S. 216

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

SECTION 1. REPEAL OF REDUCTION IN BUSINESS MEALS AND ENTERTAINMENT TAX DEDUCTION.

(a) IN GENERAL.—Paragraph (1) of section 274(n) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by striking ''50 percent'' and inserting ''80 percent''.

(b) CONFORMING AMENDMENT.—The heading for section 274(n) is amended by striking ''50'' and inserting ''80''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.●

Mr. HATCH. Mr. President, I rise today to join my colleague from Hawaii, Senator INOUYE, in introducing a bill to restore the deductible portion of the meals and entertainment expenses to 80 percent. As my colleagues know, the deduction was drastically reduced from 80 percent to 50 percent as part of the 1993 tax bill.

This change was a counterproductive way to raise revenue and comes at the expense of working Americans. Although this provision was ostensibly aimed at large corporations that have an undeserved reputation of abusing the meals and entertainment deduction, it has primarily hurt women, minority workers, and small businesses. This provision is similar to the ill-conceived luxury tax in that it so badly misses its intended target. In fact, almost 60 percent of employees in the food service industry are women, 20 percent are teenagers, and 12 percent are minorities. These are the people that the deduction limitation has hurt through lost jobs and reduced wages.

Contrary to what many might believe, most individuals who purchase business meals are small business persons; 70 percent have incomes below $50,000, 39 percent have incomes below $35,000, and 25 percent are self-employed. Moreover, 78 percent of business lunches and 50 percent of business dinners are purchased in low- to moderately-priced restaurants. The average amount spent on a business meal, per person, is about $9.39 for lunch and $19.58 for dinner. The business meal deduction is hardly the exclusive realm of the fat cats, Mr. President.

The deduction for meals and entertainment expenses is a legitimate business expense and should be deductible. The owners of most small and large businesses incur these costs in the everyday maintenance of their businesses. These expenses should be given the same treatment that other ordinary and necessary business expenses receive.

One group that has been particularly punished by the 50-percent limitation is the truckers. I have had hundreds of letters from Utah truckers who have been hurt by this unfair change in the law. Many truckers, as they transport important goods across the country, are forced to take their meals on the road. Because of the lower deduction, these truckers may pay an additional $200 to $300 or more a year in tax, depending upon their circumstances. By restoring the deduction to 80 percent, truckers, as well as many others, will receive fairer treatment.

Mr. President, I believe the 1993 tax bill went too far in reducing the deduction for meals and entertainment expenses. It is the small business owners, the truckdrivers, the traveling salespeople, and the restaurant workers who have suffered reduced wages or layoffs who are carrying the burden of this change. A restoration of the 80-percent limitation would bring this deduction back to a more equitable level for America's small business people and restaurant workers and is the right thing to do.

The restaurant industry employs millions of Americans across the Nation. Are we going to continue to allow the Tax Code to restrain job growth in certain industries with limitations such as this? The way to cut the deficit is not through raising taxes on lower and middle income Americans and through lost jobs, but through responsible fiscal constraint.

I urge my colleagues to support this bill.

By Mr. MCCONNELL (for himself and Mr. COVERDELL):

S. 218. A bill to repeal the National Voter Registration Act of 1993, and for other purposes; to the Committee on Rules and Administration.

THE MOTOR-VOTER REPEAL ACT OF 1995

● Mr. MCCONNELL. Mr. President, the States may finally receive some long-awaited relief from unfunded mandates, thanks to the winds of change which blew through the country last November. With passage of the unfunded mandates bill currently before the Senate, Congress will not be able to pile mandates on States as it has in the past. However, the unfunded mandates bill is prospective and will not undo the damage which past Congresses have done. The bill I am introducing today would undo some of the unfunded mandates damage by undoing a mandate. Specifically, it would repeal the so-called motor-voter law.

The motor-voter law made for a nice signing ceremony at the White House in 1993, a veritable extravaganza, in fact. It was an easy political hit. Proponents could revel secure in the knowledge that motor-voter sounded good and by dumping the burden on the States no unpopular budget offsets were required on the part of Congress or the President to pay for it.

But, as David Broder wrote in the Washington Post at that time, it was the kind of ''underfunded, overhyped legislation that gives Congress and Washington a bad name.''

Proponents said then that cost was not a problem, that it was a cheap bill. In that case, then finding a way to pay for it should not have been a problem. But Congress did not pay for it. And the fact is, State and local governments are finding that motor-voter is far more expensive than it was slated to be. Take Jefferson County, KY, for instance.

A Louisville Courier-Journal story reported just last month that Jefferson County clerk Rebecca Jackson estimates it will cost the county up to $1.4 million in just the first year. That tally includes over $700,000 for computer equipment and mailing costs of $165,000 annually. Seven employees may have to be hired as well, to cope with the added workload. These costs are not inconsequential, particularly at a time when everyone is feeling squeezed, not least of all—the taxpayers.

California Gov. Pete Wilson estimates it would cost his State alone nearly $36 million. That is why California and several other States are so put out by the motor-voter mandate that they have filed a lawsuit on the grounds that it violates the 10th amendment of the Constitution.

Those who would oppose this repeal will hold up retroactivity as some bugaboo that should not even be seriously considered. But this is one mandate, no doubt there are others, on which the clock should be turned back. It is not enough to keep things from getting worse, we must strive to make them better. From the standpoint of States and taxpayers, repealing motor-voter would be a big step forward.

What is the worst that could happen under a repeal? Why, some States might opt out. Others may not. The fact is, Congress was behind the curve in 1993: 27 States already had some form of motor-voter, and it stands to reason that they would continue to do so were the Federal mandate repealed. The critical point is that it would be their choice.

There would be nothing stopping States from adopting these provisions, other than cost. States would be at liberty to provide motor-voter, mail registration, and agency-based registration, just as they were prior to this mandate.

If they could afford it, fine. If they could not, fine. It should be their call. If motor-voter supporters in Congress would like to devise a model program—such as Federal grants to entice States into participating—go for it. Figure out a way to pay for it and let's vote on it. But the 1993 mandate was a bad deal for States, a bad deal for taxpayers, and it should be repealed.●

By Mr. NICKLES (for himself, Mr. BOND, Mrs. HUTCHISON, Mr. DOLE, Mr. GRASSLEY, Mr. ASHCROFT, Mr. COVERDELL, Mr. ABRAHAM, Mr. THOMPSON, Mr. BURNS, Mr. SHELBY, Mr. MCCONNELL, Mr. FAIRCLOTH, Mr. THOMAS, Mr. SMITH, Mr. MCCAIN, Mr. CRAIG, Mr. COATS, Mr. SANTORUM, Mr. MACK, Mr. GREGG, Mr. MURKOWSKI, Mr.

LOTT, Mr. KYL, Mr. THURMOND, Mr. HATCH, Mr. HELMS, Mr. INHOFE, Mr. SIMPSON, Mr. GRAMM, Mr. FRIST, Mr. GRAMS, Mr. BENNETT, and Mr. KEMPTHORNE):

S. 219. A bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes; to the Committee on Governmental Affairs.

THE REGULATORY TRANSITION ACT

Mr. NICKLES. Mr. President, today I am introducing the Regulatory Transition Act of 1995—and Congressman TOM DELAY of Texas has offered nearly identical legislation in the House—that places a temporary moratorium on regulatory rulemaking effective from the day after the elections, November 9, 1994, through June 30, 1995.

Excessive regulation and redtape imposes an enormous burden on our economy. This hidden tax pushes up prices for goods and services on American households, dampens business investment, and limits the ability of small businesses to create jobs.

The Clinton administration's own National Performance Review, issued September 7, 1993, observed that the compliance costs imposed by Federal regulations on the private sector alone were ''at least $430 billion per year—9 percent of our gross domestic product.'' Other economists have placed the direct combined Federal regulatory burden on State and local governments and the private sector at between $500 billion a year and more than $850 billion a year.

The Clinton administration's National Performance Review promised to ''end the proliferation of unnecessary and unproductive rules.'' But the flood of excessive regulations has not subsided. It has, in fact, increased during the current administration. For each of the first 2 years of the Clinton administration, the number of pages of actual regulations and notices published in the Federal Register has exceeded any year since the Carter administration.

As a matter of fact, if we look at a chart—and I have a chart that I will later pull out for the floor—if you look at it, the Carter administration had the highest number of pages in the Federal Register in history. Actually, over 73,000 pages. That number declined substantially during the Reagan administration. It fell all the way down to 44,000 pages. It declined significantly during the Reagan administration. During President Bush's administration, it climbed all the way up to 57,000. Now during the Clinton administration, the first 2 years, it is above 64,000, almost 65,000. The pages in the Federal Register declined during the Reagan era, climbed up somewhat during the Bush era, and it is exploding during the Clinton administration.

That is why the majority leader, BOB DOLE, has designated regulatory reform as one of the top priorities of the 104th Congress and created a task force to be led by Senator KAY BAILEY HUTCHISON and Senator KIT BOND to look at ways of cutting through the redtape.

I am happy to be part of this task force. We have been talking about the best way to begin dealing with this massive problem. On November 14, less than 1 week after the American people sent a clear signal for less Government and less regulations and less spending, the administration published three volumes containing outlines for more than 4,300 administration regulations that it intends to pursue during fiscal year 1995 and beyond.

We decided the first step to reform should be to put a hold on the new regulations so we could have a chance to sort through these pages and figure out whether or not there are things that are necessary and maybe some of which are not necessary.

On December 12 of last year, BOB DOLE and myself and other House and Senate Members wrote to President Clinton and asked if he would impose a 100-day moratorium on the new regulations. The administration responded on December 14, 1994, with a letter from Sally Katzen, Director of the Office of Information and Regulatory Affairs.

In her letter she states that the Clinton administration rejects the request for a moratorium, calling a moratorium a ''blunderbuss that could work in unintended ways.'' The Clinton administration deliberately ignored the health and safety exceptions suggested by Republican leaders and raised the emotional examples of regulations dealing with tainted meat and Desert Storm syndrome.

The President, in declining to impose a moratorium himself, cited one of the reasons being that a moratorium would stop rules from being issued regardless of the merit. He claims it would stop the Department of Agriculture, for example, from dealing with tainted meat in the food supply.

I want to clarify that this concern is totally, completely unfounded. The moratorium we are proposing specifically exempts regulations designed to remedy imminent threats to health and safety or other emergencies as determined by the agency head and the President.

This act also excludes any regulations that reduces or streamlines the Federal Government and any regulation that is necessary for the day-to-day operations of Federal agencies.

For example, this moratorium would not in any way prevent the Federal Energy and Regulation Commission from denying or approving electric or gas transportation rate modifications. Currently, local utility operators file rate-increase requests with the FERC. Approval or denial is part of the Commission's daily operations and would be excluded from this moratorium under the exclusion provided for granting licenses or applications.

Also, regulations to ensure that Federal agencies continue to undertake regulatory actions that are required by Federal law that, when completed, will streamline a rule, regulation, administration process or reduce an existing regulatory burden would also be excluded.

For example, a pending regulation requiring the Secretary of Transportation to lift certain hours-of-service requirements from farmers operating agriculture equipment would be excluded from this moratorium because it essentially reduces Government interference in the operations of the farms in our Nation.

So, I will just reiterate that our goal here is not to be a roadblock to important measures related to health and safety of the American people, or to tie the hands of agencies trying to carry out daily operations, or streamline or to delay steps taken to reduce or streamline Government.

I have said many times I have no doubt that there are some regulations within these three volumes that are good and necessary, and we should move with all swiftness to enact them. But I also know that there are some regulations that are not necessary. There are not cost effective. They do not streamline bureaucracy; they expand it. Let us put a hold on these and take a look to make sure that we do what we can do to reduce Government, reduce spending, and ease the crushing economic burden that the Federal regulations have created for the private sector and local governments.

Mr. President, in looking at this list of regulations that was announced or cataloged by the November 14 release, there are over 4,300 regulatory actions proposed for the year 1995 and beyond; primarily 1995 and 1996. Between October 1994 and April 1995 the Clinton administration is scheduled to issue 872 rules.

Mr. President, I will just say I am sure some of the rules are needed, but I am quite confident many are not. I am quite confident that many are not cost effective. Many have not been analyzed for scientific analysis, many of which the benefits to not exceed their cost. We should stop those regulations. This moratorium will allow us to have the time to review those regulations, plus allow those that are beneficial to go forward. Let us stop those that are not.

Mr. President, I wish this was not necessary. I wish the administration would have taken our suggestion and made the moratorium, and made it on their own initiative. Then they would have total control over deciding what is effective and what is in order. They refused that offer. Maybe they will reconsider. Congressman DELAY, myself, Senator BOND, Senator HUTCHISON, also Congressman MCINTOSH met with representatives of the administration yesterday and requested such actions. They did say they would be willing to talk with us, and hopefully those talks

will be fruitful and we can stop a lot of unnecessary regulations. In the event they are not, we plan on proceeding ahead with this legislation.

I have several cosponsors of this legislation, which I will now read for the record as well: In addition to myself, we have Senators BOND, HUTCHISON, DOLE, GRASSLEY, ASHCROFT, COVERDELL, ABRAHAM, THOMPSON, BURNS, SHELBY, MCCONNELL, FAIRCLOTH, THOMAS, SMITH, MCCAIN, CRAIG, COATS, SANTORUM, MACK, GREGG, MURKOWSKI, LOTT, KYL, THURMOND, HATCH, HELMS, INHOFE, SIMPSON, GRAMS of Minnesota, FRIST, GRAMM of Texas, BENNETT, and KEMPTHORNE. Mr. President, there are additional cosponsors out there.

My point is that this act has overwhelming support in the Senate. I hope that the administration will take our suggestion and impose voluntarily this moratorium. If not, it is my intention to pursue this, not necessarily as an amendment on this legislation; I want this legislation to pass. I want it to pass and I want it to be signed. I want it to become law.

I have noticed that some of our colleagues on the other side of the aisle seem to have an affinity to try to love a piece of legislation to death and want to put every amendment they can on a bill. This bill I have just introduced is an attractive amendment. It may well pass on this bill. I decided to introduce it separately.

We are requesting the Governmental Affairs Committee to have hearings on it as quickly as possible. I might mention that the House of Representatives is having hearings on this this Thursday. They plan on moving forward on it as well. I think we have provided exceptions that are necessary for the orderly transition of Government, for regulations that are necessary to go forward. It also provides for at least delay through the month of June to allow us to review other regulations to make sure that they are beneficial and cost effective.

Mr. President, I have this bill, and I will send it to the desk and introduce it accompanying my statement. I yield the floor.

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

S. 222. A bill to amend the Dairy Production Stability Act of 1983 to ensure that all persons who benefit from the Dairy Promotion and Research Program contribute to the cost of the program, to provide for periodic producer referenda on continuation of the program, and to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY PROMOTION PROGRAM IMPROVEMENT ACT

• Mr. FEINGOLD. Mr. President, I am introducing the Dairy Promotion Program Improvement Act, legislation which improves the accountability of the National Dairy Promotion and Research Board. The bill also eliminates some of the inequities in the current program that can no longer be tolerated in light of the recent passage of the Uruguay round of the General Agreement on Tariffs and Trade. I am pleased to be joined by Senator KOHL today on this very important legislation.

This bill is not about whether the Dairy Promotion Program works or whether it should be continued. That is an issue to be left to the producers who fund the program. This legislation is designed to provide producers with a greater voice in the program which they fund and to make sure that all those who benefit from the program also pay into it. If passed, this bill will result in a dairy board that is stronger, more effective and more responsive to dairy farmers.

The Dairy Promotion Program Improvement Act eliminates the inappropriate practice of cooperative bloc voting in producer referendum on the National Dairy Board, requires periodic referenda so that producers have an opportunity to review their program on a regular basis, and requires importers to contribute to the program since they benefit from it.

The National Dairy Promotion and Research Program collects roughly $225 million every year from dairy farmers each paying a mandatory 15 cents for every 100 pounds of milk they produce. The program is designed to promote dairy products to consumers and to conduct research relating to milk production, processing, and marketing.

While 15 cents may appear to be a small amount of money, multiplied by all the milk marketed in this country, it adds up to thousands of dollars each year for the average producer. Also consider that the amount of money collected under this program annually—$225 million—is just slightly less than the cost of the entire Diary Price Support Program in recent years. Given the magnitude of this program, it is critical that Congress take seriously the concerns producers have about their promotion program.

Since participation in the checkoff is mandatory and producers are not allowed refunds, Congress required that producers vote in a referendum to approve the program after it was authorized.

The problem is that Congress didn't provide for a fair and equitable voting process in the original act and it's time to correct our mistake. My bill does that by eliminating a process known as bloc voting by milk marketing cooperatives.

Under current law, dairy cooperatives are allowed to cast votes in producer referenda for all of their farmer-members, either in favor of or against continuation of the National Dairy Board. While individual dissenters from the co-op position are allowed to vote individually, many farmers and producer groups claim the process stacks the deck against those seeking reform of the program.

Mr. President, the problem bloc voting creates is best illustrated by the results of the August 1993 producer referendum on continuation of the National Dairy Promotion and Research Board, called for by a petition of 16,000 dairy farmers. In that referendum, 59 dairy cooperatives voting en bloc, cast 49,000 votes in favor of the program. 7,000 producers from those cooperatives went against co-op policy and voted individually against continuing the program.

While virtually all of the votes in favor of the program were cast by cooperative bloc vote, nearly 100 percent of the votes in opposition were cast by individuals. Bloc voting allows cooperatives to cast votes for every indifferent or ambivalent producer in their membership, drowning out the voices of dissenting producers. It biases the referendum in favor of the Dairy Board's supporters, whose votes should not have greater weight than the dissenters.

Bloc voting may be appropriate for referenda on Federal milk marketing order decisions, for which the practice is also allowed. The complex Federal order system and its associated rules and regulations directly affect the ability of the cooperative to act as the marketing agent for their members. The authority for co-ops to bloc vote in that circumstance is not affected by my bill. However, bloc voting for matters beyond marketing orders is far less appropriate.

In the 103d Congress, I called for a hearing in the Senate Agriculture Committee to address this very issue. As a supporter of agricultural cooperatives, I was concerned about how eliminating bloc voting might affect them.

Mr. President, there was no information provided in that hearing that has persuaded me that bloc voting in Dairy Board referenda is a critical authority for cooperatives. There was no evidence presented that eliminating that authority would handicap a cooperative's efforts to market dairy products. It seems clear that generic promotion programs focused on long-term research and market development, such as the National Dairy Promotion and Research, do not affect the day-to-day marketing abilities of a cooperative. In fact, the vague nature of the arguments in support of bloc voting has further convinced me that there is little justification for the practice.

The inappropriate nature of bloc voting in Dairy Board referendum is even clearer given that none of our 16 commodity promotion programs, other than dairy, allow cooperatives to bloc vote despite the existence of marketing cooperatives for those commodities. Were bloc voting in producer referenda fundamental to cooperative theory, one would expect to see this authority provided in other programs.

Mr. President, my bill also establishes periodic referenda on continuation of the Dairy Promotion Program in order to provide producers with an opportunity to review their program. The National Dairy Research and Promotion Board continues into perpetuity with no sunset date and no system for regular review by producers. By requiring regular referenda, my bill will increase the accountability of the Dairy Board to their producer. It is critical that a program of this magnitude be regularly reassessed and reaffirmed by those who foot the bill.

Lastly, Mr. President, my bill provides equity to domestic producers who have been paying into the Promotion Program for over 10 years while importers have gotten a free ride. Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Program Improvement Act requires that all dairy product importers contribute to the program. This provision is particularly important in light of the recent passage of the GATT which will result in greater imports. We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

Mr. President, I ask unanimous consent to include in the RECORD letters of support for my bill from the Farmers Union Milk Marketing Cooperative and the National Farmers Union.

I am also pleased to be an original cosponsor of the National Dairy Promotion Board Reform Act introduced today by Senator KOHL. That bill further enhances producer representation on the National Dairy Board by providing for the direct election of National Dairy Board members, rather than appointment by the Secretary. That process will allow producers to elect members to the Board that represent their views on promotion and eliminates the divisive impact of the political appointment process on the Dairy Board. Direct producer election of board members should also increase the accountability to their fellow dairy farmers.

I believe that these two bills together comprise a sound reform package for the National Dairy Promotion and Research Board by providing a stronger voice to dairy farmers. These reforms will create a stronger, more effective and more representative Dairy Board. I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill and several letters be printed in the RECORD.

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

S. 222

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 ''Dairy Promotion Program Improvement Act of 1995''.

SEC. 2. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DECLARATION OF POLICY.—The first sentence of section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended—

(1) by inserting after ''commercial use'' the following: ''and on imported dairy products''; and

(2) by striking ''products produced in'' and inserting ''products produced in or imported into''.

(b) DEFINITIONS.—Section 111 of the Act (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking ''and'' at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new subsections:

''(m) the term 'imported dairy product' means—

''(1) any dairy product, including milk and cream and fresh and dried dairy products;

''(2) butter and butterfat mixtures;

''(3) cheese;

''(4) casein and mixtures; and

''(5) other dairy products;

that are imported into the United States; and

''(n) the term 'importer' means a person that imports an imported dairy product into the United States.''.

(c) FUNDING.—

(1) REPRESENTATION ON BOARD.—Section 113(b) of the Act (7 U.S.C. 4504(b)) is amended—

(A) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively;

(B) in paragraph (1) (as so designated), by striking ''thirty-six'' and inserting ''38'';

(C) in paragraph (2) (as so designated), by striking ''Members'' and inserting ''Of the members of the Board, 36 members''; and

(D) by inserting after paragraph (5) (as so designated) the following new paragraph:

''(6) Of the members of the Board, 2 members shall be representatives of importers of imported dairy products. The importer representatives shall be appointed by the Secretary from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.''.

(2) ASSESSMENT.—Section 113(g) of the Act is amended—

(A) by designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(B) by adding at the end the following new paragraph:

''(6)(A) The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

''(B) The rate of assessment on imported dairy products shall be determined in the same manner as the rate of assessment per hundredweight or the equivalent of milk.

''(C) For the purpose of determining the assessment on imports under subparagraph (B), the value to be placed on imported dairy products shall be established by the Secretary in a fair and equitable manner.''.

(3) RECORDS.—The first sentence of section 113(k) of the Act is amended by striking ''person receiving'' and inserting ''importer of imported dairy products, each person receiving''.

(4) REFERENDUM.—Section 116 of the Act (7 U.S.C. 4507) is amended by adding at the end the following new subsection:

''(d)(1) On the request of a representative group comprising 10 percent or more of the number of producers subject to the order, the Secretary shall—

''(A) conduct a referendum to determine whether the producers favor suspension of the application of the amendments made by section 2 of the Dairy Promotion Program Improvement Act of 1995; and

''(B) suspend the application of the amendments until the results of the referendum are known.

''(2) The Secretary shall continue the suspension of the application of the amendments made by section 2 only if the Secretary determines that suspension of the application of the amendments is favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.''.

SEC. 3. PERIODIC REFERENDA.

Section 115(a) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4506(a)) is amended—

(1) in the first sentence, by striking ''Within the sixty-day period immediately preceding September 30, 1985'' and inserting ''Every 5 years''; and

(2) in the second sentence, by striking ''six months'' and inserting ''3 months''.

SEC. 4. PROHIBITION ON BLOC VOTING.

Section 117 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4508) is amended—

(1) in the first sentence, by striking ''Secretary shall'' and inserting ''Secretary shall not''; and

(2) by striking the second through fifth sentences.

FARMERS UNION,
MILK MARKETING COOPERATIVE,
Madison, WI, December 22, 1994.

Hon. RUSS FEINGOLD,
U.S. Senate, Washington, DC.

DEAR RUSS: The FUMMC Board of Directors yesterday unanimously approved a motion expressing strong support for your new legislation, the Dairy Promotion Program Improvement Act of 1995. We enthusiastically support these reforms needed to make the National Dairy Board more accountable and responsive to the dairy producers who pay the bills and are too often taken for granted.

FUMMC's long-standing policy is that dairy imports should be subject to the mandatory promotion checkoff. Nine of 17 existing commodity checkoff programs, including beef, pork, cotton, honey, pecans and potatoes, currently assess imports and dairy should be no exception. Dairy imports are an important part of the supply problem and will substantially increase as we lose Section 22 when the new GATT agreement goes into effect next year. This makes it all the more urgent to make imports pay their fair share. Regarding GATT, we sincerely appreciate your courageous vote against the Uruguay Round in the Senate earlier this month.

The automatic review referendum will make the National Dairy Board more accountable to the producers who pay the mandatory checkoff. The prohibition on bloc voting is consistent with dairy farmers' right to make their own decisions of fundamental questions about the future of the National Dairy Board. Bloc voting interferes with that right.

We also greatly appreciate your standing up so strongly for dairy producers in the proposed consolidation of the Cattlemen's Beef Board, the National Cattlemen's Association and two other beef entities. I know that our members greatly appreciate your speaking at our recent District 9 meeting in Madison on key issues including the beef merger and

your plans for a possible legislative response if the merger is approved.

Sincerely,

STEWART G. HUBER,
President.

NATIONAL FARMERS UNION,
OFFICE OF THE PRESIDENT,
Washington, DC, January 11, 1995.

Re Dairy Promotion Program Improvement Act of 1995.

Hon. RUSS FEINGOLD,
U.S. Senator, Washington, DC.

DEAR SENATOR FEINGOLD: I am writing on behalf of the over 253,000 members of the National Farmers Union to express our strong support for the Dairy Promotion Program Improvement Act of 1995.

The policy statement of the National Farmers Union, adopted by delegates to our 92nd annual convention last spring, specifically recommends that dairy imports be subject to the same research and promotion assessments collected from domestic dairy producers. Failure to collect the assessment on imports puts U.S. producers at a competitive disadvantage, while yet allowing importers to benefit from the activities of the Dairy Promotion and Research Board.

National Farmers Union also supports other provisions of the bill which:

(1) require the Secretary to conduct a referendum on request of a group comprising 10 percent of more of the producers;

(2) require a referendum every 5 years; and

(3) prohibit bloc voting.

We believe these provisions are essential to ensure that the board remains accountable to the producers it was created to represent.

Members of the National Farmers Union have not yet taken a position on the issue of expanding the board to include importer representation. While our organization is generally supportive of allowing all those who are assessed to be represented, we are not aware of any other countries who require U.S. representation on their domestic research and promotion boards. This issue will receive further attention at our upcoming annual meeting in Milwaukee, Wisconsin.

Thank you for your work to improve the fairness and accountability of the research and promotion board operations. Your strong representation and continued effort on behalf of America's family farmers are greatly appreciated.

Sincerely,

LELAND SWENSON,
President.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 223. A bill to authorize the Secretary of the Interior to provide funds to the Palisades Interstate Park Commission for acquisition of land in the Sterling Forest area of the New York/New Jersey Highlands Region, and for other purposes; to the Committee on Energy and Natural Resources.

STERLING FOREST PROTECTION ACT

● Mr. BRADLEY. Mr. President, I am pleased to announce that today I am introducing legislation to allow the preservation of the Sterling Forest. My colleague, Senator LAUTENBERG, is joining me as a cosponsor on this important bill. Although located entirely in New York, the area affected by this bill represents some of the most critical New Jersey watershed still left undeveloped and in private hands.

Sterling Forest represents the largest unbroken, undeveloped tract of forest land still remaining along the New York-New Jersey border. This 20 square mile parcel represents a complete range of wildlife habitat, hills, and wetlands. It is home to a large number of threatened and endangered species. The Forest is crossed in the north by the Appalachian Trail and is easily accessible by the 1 of every 12 Americans that lives within a 2 hour drive of its boundaries.

Most important for New Jersey, though, are the billions of gallons of fresh, clean drinking water that flow from its boundaries. The Monksville/Wanaque reservoirs, which draw from the Sterling Forest Watershed, serve one in four New Jerseyans. Let me be perfectly clear: I am talking about the water supply for roughly 1.5 million Americans. To threaten this watershed is to threaten the livelihood and well-being of an extraordinary number of my constituents.

Of great concern to me and my constituents are development plans for this region. One proposal offered by the Sterling Forest owners calls for over 14,000 homes and 8 million square feet of commercial space to be built by 2020. Even if this development were concentrated in the least environmentally critical and most accessible tracts, this construction will irrevocable alter this land. You can't move 100,000 people into a pristine 20-square-mile parcel and predict a minor impact on the environment.

This bill is a necessary step if we are to protect this habitat and watershed. It allows an appropriation of up to $17.5 million for land acquisition. Furthermore, it designates the Palisades Interstate Park Commission [PIPC] a Federal commission created in 1937, to manage this land.

One of the issues that has to be addressed in any expansion to park land is management. We all know how taxed is the National Park Service. The presence of the PIPC eliminates any concerns over competence and capability. Right now, the PIPC manages 23 parks which spread over 82,000 acres and host in excess of 8 million visitors annually. The PIPC has the interest and track record necessary to give us all a level of comfort that these Sterling Forest tracts, once acquired, will be well managed and protected.

Mr. President, last Congress we had a hearing on this bill before the Senate Energy Committee. At that hearing, I believe a convincing case was made that the Sterling Forest represents the highest priority target for land acquisition:

It has critical habitat and interstate watershed values; it protects a National Park unit of international significance, the Appalachian Trail; it is parkland accessible to tens of millions of Americans an area dominated by pavement; and it is directly threatened by near-term development and loss.

At that hearing, I believe a convincing case was made that this was a unique instance, with a clear need for Federal involvement and a Federal interest. The critical shortage of habitat has been documented by the U.S. Fish and Wildlife Service and the U.S. Forest Service. The Federal Government has been acquiring habitat of similar characteristics to the Sterling Forest in a newly established national wildlife refuge, the Wallkill Refuge, about 20 miles away. I have already mentioned the Appalachian Trail and the federally authorized PIPC. And I return one last time to the issue of water supply.

Mr. President, I have been in past Congresses the chairman of the Senate Subcommittee on Water and Power. Over the past few years, I have learned quite a bit about the relationship between water and the Federal interest. This Sterling Forest tract is crucial watershed to more people than live in any 1 of 13 States. Does anyone here believe that if the water supply of the State of Montana or Wyoming or South Dakota were seriously threatened that the Federal Government wouldn't contribute $17.5 million towards a remedy? The fact is that 10 times or 100 times this amount would be forthcoming.

I believe that both New York and New Jersey are ready to endorse—with their wallets—this project. We are ready to go. What is needed, what has to happen, is Federal leadership and Federal support.

Mr. President, I urge my colleagues to consider this legislation and act positively, with all possible speed.

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. 223

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 ''Sterling Forest Protection Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife

migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling Forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 4. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ‘‘Commission’’ means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term ‘‘Reserve’’ means the Sterling Forest Reserve.

(3) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Interior.

SEC. 5. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(a) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission within the approximately 17,500 acres of lands as generally depicted on the map entitled ‘‘Boundary Map, Sterling Forest Reserve, numbered SFR–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subsection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Act, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this Act, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this Act except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this Act, the Commission shall acquire all or a portion of the lands identified as ‘‘National Park Service Wilderness Easement Lands’’ and ‘‘National Park Service Conservation Easement Lands’’ on the map described in section 5(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as ‘‘National Park Service Wilderness Easement Lands’’ and ‘‘National Park Service Conservation Easement Lands’’ on the map described in section 5(b), the Commission shall convey to the United States—

(i) conservation easements on the lands described as ‘‘National Park Service Wilderness Easement Lands’’ on the map described in section 5(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as ‘‘National Park Service Conservation Easement Lands’’ on the map described in section 5(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 6(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 6. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this Act.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this Act, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join Senator BILL BRADLEY in introducing legislation that would authorize the Federal Government to provide up to $17.5 million to purchase land in the Sterling Forest area of the New York/New Jersey Highlands region. These funds are critical to preserving the largest pristine private land area in the most densely populated metropolitan region of the United States.

The Sterling Forest is located in the highlands region on the New Jersey and New York border, within a 2-hour drive of more than 20 million people; 2,000 acres on the New Jersey side were acquired by the State by eminent domain. However, the tract of land on the New York side, some 17,500 acres, is owned by a private corporation and is under constant threat of development.

The current owners of the land have mapped out an ambitious plan that, if implemented, would be the largest real estate venture in the United States. The plan calls for 14,200 houses and over 8 million square feet of commercial and light industrial space. The development would include schools, shopping malls, sewage plants, and residential areas.

The proposed development would also harm the environment: 5 million gallons of treated sewage effluent would be discharged daily into streams, and road salts, petroleum products, pesticides, and other contaminants would result in substantial nonpoint source pollution.

As damaging as that would be, I am most concerned about the potential effects on New Jersey's water supply. Sterling Forest is an important watershed for New Jerseyans. The forest provides 18 percent of the clean water flow into the Wanaque/Monksville Reservoir System. The Wanaque system delivers drinking water to over 80 cities and towns in northern New Jersey, which represent 25 percent of the State's population.

Mr. President, we ought not allow such desecration. Sterling Forest is worth preserving. It is nothing short of beautiful. Its rugged topography is good for wildlife, many threatened or endangered species, for hikers and naturalists and for the watershed—not for development.

That is why we need to do all we can to protect this resource. This bill authorizes up to $17.5 million to be provided to the Palisades Interstate Park Commission for the purchase of Sterling Forest. The commission has played a critical role in negotiating among private and public parties to strike a compromise with the current owners of Sterling Forest. A compromise is possible. But we need the backing of these Federal funds to make it happen.

Mr. President, we need this bill to preserve not just an environmentally pristine tract of land, but also to ensure that one-quarter of New Jersey's residents' water supply is protected.●

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

S. 224. A bill to amend the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations of milk producers in the election of producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL DAIRY PROMOTION REFORM ACT

• Mr. KOHL. Mr. President, one of the basic tenets upon which this Nation was founded was that there should be no taxation without representation. But the dairy farmers of this Nation know all too well that taxation without representation continues today. They live with that reality in their businesses every day.

Dairy farmers are required to pay a 15-cent tax, in the form of an assessment, on every 100 pounds of milk that they sell. This tax goes to fund dairy promotion activities, such as those conducted by the National Dairy Promotion and Research Board, commonly known as the National Dairy Board. Yet these same farmers that pay hundreds, or in some cases thousands, of dollars every year for these mandatory promotion activities have no direct say over who represents them on that Board.

In the summer of 1993, a national referendum was held giving dairy producers the opportunity to vote on whether or not the National Dairy Board should continue. The referendum was held after 16,000 dairy producers, more than 10 percent of dairy farmers nationwide, signed a petition to the Secretary of Agriculture calling for the referendum.

Farmers signed this petition for a number of reasons. Some felt they could no longer afford the promotion assessment that is taken out of their milk checks every month. Others were frustrated with what they perceived to be a lack of clear benefits from the promotion activities. And still others were alarmed by certain promotion activities undertaken by the Board with which they did not agree. But overriding all of these concerns was the fact that dairy farmers have no direct power over the promotion activities which they fund from their own pockets.

When the outcome of the referendum on continuing the National Dairy Board was announced, it had passed overwhelmingly. But because nearly 90 percent of all votes cast in favor of continuing the Board were cast by bloc-voting cooperatives, there has been skepticism among dairy farmers about the validity of the vote.

While I believe that dairy promotion activities are important for enhancing markets for dairy products, it matters more what dairy farmers believe. After all, they are the ones who pay hundreds or thousands of dollars every year for these promotion activities. And they are the ones who have no direct say over who represents them on that Board.

It is for this reason that I rise today to introduce the National Dairy Promotion Reform Act of 1995.

Some in the dairy industry have argued that this issue is dead, and that to reintroduce such legislation will only reopen old wounds. But I must respectfully disagree.

The intent of this legislation is not to rehash the referendum debate, which was a contentious one. Instead, the intent is to look forward.

Farmers in my State have traditionally been strong supporters of the cooperative movement, because the cooperative business structure has given them the opportunity to be equal partners in the businesses that market their products and supply their farms. I have been a strong supporter of the cooperative movement for the same reason.

But there is a growing dissention among farmers that I believe is dangerous to the long-term viability of agricultural cooperatives. As I talk to farmers around Wisconsin, I am hearing a growing concern that their voices are not being heard by their cooperatives. They frequently cite the 1993 National Dairy Board referendum as an example. The bill that I am introducing today seeks to address that concern, by giving dairy farmers a more direct role in the selection of their representatives on the National Dairy Board. Whereas current law requires that members of the National Dairy Board be appointed by the Secretary of Agriculture, this legislation would require that the Board be an elected body.

Further, although the legislation would continue the right of farmer cooperatives to nominate individual members to be on the ballot, bloc voting by cooperatives would be prohibited for the purposes of the election itself. There are many issues for which the cooperatives can and should represent their members. But on this issue, farmers ought to speak for themselves.

It is my hope that this legislation will help restore the confidence of the U.S. dairy farmer in dairy promotion. To achieve that confidence, farmers need to know that they have direct power over their representatives on the Board. This bill gives them that power.

I welcome my colleague from Wisconsin, Senator FEINGOLD, as an original cosponsor of this bill, and I am also pleased to join today as an original cosponsor of his legislation, the Dairy Promotion Program Improvement Act of 1995.

Senator FEINGOLD'S legislation would make other needed improvements in the National Dairy Promotion Program. Specifically, the bill would require that imported dairy products be subject to the same dairy promotion assessment as are paid on domestic dairy products today. Further, Senator FEINGOLD's bill would provide this Nation's dairy farmers a chance to renew their support for the Dairy Promotion Program on regular basis, by requiring a referendum of farmers every 5 years, without bloc voting.

I thank my colleague Senator FEINGOLD for his efforts on these matters, and I believe that our two bills provide Dairy Promotion Program reforms that are both complementary and necessary.

NATIONAL DAIRY PROMOTION REFORM ACT OF 1995—SUMMARY OF THE BILL

The bill would amend the Dairy Production Stabilization Act of 1983 to require that future members of the National Dairy Board be elected directly by dairy producers, and not appointed by the Secretary of Agriculture as they are currently.

The bill would also prohibit the practice of bloc voting of members by producer cooperatives for the purposes of the Board elections.

However, cooperatives could continue to nominate members to be on the ballot, as long as they adequately consult with their membership in the nomination process.

The explicit details of the election process would be developed by the Secretary of Agriculture.

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

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

S. 224

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Dairy Promotion Reform Act of 1995''.

SEC. 2. DAIRY VOTING REFORM.

Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) by designating the third through fifth sentences as paragraph (3);

(3) by designating the sixth sentence as paragraph (4);

(4) by designating the seventh and eighth sentences as paragraph (5);

(5) by designating the ninth sentence as paragraph (6);

(6) in paragraph (1) (as so designated), by striking ''and appointment'';

(7) by striking paragraph (2) (as so designated) and inserting the following new paragraph:

''(2)(A)(i) Subject to clause (ii), members of the Board shall be milk producers nominated in accordance with subparagraph (B) and elected by a vote of producers through a process established by the Secretary.

''(ii) In carrying out clause (i), the Secretary shall not permit an organization certified under section 114 to vote on behalf of the members of the organization.

''(B) Nominations shall be submitted by organizations certified under section 114, or, if the Secretary determines that a substantial number of milk producers are not members of, or the interests of the producers are not represented by, a certified organization, from nominations submitted by the producers in the manner authorized by the Secretary. In submitting nominations, each certified organization shall demonstrate to the satisfaction of the Secretary that the milk

producers who are members of the organization have been fully consulted in the nomination process.'';

(8) in the first sentence of paragraph (3) (as so designated), by striking ''In making such appointments,'' and inserting ''In establishing the process for the election of members of the Board,''; and

(9) in paragraph (4) (as so designated)—

(A) by striking ''appointment'' and inserting ''election''; and

(B) by striking ''appointments'' and inserting ''elections.''●

By Mr. AKAKA:

S. 225. A bill to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii; to the Committee on Energy and Natural Resources.

EXEMPTING HAWAII FROM THE HYDROELECTRIC JURISDICTION OF THE FERC

● Mr. AKAKA. Mr. President, for some time now, the State of Hawaii, its delegation in Congress, and conservation organizations throughout the State have been deeply concerned about Federal efforts to regulate hydroelectric power projects on State waters. The question of who should be responsible for hydropower regulation—the State or the Federal Government—is very contentious. It has not been a high-visibility issue, however, because until now, the debate has occurred away from the public view.

Those who care for Hawaii's rivers and streams recognize that continued Federal intervention may have serious repercussions for our freshwater resources and the ecosystems that depend upon them. Whenever a hydroelectric power project is proposed, a number of environmental considerations must be weighed before approval is granted. Important issues must be evaluated, such as whether the proposed dam or diversion will impair the stream's essential flow characteristics, or what effect the hydropower project will have on the physical nature of the stream bed or the chemical make-up of the water. Will a dam or diversion diminish flow rates and reduce the scenic value of one of Hawaii's waterfalls? Will it harm recreational opportunities? These, and other questions, must be answered.

The effect of a new dam or diversion on the State's disappearing wetlands must be weighed. Wetlands provide vital sanctuary for migratory birds, as well as habitat for endangered Hawaiian waterbirds. They serve as reservoirs for storm water, filtering water-borne pollutants before they reach fragile coastal habitat, and providing a recharge area for groundwater.

In Hawaii, historic resources often come into play. When Polynesians first settled our islands, Hawaiian culture was linked to streams as much as it was linked to the sea. The remnants of ancient Hawaiian settlements can be found along many of the State's rivers. Will the Federal Government give adequate attention to stream resources that have unique natural or cultural significance when it issues a hydroelectric license or permit?

Most important of all, hydropower development must be compatible with preserving native aquatic resources. Hawaiian streams support a number of rare native species that depend upon undisturbed habitat. Perhaps the most remarkable of these species is the gobie, which can climb waterfalls and colonize stream sections that are inaccessible to other fish. These are some of the complex factors that must be considered during federal hydropower decision-making.

A number of Federal agencies that have responsibility for fish, wildlife, and natural resource protection have raised questions about the State of Hawaii's commitment to protecting stream resources. They assert that FERC, the Federal Energy Regulatory Commission is better equipped than the state to protect environmental values.

However, the evidence supports precisely the opposite conclusion. FERC has a poor history of protecting aquatic species. And while the Federal hydropower review process requires that FERC consult with other Federal agencies—just as the State does—FERC retains the power to override requests by the State, as well as by Federal agencies, to protect environmental values. The landmark case in this area, California versus FERC, affirmed FERC's authority to reduce instream flow rates below the level that the State determined was the minimum necessary to maintain aquatic wildlife.

Although FERC has never licensed a project in Hawaii, Federal agencies have an unfounded belief that State regulation of hydropower would be a danger to the environment. Nothing could be further from the truth. The State of Hawaii has demonstrated its commitment to protecting stream resources by instituting a new water code, adopting instream flow standards, launching a comprehensive Hawaii stream assessment, and organizing a stream protection and management task force.

Meanwhile, FERC has played no role in stream protection other than to grant a preliminary permit to a hydropower developer on the Hanalei River. This is the same river that the Fish and Wildlife Service is fighting to preserve. From an environmental perspective, FERC is clearly off to a poor start.

The experience with the proposed Hanalei hydropower project raises serious questions about the appropriateness of Federal efforts to regulate hydropower in Hawaii. Our rivers and streams bear no resemblance to the wide, deep, long, and relatively flat rivers of the continental United States. Hawaiian streams generally comprise groups of short riffles, runs, falls, and deep pools. Only 28 of them are 10 miles or longer in length. Only 11 have an average flow greater than 80 cubic feet per second. By comparison, the mean discharge of the Mississippi River is nearly 20,000 times the mean annual flow of the Wailuku River.

The Federal interest in protecting the vast interconnected river systems of North America is misplaced in our isolated mid-Pacific location. When it comes to regulating hydropower in Hawaii, FERC is a fish out of water.

In response to these concern, I am introducing legislation to terminate FERC's jurisdiction over hydropower projects on the fresh waters of the State of Hawaii. This legislation passed Senate during the 103d Congress as part of an omnibus hydropower bill, but the House and Senate could not resolve their differences on the bill. I will continue to fight for the passage of this legislation during the 104th Congress.

I ask that a copy of the bill be printed in the RECORD following my remarks.

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

S. 225

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

SECTION 1. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking ''several States, or upon'' and inserting ''several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon''.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 4, a bill to grant the power to the President to reduce budget authority.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey [Mr. LAUTENBERG] 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.

SENATE RESOLUTION 48—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CHAFEE, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 48

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 Environment and Public