to some studies, the Illinois State government is able to reduce its annual budget by about 3 percent because of the line-item veto. Similar success on a Federal level will bring us that much closer to reducing the national debt.

My amendment is a simple one. It is a constitutional amendment to permit the President to reduce or disapprove any item of appropriations, other than an item relating to the legislative branch. If the President does not reduce or disapprove an item of appropriations, it becomes law. If he does reduce it, then Congress is empowered to override the President's veto by a simple majority vote of each House.

There are those concerned that the line-item veto takes away power from the legislative branch and puts it into the hands of the executive. That might be true if this veto were like all others and required a two-thirds override. But my amendment is faithful to the principle of majority rule in passage of legislation. It threatens only those appropriations which do not have majority support and it is those appropriations items which often are the least credible in the eyes of the American people and most difficult to justify.

Forty-three States now have the line-item veto. As ranking member of the Constitution Subcommittee of the Judiciary Committee, I—in conjunction with my friend from Colorado, who now serves as subcommittee chairman—hope to devote serious efforts toward securing passage of this important piece of legislation. The line-item veto is by no means a panacea. It is, however, a big step in the right direction for any serious attempt to put our fiscal affairs in order.●

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. GRASSLEY, the names of the Senator from Tennessee [Mr. FRIST] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 2, a bill to make certain laws applicable to the legislative branch of the Federal Government.

At the request of Mr. WELLSTONE, his name was added as a cosponsor of S. 2, supra.

S. 21

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 21, a bill to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 91

At the request of Mr. COVERDELL, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 91, a bill to delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such Act.

S. 145

At the request of Mr. GRAMM, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 145, a bill to provide appropriate protection for the Constitutional guarantee of private property rights, and for other purposes.

S. 165

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 165, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 185

At the request of Mr. BUMPERS, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 185, a bill to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas, to the Department of Agriculture, and for other purposes.

SENATE RESOLUTION 38—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. HATFIELD, from the Committee on Appropriations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 38

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1995, through February 28, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 28, 1996, under this resolution shall not exceed $4,823,586, of which amount (1) not to exceed $175,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $4,931,401, of which amount (1) not to exceed $175,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as mended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 28, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 39—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources,