SENATE—*Friday, April 11, 1986*

(Legislative day of Tuesday, April 8, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we thank You for mental, emotional, and physical health—incomparable assets in fulfilling our destiny as individuals. When any of these resources break down or burn out, our ability to function effectively is greatly diminished. Help us to take seriously our responsibility to ourselves—to nurture mental, emotional, and physical strength so that we may fulfill private and public missions to the ultimate of our potential.

We thank You for the security and stability strong family relationships provide. Help us not to take these for granted and allow them to deteriorate to the detriment of public service. Save us Lord from destructive indifference to these fundamentals. In Jesus' name we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders will have 10 minutes each. I do not think we intend to use that time as we have a rather tight schedule. That will be followed by special orders for Senator HAWKINS, Senator PROXMIRE, Senator QUAYLE, Senator CRANSTON, and Senator MELCHER. The remarks of Senator HAWKINS will be delivered by Senator HATCH.

Routine morning business will follow the execution of the special orders, not to extend beyond the hour of 9:30 a.m.

Right at 9:30, we hope to resume S. 1017, the regional airports bill under a unanimous-consent agreement, providing for final passage no later than 12 noon.

Mr. President, there could be as many as four votes between now and then, so I would advise my colleagues to be alert. Because of the time constraints—this is a rather tight agreement—we are going to limit the rollcall votes to as close to 15 minutes as possible. I would urge staff who may be tuned in this morning to advise their Senators that rollcall votes will be 15 minutes. There could be some exceptions, but that is our present intention.

Mr. President, a number of Members have other official duties later this afternoon. We would like to be able to finish our business no later than 2:30.

Following the regional airports bill, we will take up the hydro-relicensing bill. Hopefully, we can work that out, maybe, without a vote. I am not certain about that.

That will hopefully be followed by the crime bill, S. 1236, which will be followed by S. 1774, the Hobbs Act. I doubt that we will finish the Hobbs Act today. We may not even get on the Hobbs Act today. However, that is on the list.

Mr. President, we will be in session and there will be votes. Again, I am certain there will be votes. I do not want to mislead anyone suggesting that perhaps there will not be votes. There will be votes, and they will probably start as early as 9:45 this morning. We could have votes up to around 2 or 2:30 this afternoon.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. GRASSLEY). The acting minority leader is recognized.

Mr. CRANSTON. Mr. President, I reserve the time of the minority leader.

SENATOR HAWKINS' SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Utah [Mr. HATCH] to speak on behalf of the Senator from Florida [Mrs. HAWKINS] for a period not to exceed 5 minutes.

Mr. HATCH. I thank the Chair.

Mr. President, I rise this morning to pay tribute to Senator HAWKINS and wish her the very best. I know that all of our hearts and prayers are with her as she recuperates from a very serious operation which was necessitated because of an accident. I am very proud to deliver this message this morning on her behalf.

BOLIVIA: A CRISIS OF WILL

Mrs. HAWKINS. Mr. President, this morning I wish to make a few comments about Bolivia's failure to take the minimal steps called for in the Hawkins-Gilman provision of the 1984 foreign aid bill to prevent a cutoff of American foreign aid.

The Hawkins-Gilman provision simply requires drug producing countries to eradicate 10 percent of their drug cultivation in order to continue to be eligible for foreign aid. The Bolivians have not complied so now we hear them shouting to the heavens about their sovereignty, and how the United States is trying to impose itself on an independent country. Well, I say fine. Be independent. Be sovereign. But do it without the hard earned tax dollars of America's taxpayers.

Maybe the Bolivians do not know it, but foreign aid is not a God-given right. It is not manna from heaven. It comes from the sweat of our farmers, from the creativity of our entrepreneurs, from the energy of our factory workers, and it is made possible because of the sacrifices of our veterans and military retirees. Without these things we would not have a prosperous America that can, out of its generous spirit and sense of mutual interests, provide foreign aid for nations less prosperous than ourselves.

Another lesson the Bolivians might learn is that it does not make sense to throw good money after bad. No American is going to stand idly by and watch his money be thrown down a deep, dark, black hole. It is a shame, too, because the people of Bolivia are hardworking and diligent. But all that hard work and diligence is wasted because of a drug network whose tentacles reach into every aspect of the nation draining it of its vitality.

I have looked into the eyes of the children of Bolivia and it breaks my heart to see a government unwilling to take even the minimal actions necessary to save these poor children from a future of despair. According to a study released several weeks ago in Bolivia, and prepared by Bolivians, 80 percent of the coca cultivated in Bolivia goes for foreign consumption. But with a country literally awash in cocaine, how can they hope to escape or even survive the violence and corruption that inevitably follow the narcotraffickers. Well, the answer to that is that they cannot and they have not.

According to the Report on Drug Abuse and Drug Trafficking by the President's Commission on Organized Crime:

"Official corruption has seriously hindered anti-drug efforts throughout South America, especially in Bolivia and Peru. Throughout Bolivia during the 1980's regime of Gen. Garcia Meza, corruption among high-level officials charged with drug enforcement was so rampant that 'the Government itself became an international drug trafficker.' Despite the subsequent efforts of the current Bolivian Government to more effectively enforce drug control laws, corruption at all levels of the Bolivian Government remains a major problem. In 1984, for example, Bolivian authorities arrested two suspected traffickers with a small amount of cocaine and confiscated a 14,000 acre ranch and two airplanes belonging to them. Two weeks later, the men were transferred to the authority [of] a local prosecu-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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tor who subsequently released them and returned their possessions. According [to] the reports, at least $250,000 in bribes were paid to Bolivian police and Government officials for the release of the two traffickers."

The Bolivians say the aid cutoff is unfair. I say why has every other country that is effected by the Hawkins-Gilman provision met the required eradicaton targets.

The Bolivians say we do not understand their situation. I say we understand their situation all too well. They have a well-entrenched drug network and they are not willing to stand up to it for the sake of their country and their children. They have an economy in desperate need of rejuvenation, but it will never provide the prosperity desired so long as the narco-traffickers continue to suck the life-blood from the economy. They talk about the benefits of the high price for the farmers of coca as compared to other crops when they should be talking about the costs of violence, corruption, and inefficiency on all Bolivians. I say we understand all too well.

The Bolivians complain that we do not give them enough money to really go after the traffickers. I say, "prove that you can spend the money that we give you effectively, and then we will give you more."

We in this body have a trust. We have a trust with the American people. It is our job to make sure that their tax money is well-spent, and that it is spent on necessary programs.

Given the record of inactivity in Bolivia, I would rather spend their foreign aid money on our children, our farmers, our poor, or our elderly. We have plenty of programs in this country that can use the money. Until Bolivia gets its act together, I say we give it to them instead.

The Bolivians want to be independent; they want to be sovereign; they want to do their own thing? OK, be independent, but do it without our money. But I also say that, "if you change your mind and want to begin behaving like a civilized, rational, compassionate country, then we stand prepared to turn the spigot back on and restore our cooperation and our foreign aid to appropriate levels." If Bolivia is willing to enter the war on drugs, then they deserve to be treated as an ally.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. I thank the Chair.

THE APPALLING COST OF LIFTING STAR WARS INTO SPACE

Mr. PROXMIRE. Mr. President, there are far more mountains to climb to put an antimissile defense into space than the lengthy hearings and articles on star wars have begun to consider. This morning I shall discuss just one of these. For star wars to work, we have to lift much of its immense hardware into space. I have yet to hear a Member of Congress even discuss this on the floor of either body. It would be a mammoth task. Consider just a few figures.

At the present time, our equipment to lift material into space consists of three shuttles. We lost one, the *Challenger*, a few weeks ago. It will cost us a couple of billion dollars to replace that one shuttle. So far in our experience with lifting materials into space, we have succeeded in our biggest year in pushing less than a million pounds into space.

How does the problem of lifting star wars into orbit compare with this past experience? The weight for star wars, taking the SDI baseline, would be about 57 million pounds. It could go as high as 200 million pounds. Is 200 million pounds the maximum? No, indeed. The weight could increase beyond that if we succeed in developing star wars weapons that we can harden or equip to shoot back at attackers, or make more maneuverable to evade hostile fire.

What does it cost today to lift a pound of material into space? Answer: from $1,500 to $3,000 per pound. So the cost to put the baseline star wars system into space will go between $85 and $170 billion at present prices. Keep in mind, Mr. President, this includes nothing for the cost of producing this complicated and expensive equipment such as battle stations and satellites. These tens of billions of dollars are strictly for simply lifting the equipment. That is all. Also, I have not included the cost of maintaining the equipment once we deploy it. And I have said nothing about the cost of modernizing the equipment as the offensive technology moves along. Just plain old simple lifting of the full top-of-the-line star wars model will cost hundreds of billions of dollars.

Some will say, ah, but if we lift tens of millions of pounds into space, we can develop economies of scale. They will say the cost per pound will diminish. Will it? When has military equipment of any kind or description or its transportation dropped on a per-copy or per-pound basis as the volume increased? Some have said this will require a revolution in space transportation like Henry Ford's revolutionary assembly line. It will take just that to do the job at any price. But it is doubtful if any revolution will cut the per-pound cost. This Senator would argue that the cost will increase—and by leaps and bounds.

No matter how the cost increases, it will take a very long time to deploy 57 million pounds in the right orbit. First, deployment cannot begin until we have finished research and development of the hardware. Some cockeyed optimists argue we can do that early in the 1990's. It will very probably be later. Then we have to test the equipment for a couple of years. After that, we have to produce it. How long will that take? Five years? Ten years?

Once we have the hardware produced we can transport it. Now consider: If we simply triple our present lift capacity, it will take 19 years to lift our deluxe star wars system into space. If we increase the lifting capacity by a massive factor of 10, it will still take 7 years for deployment.

Can anyone believe that 25 years from now, when we get that star wars system nicely deployed in space, our adversary, the Soviet Union, will not have developed a new offensive technology that can overwhelm it, spoof it, penetrate it, destroy it. After all, the design of the star wars system will have to be established and set 15 or 20 years before it is fully deployed. What does that mean? That means the lift of 200 million pounds will not be a one-time cost. It will go on indefinitely, with constant complicating improvements.

Will these improvements increase the cost of deployment? Generally, of course they will. They will also increase the cost of production. Will the huge increase in the volume of transportation in space sharply reduce the per-pound cost? Maybe, but probably not. Why not? Because the same factors that have driven fighter plane costs from the $150,000 per-copy level in World War II to $50 million per copy today will continue to be at work. In peace or war, military procurement has never been efficient. It has never been truly competitive. It has consistently had one sure and predictable element: The cost rises. It soars. Why should this vast effort to lift the most complex equipment the world has ever seen be any different?

Mr. President, what this Senator has talked about in this speech is only a part of the cost, a small part. In the next few days, I intend to detail some of the additional cost of star wars. I have barely started.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that the administration wants to reduce large deficits. The Office of Management and Budget has said, "We must now bring the deficits under control or risk losing the major economic achievements of the past 5 years."

That statement reflects the administration's public position. But its actions are at odds with its words. News reports indicate that the White House is not interested in negotiating a budget. It fears a compromise would mean a tax increase, more domestic spending, and little or no increase in military spending.

How real are these fears? The Senate Budget Committee has reported a budget resolution which recommends raising $75 billion in additional revenues over the next 3 years. That sounds like a lot until it is put in perspective. It is a revenue increase of less

than 3 percent. The administration has argued that its domestic cuts are reasonable because they amount to about 5 percent of such spending. If a 5-percent cut is reasonable, why not a 3-percent increase in revenues based on requiring those who now avoid paying their fair share of taxes to pay them.

As for defense, spending has jumped from $157.5 billion in 1981 to a recommended $280 billion in 1987, an increase of over 60 percent after adjusting for inflation. Congress has pumped money into the Pentagon so fast that even the mammoth bureaucracy is unable to spend it. They now have about $300 billion in unspent money. Only a wastrel could argue that the Pentagon needs still more money, given the size of the deficit.

Finally, we come to domestic spending. Here, the administration has a strong case. Many domestic programs have either outlived their usefulness or are little more than welfare for the well-to-do. But even the Republican-controlled Senate will not cut these programs to pay for more military spending and more tax loopholes. The administration would stand a much better chance of getting its domestic cuts if it went after military spending and tax expenditures with the same fervor. This, they will not do.

Where does this leave us? It raises the very real possibility that deficits will not be controlled and the economic expansion will be endangered. That eventuality, unfortunately, is no myth.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. McCLURE). Under the previous order, the Senator from California [Mr. CRANSTON] is recognized for not to exceed 5 minutes.

Mr. CRANSTON. I thank the Chair.

NO STINGER MISSILES FOR SAUDI ARABIA

Mr. CRANSTON. Mr. President, 200 years ago, during its revolution, France suffered through what historians call a reign of terror.

Today, the world is suffering from a reign of terrorism—with Americans a primary target.

Muammar Qadhafi, the leader of Libya, is strongly suspected of being behind much of this terrorism.

And he threatens more.

Is this the time for the United States to be supplying 2,600 more missiles to Qadhafi's friends—the Saudis—as the administration proposes?

Saudi Arabia, which has repeatedly supported Qadhafi at pan-Arab conferences:

Which had sided with Qadhafi against the United States in every confrontation.

Which has offered to make good Qadhafi's economic losses because of the American boycott.

Which bankrolls PLO terrorists and Syria.

Which has thwarted every effort by Jordan to join in the peace process and which still doesn't have diplomatic relations with Egypt because of Camp David.

Two years ago, President Reagan used his emergency powers to send 400 Stingers to Saudi Arabia when Congress refused to go along.

Is this the time to supply the Saudis with 800 more Stinger missiles and reloads?

I say no.

Imagine if even one of these weapons should fall into the hands—or be placed in the hands—of one of the multitude of terrorist-fanatics who abound in the Middle East!

The Stinger is a highly portable, shoulder-launched missile.

It is extremely effective.

With one of these advanced heat-seeking weapons, you could fire at an oncoming aircraft from more than 5 miles away.

That gives you plenty of time to escape and avoid detection if you are a terrorist and your target is an American airliner.

Stingers have been called the "ideal terrorist weapon," "the terrorist's weapon of choice," "the terrorist's delight."

Fifty years ago, Robert Sherwood won the Pulitzer Prize for his play forecasting World War II.

It was called idiot's delight.

Congress should refuse to play a role in the latest version of "idiot's delight"—sending 800 more Stinger missiles, "the terrorist's delight," into the Arab world.

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

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

The legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. MELCHER] is now recognized for not to exceed 5 minutes.

CAUTION BUT NOT DISTRACTION

Mr. MELCHER. Mr. President, I urge caution in the Mediterranean in the use of our naval vessels and aircraft in retaliation against Libya. It appears to be conclusive to U.S. intelligence that there is definite linkage between Libya and the bomb killing of one American Armed Forces sergeant, injuring more than twoscore of U.S. servicemen, two of them still on the very critical list, and causing the death of a woman. President Reagan has made it clear that he intends retaliation against Libya. I repeat, caution in his orders are essential because retaliation easily leads to escalation. So any retaliation orders by President Reagan must be premised first on convincing evidence of Libya bombing the Berlin disco and then it must be carefully weighed as to appropriate action for U.S. interests.

President Reagan and Congress cannot be distracted from the work here at home.

Low commodity prices for agriculture, energy, mining, metals producers, and others threaten the U.S. economy into more liquidations and bankruptcies. Both U.S. trade and Federal deficits worsen and still there is no action here in Congress on the budget. The Senate Budget Committee has reported out a bipartisan budget that appears to cut Federal spending to curb some of the waste in Pentagon and foreign aid spending but comes close to preserving the integrity and vitality of education, health, Medicare, research, agriculture, and economic programs across the country.

That budget should be considered immediately in the Senate. Waiting on the President is like waiting for rain in Montana, my own State. It is unpredictable.

We should wait no longer for President Reagan to correct the U.S. trade imbalance. If he is not going to act, Congress must act. The United States—that is us—imports too much. The United States—that is us—does not export enough. The deficit is running at $12 billion to $14 billion per month. The President and his Cabinet sit idle while the imports pour in from abroad. The President and his Cabinet sit idle—in fact, they block U.S. exports—and all this time U.S. commodity prices are plunging lower and lower. We are going broke—that is us. Congress and the President indeed have a lot of work to do here at home helping our own U.S. economy.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 9:30 a.m., with statements therein limited to 5 minutes each.

S. 2286—STINGERS AND SECURITY CONTROLS

Mr. DECONCINI. Mr. President, as politics is the art of the possible, foreign policy often is a vehicle to define and solve difficult problems. The administration and the Congress are currently seeking to produce sound politics and practical answers to combating communism and arming democratic resistance forces. Benjamin Franklin estimated the cost-effectiveness ratio of prevention to treatment at 16 to 1: An ounce of prevention is worth a pound of cure. The purpose of this bill is to ensure ahead of time that we implement the same security controls on Stinger sales to friendly nations as when we transfer them to democratic resistance movements.

These surface-to-air missiles, referred to as Stingers, would presumably be used against Soviet-made helicopters. These missiles are fired from the shoulder and cost $60,000 each. They have a range of 3 miles and can reach a height of 4,500 feet. In addition to these dangerously lethal capabilities, the Stinger missile is separated from the launcher and transported in separate vehicles with armed guards. Meticulous arrangements are made to protect these missiles from falling into the hands of terrorists.

What is my concern, you might ask, if we are fighting wars against repressive and authoritarian regimes? These Stinger missiles are also part of the proposed package arms sale to Saudi Arabia. While I oppose this sale, these missiles have been sold before to the Saudis. These missiles are so lethal and valuable that they are separated into components and stored in two distinct facilities to protect against falling into terrorist hands. There are pages of safeguards that a country purchasing these missiles must sign in order to finally acquire the Stinger.

Now, we propose to give these to resistance movements whom we have no control over and who have loyalties to Arab nations closely aligned with terrorist activities. These weapons cannot, Mr. President, fall into the hands of terrorists who might eventually use them against the United States. While I will not get into all the complexities of the Stinger and Redeye capabilities, or my reservations, I would urge the administration to ensure that the Stinger missile is safeguarded with the same controls we sign in government-to-government contracts with friendly recipient nations.

The Stinger is the ultimate terrorist weapon. When the Senate contemplated the sale under strict security controls to the Saudis, my colleague, Senator PACKWOOD, said "* * * not a single airplane or airport in the civilized world will be safe if these weapons fall into the wrong hands."

Mr. President, Ben Franklin's adage of prevention should be adhered to for the safety of every American citizen.

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

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

S. 2286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, no Stinger antiaircraft missiles may be sold, donated, or otherwise provided, directly or indirectly, to democratic resistance forces in Angola and Afghanistan unless the President certifies to the Congress that the proposed recipient has agreed to the following conditions:

(1) Physical security of such missiles shall consist of the following:

(A) Magazines of reinforced concrete, arch-type, and earth-covered whose construction is at least equivalent in strength to the requirements of the Chief of Engineers (Department of the Army) drawings, 652-686, through 652-693, 27 Dec. 1941 as revised 14 Mar. 42, shall be provided.

(B) Lighting shall be provided for exterior doors and along perimeter barriers.

(C) Exterior doors shall be class 5 steel vault doors secured by two-key operated high security padlock and hasp (mil spec P-43607), and keys shall be secured separately to insure effective two-man control of access.

(D) Fencing shall be 6-foot (minimum) steel chain link on steel or reinforced concrete posts over firm base, and clear zones shall be established inside and outside fencing.

(E) A full-time guard force or combination guard force and intrusion detection system shall be provided.

(2) Such missiles shall be accounted for as follows:

(A) A 100 percent physical count shall be taken monthly with two-verifications, and records shall be available for United States inspection.

(B) A United States Military Training Mission shall conduct the United States inspector and inventory annually, and weapons expended outside of hostilities shall be accounted for.

(3) Movements shall meet United States standards for safeguarding classified material in transit.

(4) Access to such missiles and to classified information relating thereto shall be as follows:

(A) Access to hardware and related classified information shall be limited to military and civilian personnel who have the proper security clearance and who have an established need-to-know. Information released shall be limited to that necessary for assigned functions or operational responsibility and, where possible, shall be oral or visual only.

(B) No maintenance shall be authorized which required access to the interior of the operational system. Such maintenance shall be performed under United States control.

(5) The recipient shall report to the United States by the most expeditious means any instance of compromise, loss, or theft of any material or related information. This report shall be followed by prompt investigation and the results provided to the United States.

(6) The recipient shall agree that no information on Basic Stinger shall be released to a third government or any other party without United States approval.

(7) The security standards applied by the recipient to protection of Basic Stinger information and material shall be at least equivalent to those of the United States at the identified security classification.

(8) The recipient shall use the information on Basic Stinger only for the purpose for which it was given.

(9) United States officers shall be allowed to inspect and assess physical security measures and procedures established for implementation of these security controls on an announced random access basis.

(10) Damaged launchers shall be returned to United States Armed Forces for repair or demilitarization prior to disposal by United States authorities.

(11) Two principal components of the Stinger system, the gripstock and the missile in its disposable launch tube, shall be stored in separate locations. Each location shall meet all physical security requirements applicable to the Stinger system as a whole. The two locations shall be physically separated sufficiently so that a penetration of the security at one site shall not place the second at risk.

(12) The principle components of the Stinger system, the gripstock, missile, and launch tube, may be brought together and assembled only under the following circumstances:

(A) In the event of hostilities or imminent hostilities.

(B) For firing as part of regularly scheduled training (only those rounds intended to be fired shall be withdrawn from storage and assembled).

(C) For lot testing (only proof round(s) shall be withdrawn and assembled).

(D) When Stinger systems are deployed as part of the point of defenses of high priority installations or activities.

(13) Field exercises or deployments wherein the use of Stinger system is simulated shall not create conditions for the assembly of the system.

TRIBUTE TO MINORU YAMASAKI, PRIZE-WINNING AMERICAN ARCHITECT

Mr. MATSUNAGA. Mr. President, I rise to pay tribute to the memory of the late Minoru Yamasaki, one of America's foremost architects. Mr. Yamasaki, perhaps best noted for his 110-story, twin tower, World Trade Center in New York, was a second generation American of Japanese ancestry whose genius, hard work and perseverance propelled him to the front ranks of his profession.

Mr. Yamasaki, the son of immigrant parents from Japan, was born and raised in Seattle, WA, where poverty and racism scarred his youth. He managed to put himself through the College of Architecture at the University of Washington by packaging salmon at Alaskan canneries for wages averaging $50 a month.

Partially to escape rising anti-Japanese sentiment on the west coast, young Yamasaki moved to Manhattan, NY, in 1934 with $40 in his pocket and

a dream to design. In the city where his most famous building would someday reshape the skyline, Yamasaki earned his livelihood by wrapping China dishes for an importing company.

In 1935, Mr. Yamasaki landed his first architectural job while pursuing graduate studies and teaching watercolor courses at New York University. In 1949, he joined the firm which later became his own.

In 1951, Mr. Yamasaki won the American Institute of Architects First Honor Award for his design of the St. Louis Airport, a commission which began a trend to have leading architects design airports. In 1963, after he was chosen to design the World Trade Center—known by its admirers as "Democracy at Work"—Mr. Yamasaki became one of the new architects to be featured on the cover of Time magazine.

Mr. Yamasaki's most notable design accomplishments, other than the St. Louis Airport and the World Trade Center in New York City, include the Century Plaza Complex in Los Angeles, CA, the U.S. Consulate in Kobe, Japan, the Federal Reserve Bank in Richmond, VA, and the King Fahd Airport in Dhahran, Saudi Arabia.

Mr. Minoru Yamasaki, often described as "deceptively serene as a sunning panther" once said: "Man needs a serene architectural background to save his sanity in today's world; you want to build hope and aspirations that will make people delighted and happy." As a personal friend and one of the millions of beneficiaries of the beauty Minoru Yamasaki created, I extend my heartfelt condolences and deepest sympathy to his surviving family members. They can be proud that Minoru made his mark in American history by helping to make this great Nation of ours greater and proving once more that here in America even those of the humblest origin can dream great dreams and make them come true.

THE 10TH ANNIVERSARY OF THE MAGNUSON ACT

Mr. MURKOWSKI. Mr. President, 10 years ago, the United States adopted one of the most significant pieces of legislation in Alaskan history—the Fishery Conservation and Management Act.

Signed into law on April 13, 1976, this act has since added hundreds of millions of dollars into the economy of Alaska and the United States.

Two men played vital roles in the passage of the act—Senator TED STEVENS of Alaska and former Senator Warren Magnuson of Washington. Without their efforts it is doubtful this important legislation would have become reality.

Senator STEVENS originally introduced the legislation and later worked closely with Senator Magnuson to ensure its passage in Congress.

In 1980, Senator STEVENS sponsored an amendment to rename the act to the Magnuson Fishery Conservation and Management Act to commemorate the Washington Senator's dedicated work toward developing a national policy on fishery development.

Prior to the Magnuson Act, foreign fishermen from Japan, the U.S.S.R., and South Korea were fishing as close as 12 miles off the Alaska coast, catching billions of pounds of our bottomfish—cod, pollock, perch, and sole. In 1972, foreign catches off Alaska accounted for 2.4 million metric tons worth more than $210 million.

However, because of the Magnuson Act, foreigners now can fish within our 200-mile zone only by permit and take only fish that American fishermen cannot utilize. The decline of foreign bottomfish catches and the increase in American catches has been staggering. Foreign catches have decreased steadily from an annual rate of $212 million in 1972 to $106 million last year. U.S. fishermen have increased their take from zero to over $92 last year alone.

The United States has now become the fourth largest fish producing nation in the world.

Before the 1976 act, the North Pacific's fishery stocks were decreasing at an alarming rate, to the detriment of U.S. fishing interests. The Magnuson Act reversed that trend and accomplished several important objectives:

It extended the United States fishery management jurisdiction to 200 miles and immediately halted unregulated foreign fishing by Japan, the U.S.S.R., and South Korea. The act also gave the United States control over an additional 2 million square miles of the Pacific Ocean and 15 to 20 percent of the world's fishery resources.

It established fishery management councils to regulate and manage the domestic and foreign fishing to prevent overfishing.

It established management guidelines to encourage and give preference to domestic fishermen and processors in the development of our newly acquired fishery resources.

In addition, U.S. observers must be onboard most foreign fishing vessels and the U.S. Coast Guard has increased surveillance of our waters and increased penalties for all violations.

The Northwest and Alaska bottomfish processing industry is coming on line and slowly but surely displacing the foreign processing of our fish. Bottomfish processing is expected to triple this year over last year's production. Alaska's shoreside processing reached $38 million in 1985 and is expected to increase this year. Our second surimi processing plant has just opened in Dutch Harbor and a third plant is scheduled to open later this year. A surimi factory trawler is also being planned. And with rising prices for cod and surimi, lower fuel prices and low interest rates, we can expect to see a surge of American processing activity and development in Alaska in the next couple of years.

But much still needs to be accomplished. Along with Senator STEVENS, I have been working to increase the marketing opportunities for Alaska seafood as our shoreside plants process previously unutilized bottomfish. This includes the creation of the National Seafood Marketing Council, which would establish a coordinated national program to expand markets for fisheries products. It is important that we continue to develop new approaches to stimulating our Nation's fishery development.

I have also sponsored a surimi tariff bill which would begin to equalize the marketing positions of United States and Japanese surimi processors.

In legislation currently before the Senate Commerce Committee, I have cosponsored amendment to the Magnuson Act which would:

Implement a 50-percent cut in bottomfish allocations to nations found guilty of high seas salmon fishing violations;

Phase out all foreign fishing in our 200-mile zone by 1990;

Extend U.S. management jurisdiction beyond the 200-mile zone for fish stocks that straddle the 200-mile line, allowing for more comprehensive management of these fish;

Increase foreign fishing fees to reflect the true value of our fishery resources and put the U.S. fishery industry on a more equal operating cost basis.

Encourage the use of U.S. support services by foreign nations.

There is an explosion in U.S. seafood consumption taking place across America, with more and more Americans eating seafood for health and nutritional reasons. Americans are demanding high quality, inexpensive seafood, and providing a golden opportunity for U.S. fishermen and processors to benefit. The Magnuson Act has given us control of the fishery resource, now let's take advantage of it and totally "Americanize" the fisheries within our 200-mile limit.

UNITED STATES-SAN MARINO RELATIONS

Mr. PRESSLER. Mr. President, recently it was my honor and privilege to attend a ceremony observing the change of the two Captains Regent of the Republic of San Marino. In one of the oldest, continuous democratic traditions in the world, the people of San

Marino have elected these two highest officials of their republic every 6 months since 1244.

San Marino is a small country, but for more than seven centuries they have succeeded in protecting their independence and democratic institutions. The new distinguished Captains Regent, Marino Venturini and Ariosto Maiani, are the latest in the long line of people who have been elected to head the Government of the proud citizens of San Marino.

I also was honored to meet with San Marino's Secretary of State for Foreign and Political Affairs, the Honorable Giordano Bruno Reffi. Mr. Reffi is well known throughout Europe, and he played a valuable role in the lengthy negotiations leading to the adoption of the Helsinki human rights accords.

Mr. President, I ask unanimous consent that correspondence from Secretary Reffi to me be printed in the RECORD.

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

SAN MARINO, *March 27, 1986.*

DEAR SENATOR: I am in receipt of your letter dated 20th February, and it is my great pleasure to learn of your attentive and timely interest in the smaller European states and in the useful, firmer relations that such countries could well have with the United States.

First and foremost, I am in total sympathy with your basic approach which both recognizes and seeks to implement the fundamental premise underlying correctly conducted international relations, namely, that all states are equal regardless of territorial size; the Helsinki accord makes this quite plain. This much said, allow me to express my feelings on the individual points raised in your letter.

1. Relations have existed between San Marino and the United States now for many years, and could not be described as being other than friendly. This is especially true in the case of the several thousand San Marino citizens who live and work in America, most notably in the states of Michigan and New York, playing their part in her continuing progress and development. There can be no better relations than those springing from contact at the human level, and it is certain that the idea of cementing "entente" between the United States and San Marino constitutes the most suitable spur to consolidating such relations and further enhancing their friendly nature.

2. An improvement in relations can come about—and should, in my own view—precisely within the context of the philosophy with which you have seen fit to examine the attendant problems. The smaller Western European States (San Marino especially) are in a position to offer a solid moral and idealistic contribution in the biggest of battles undertaken by the United States on the international scene. A nation, and a neutral nation, which has based its very existence and vocation on the ideal of peace, cannot be anything less than dedicated to the ideal; in the same way, a nation whose very roots are sunk in the notion of respect for the rights of the individual, and whose democracy is founded on that principle, cannot be other than a sincere upholder of human rights and liberty. With this in mind, it seems clear that the larger nations might do well to call for the cooperation of the smaller at the international level, in pursuing those longed-for aims of establishing and maintaining peace, and creating internal regimes that fully respect the liberty and the rights of the individual—aims still widely unachieved, sad to say.

To conclude on this point, I believe that the long, useful and fruitful activity of smaller nations belonging to the Neutral and Non-aligned states which participate at the Conference on Security and Cooperation in Europe, more than expresses the effectiveness of the minor Western European States in playing mediative and conciliatory roles between opposing factions, both encouraging and creating the opportunity for dialogue.

3. In the matter of bilateral relations between San Marino and the United States where specific agreements or understandings are concerned, there are talks in progress even now (extremely slowly) on a social security program. Should you wish to know more about this particular undertaking, I will gladly arrange for details to be forwarded.

4. As regards the improvement of relations between San Marino and the United States, it is my belief that, beyond those specific matters which could be pin-pointed and agreed upon mutually, there exists the firm possibility—and the desirable objective—of cooperating on a wider international level within the scope of the organizations and conferences which San Marino attends, on the questions of world peace and disarmament, and to the end of promoting human progress such as will guarantee full rights and liberty of the individual. San Marino is in fact currently evaluating the possibility of joining UNO, trusting in the full support of the United States. The feeling in San Marino is that such cooperation could be made possible were there to be permanent relations between us at the highest political level.

I look forward very much to our meeting in San Marino shortly and discussing the important questions raised, so auspiciously and seasonably, by your interest in the republic.

Allow me to extend my very best regards.

GIORDANO BRUNO REFFI,
The Secretary of State.

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

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

METROPOLITAN WASHINGTON AIRPORTS TRANSFER ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S.1017, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1017) to provide for the transfer of the Metropolitan Washington Airports to an independent airport authority.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 1769

(Purpose: To modify the membership of the Airports Authority)

Mr. EXON. Mr. President, I send an amendment to the desk, and I ask for its immediate consideration. I understand that there is a time limitation on the amendment of 15 minutes, equally divided.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 1769.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 35, line 5, strike out all through line 15, on page 36 and insert in lieu thereof the following:

(9) governed by a board of thirteen members, as follows:

(A) Three members shall be appointed by the Governor of Virginia, three members shall be appointed by the Mayor of the District of Columbia, three members shall be appointed by the Governor of Maryland, and four members shall be appointed by the President with the advice and consent of the Senate; the Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(B) Members shall (i) not hold elective or appointive political office, (ii) serve without compensation other than for reasonable expenses incident to board functions, and (iii) reside within the Washington Standard Metropolitan Statistical Area, except that the members appointed by the President shall not be required to reside in that area.

(C) Appointments to the board shall be for a period of 6 years; however, initial appointments to the board shall be made as follows: each jurisdiction shall appoint one member for a full 6-year term, a second member for a 4-year term and a third member for a 2-year term. The President shall make an initial appointment of one member for a 6-year term, a second member for a 5-year term, a third member for a 4-year term, and a fourth member for a 3-year term. All subsequent appointments by the President shall be for a 6-year term. Such Federal appointees shall be subject to removal for cause.

(D) Seven votes shall be required to approve bond issues and the annual budget.

Mr. EXON. Mr. President, this amendment seeks to change the makeup of the Airports Authority

board ratio, thereby creating a truly balanced membership. The amendment provides for three representatives from Virginia, three from the District of Columbia, three from Maryland, and four appointed by the President.

Mr. President, from the very beginning of the consideration of this bill by the Commerce Committee, I have been deeply concerned with the Airports Authority ratio as is currently provided for in the bill.

Even with the good faith efforts of Senator PRESSLER whose amendment increased the members appointed by the President by two, I remain convinced that the board is too heavily weighted in favor of Virginia.

Last evening, I had a brief discussion on the floor of the Senate with the junior Senator from Virginia at which time he assured me that my concerns regarding the membership of the airport board had been resolved by adoption of the Pressler amendment and that the Pressler amendment was indeed the same as the one I had offered in committee during markup of S. 1017. The facts of the matter are that this is simply not accurate. The Pressler amendment, which was accepted by the majority managers of this bill, without rollcall vote, is not the same by far as that which I offered in committee and most certainly does not adequately address the concerns I continue to have with the Airports Authority membership.

I would hope that all Members of the Senate, if they are not here listening to this, would be listening on their boxes back in their offices.

Let us, for a moment, examine the makeup of the Airports Authority under the terms of S. 1017 as amended.

Is it not interesting that Virginia, and if there is any doubt about the advantages to that State from this proposal, I have reference to the interesting front page story this morning in the Washington Post, but in addition to the beneficiaries of the real property in this bill, are also the beneficiaries in sheer numbers of the newly-created board. Five, I repeat, Mr. President, five of the members of that board are from the State of Virginia and there are only 13 members in total. My math tells me that five is just two short of the number needed to approve bond issues and the annual budget. With this advantage, there can be little doubt that the Virginia board members will have little difficulty finding those two additional votes from the District of Columbia's three members, or someone else.

As I previously indicated, during the Commerce Committee's markup of this bill, I offered an amendment to restructure the makeup of this Airports Authority in an attempt simply to balance these things out. This Senator thought this amendment was extremely fair. In fact, fair to a fault.

I must say, that I had somewhat miscalculated. Representatives of the Holton Commission informed the committee that if my amendment were adopted, Virginia would withdraw its support for the bill, insuring its demise. It seemed that the Senator from Nebraska, in his efforts to find common ground, had uncovered a hornet's nest as he began to look for common turf for common understanding. It became crystal clear, after the defeat of my amendment, that Virginia wanted it all!

Thus we once again find ourselves faced with this unresolved problem. Even with the good faith effort of my colleague from South Dakota, this Senator continues to firmly believe that the airport board membership is unbalanced and patently unfair.

Mr. President, many have already questioned why this Senator from Nebraska, whose State has no evident direct interest in this sale, would be so concerned with this matter.

Every Member of the Senate outside of Maryland, Virginia, and the residents of the District of Columbia, who have no Senators, should be as concerned as is this Senator. Our State has no direct interest in the sale.

I can tell my colleagues that I believe I have a responsibility and they all have a responsibility to this Nation to insure that their assets in the form of National and Dulles Airports are protected in whatever action this body takes, and I think that is a must. Clearly, under the terms of S. 1017 in its present form, the people's assets are not protected and that is why this Senator from the Midwest believes so strongly in and supports this amendment.

Mr. President, the airport board is vitally important in the overall plan as to whether or not all people of this Nation are going to have fair access to their Nation's Capital by air.

The authority will be making vitally important decisons which will impact on these national airports and I believe that no one jurisdiction deserves more representation than another. I also believe that since National and Dulles Airports have and are public property, the people of this Nation should have the edge on board numbers. Mr. President, this is exactly what the amendment I have introduced will provide. All three local jurisdictions will have three representatives and the people of the Nation, the owners of these two airports now, will have four representatives appointed by the President with the advice and consent of the Senate.

Mr. President, this is fair, this is equitable and this is sound policy. I ask my colleagues for their support.

Mr. President, I reserve the remainder of my time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has remaining 1 minute and 39 seconds.

Mr. EXON. I reserve that time.

I yield the floor.

Mr. WARNER. Mr. President, the issue of the composition of the board was addressed by the Senate previously. If you will recall, the Senator from South Dakota [Mr. PRESSLER] raised the issue and as an outgrowth of that debate the managers of the bill acceded to the addition of two Presidential appointees to the board.

At that time, Members of the Senate who are interested in this issue worked on it, and I felt that this was a fair and equitable compromise.

I regret that we are being asked again to revisit this issue at this time. I feel that we have made such adjustments as reflect the view of the Senate on this issue.

I strongly recommend that the amendment be rejected.

Mr. EXON. Mr. President, my good friend from Virginia has once again adequately stated the interest of Virginia. I have no particular quarrel with him. I suspect if I were the Senator from Virginia, I would be doing the same thing he is doing.

The so-called compromise that he said was made really did not do anything significant at all to change the votes that are necessary to make major policy decisions on the Commission.

Under the amendment that is before us, as I have said before, there would be three representatives from Virginia, three representatives from the District of Columbia, three from Maryland, and four appointed by the President of the United States. That would mean that seven members of that Board are going to have to agree before the important decisions that that Board or Commission will make goes into effect. Certainly 3-3-3-4 is much fairer for the Nation as a whole without doing any real harm to the legitimate interests of Virginia. I cannot understand why they object to this measure.

Mr. President, I say that if there is no need for further debate I am prepared to yield back the remainder of my time, if the opposing side is ready to do likewise, and we can proceed with a vote.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. If neither side yields time, time runs equally against both sides.

Mr. EXON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, I renew my request. If we want to expedite matters, I am prepared to yield back the remainder of my time.

Mr. MATHIAS. Mr. President, will the Senator yield me one minute?

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 seconds remaining.

Mr. EXON. I yield whatever remainder of the time I have to my friend from Maryland.

Mr. MATHIAS. Mr. President, I support the amendment of the Senator and urge other Senators to do likewise.

Mr. SARBANES. Mr. President, this is a balanced approach to the composition of the regional authority. It recognizes an important Federal interest and, it seems to me, offers a greater opportunity for some comity and consensus in the region as we address the airport problem.

I support the Senator's amendment.

The PRESIDING OFFICER. The remaining time is under the control of the Senator from Virginia.

Mr. TRIBLE. Mr. President, this amendment does not require substantial debate. Indeed, this question has been fully addressed by the Senate and dealt with decisively. Senator PRESSLER of South Dakota offered an amendment that was essentially the same as this initiative and it was rejected. It was tabled by a vote of 52 to 44. So the Senate has spoken once on this issue. And I apologize to my colleagues that we are called on to address it once again.

The composition of the board is very carefully crafted to represent the interests of a diverse constituency. The composition was based on the use of these airports by travelers from Virginia, Maryland, and the District of Columbia. Twenty percent of the passengers at Dulles and National originate their flights from Maryland and Maryland receives essentially 20 percent of the representation on the board, 40 percent from Virginia, and 40 percent from the District of Columbia. Those numbers are reflected in the composition of the board, with the additional recognition given to the fact that these airports lie in Virginia. Thus we have a composition of five for Virginia, three from the District of Columbia, and two from Maryland.

Originally this legislation provided for one representative, one board member, to be appointed by the President. Many Senators expressed their concern that this did not give adequate weight to the national interests here and suggested that there should be additional representation. Therefore, we have readily agreed to increase that representation. Indeed, yesterday, on the floor, Senator EXON said that he thought the board should have one or two Federal representatives more, and that has been accomplished by agreement. The result is a board that is balanced and that fairly represents the diverse interests of the region.

Moreover, we have endeavored to protect fully the national interest by means of a lease agreement, during which time this Congress will have oversight jurisdiction and the Airports Authority will have to abide by the rules and regulations and limitations set forth in this legislation.

Finally, in requiring a nine-vote majority for substantial actions, such as the adoption of a budget and capital expenditures, we have ensured that no one jurisdiction can act alone. Indeed, Virginia would have to reach across the Potomac and seek support from Maryland, the District of Columbia and the national representatives in order to undertake substantial actions.

The Senate has spoken decisively on this question. We should quickly resolve this amendment now before us so we can move ahead and dispose of this bill once and for all.

I would at this point yield back the balance of my time.

The PRESIDING OFFICER. The question is on the amendment.

Mr. TRIBLE. I would at this time also move to table the Exon amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia [Mr. TRIBLE] to table the amendment of the Senator from Nebraska [Mr. EXON]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON (after having voted in the affirmative). Mr. President, on this vote, I have a live pair with the distinguished Senator from Vermont [Mr. LEAHY]. If he were present and voting, he would vote "nay". I have already voted "yea." Therefore, I withdraw my vote.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Florida [Mrs. HAWKINS], the Senator from Delaware [Mr. ROTH], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], the Senator from Colorado [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from New York [Mr. MOYNIHAN], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

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

The result was announced—yeas 52, nays 33, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—52

Abdnor	Grassley	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pressler
Chafee	Hecht	Quayle
Cochran	Heinz	Rockefeller
Cohen	Helms	Rudman
D'Amato	Inouye	Simpson
Danforth	Kassebaum	Stennis
Denton	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Long	Thurmond
Durenberger	Lugar	Trible
East	Mattingly	Wallop
Evans	McClure	Warner
Garn	McConnell	Weicker
Gore	Metzenbaum	Wilson
Gorton	Murkowski	
Gramm	Nickles	

NAYS—33

Baucus	Dodd	Mathias
Bentsen	Eagleton	Melcher
Biden	Exon	Mitchell
Bingaman	Ford	Pell
Bumpers	Glenn	Proxmire
Burdick	Goldwater	Riegle
Byrd	Heflin	Sarbanes
Chiles	Hollings	Sasser
Cranston	Humphrey	Simon
DeConcini	Kerry	Specter
Dixon	Levin	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Johnston, for.

NOT VOTING—14

Andrews	Hawkins	Moynihan
Armstrong	Kennedy	Pryor
Bradley	Lautenberg	Roth
Harkin	Leahy	Stafford
Hart	Matsunaga	

So the motion to lay on the table amendment No. 1769 was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 1770

(Purpose: To provide that the determination of hypothetical indebtedness shall be at least the amount of the audit finding of the Comptroller General or $108,600,000)

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS], proposes an amendment numbered 1770:

On page 30, line 6, strike out the period and insert in lieu thereof "within six months after the date of enactment of this Act. In no event shall the determination of hypothetical indebtedness by the Federal Aviation Administration pursuant to this

paragraph be an amount which is less than $108,600,000 or the audit finding of the Comptroller General of the United States if it is different.

Mr. MATHIAS. Mr. President, this amendment simply puts a floor under the price to be paid for the lease by the new Airport Authority. We would fix it at $108.6 million, which is the minimum—and I would underscore the word minimum—figure that the Comptroller General of the United States arrived at in computing the hypothetical indebtedness. Under the amendment in its original form the lease payment could have been no less than this figure even if the final figure computed by the Comptroller General was less. I think this new amendment is a little bit fairer. I have consulted with the distinguished Senator from Virginia in making this modification. It specifies that the lease payment will be the Comptroller General's preliminary minimum figure, $108.6 million, unless the Comptroller General arrives at a different final figure, in that case, the lease payments will be based on a final figure computed by the Comptroller General regardless of whether the final figure is greater or less than the minimum figure.

Now, I think this is totally fair. This is simply trying to give to the taxpayers of the United States a total element of fairness. We submit all issues to the Comptroller General. We submit all disputed matters of accounting and evaluation to the Comptroller General. This is simply one more. We are saying to the Comptroller General, "Figure out what we ought to receive and that will be the amount." Now, to Members of the Senate, I simply say that in this particular regard we are trustees. We are in a fiduciary capacity. The Government of the United States holds the title to this property as trustees for the people of the United States and we have some fiduciary responsibility to be fair. This is not foreign aid. This is not charity. This is a business transaction and we have to be fair about it.

This is a fair amendment. It simply says just call the shots as you see them. We ask the Comptroller General, whose job it is to make those very decisions, to make this determination. So I think this is an amendment the Senate can well adopt.

Mr. WARNER. Mr. President, I did indeed discuss this amendment with my distinguished colleague in an effort to try to reach an accommodation, but we were unable to do so. I pose a question to him, which question is directed at whether or not the amendment is necessary because we have now changed the bill to provide for a lease and at such time in that lease period as the Secretary of Transportation desires, he or she can enter into a negotiated settlement with the authority and then come before the Congress.

Mr. MATHIAS. The Senator from Virginia is exactly right.

Mr. WARNER. And at that time the price that they negotiate would be reviewed by the Congress.

Mr. MATHIAS. Yes. Well, now, I will tell the Senator I would not want to buy a horse from the Senator from Virginia if he is going to try to make a deal like that because what has been done under the Trible amendment is to extend the lease from 35 years to 50 years.

Now, that is pretty nice. That is like telling the fellow who buys a car, you do not have to buy it back in 3½ years. You can use that car for 5 years before you pay. Now, which is the sweeter deal? The sweeter deal is the one that you put off the evil hour of payment. Under the amendment previously adopted that gives you 50 years, you are in an even better position. So I think to say simply that we are going to let the Comptroller General determine the price if it is different from the $108 million figure set in this amendment. That, to me, is fair. The Comptroller General may say it is much less. He could say it is more. Whatever it is, let the chips fall where they may. But in the meantime you have already got the 15 extra years. You put off the evil hour. That is really horse trading.

Mr. WARNER. Mr. President, I have long since given up horse trading. I may have to go back to it someday. But I feel that what we have done now is to enter into a lease arrangement and I tell my distinguished colleague and friend at such time as the Secretary of Transportation is ready to sit down and negotiate a price, who knows what it may be 35 years from now or 5 years from now and then it comes before the Congress and the wisdom of Congress is brought to bear on that price. Now, that to me is a fair and equitable situation given the uncertainty of the economics of this airport system as it is operated today and given the uncertainty of the national economy.

Mr. MATHIAS. I would think, if the Senator from Virginia will yield, that he would really embrace this amendment from the point of view of the bankers who are going to have to deal with the bond issue here. A much higher degree of certainty would be placed on this whole transaction by vesting the authority and the responsibility in the Comptroller General, who has a reputation, whose institution is expert in these matters. That, to me is more responsible than dealing with this kind of speculative figure. This is fair. This is right. This ought to be adopted.

Mr. WARNER. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from Virginia has 5 minutes and 8 seconds. The Senator from Maryland has 5 minutes and 49 seconds.

Mr. WARNER. Mr. President, I yield the floor.

Mr. MATHIAS. Mr. President, I yield to my colleague from Maryland.

Mr. SARBANES. Mr. President, I rise in support of the amendment which my colleague has offered and point out that it addresses itself to the question which this body has considered more than once in consideration of this bill. In fact, by a very close vote on yesterday, a margin of only two votes, this body decided not to take an approach that had the prospect of a much higher price than what is talked about here for the lease period. Now, this effort to arrive at a fairer price, it seems to me, is an elemental one of fairness to the Federal taxpayer. The Senator from Maryland has made a provision for the Comptroller General audit in an effort to be scrupulously fair in this matter.

I am, to some extent, surprised that the managers of the bill are not prepared to accept the amendment, given the fairness embraced within it. But for those Members who have repeatedly voiced concern about the value being placed on the transfer that is taking place here, this is an important amendment. My own view is that the value is even much greater that this, but we tested that yesterday and, by a very narrow margin, that view was not adopted.

I hope my colleagues will consider this issue very carefully. It is one of the central issues involved in this legislation, and this seeks to correct one of the main deficiencies contained in the legislation.

I strongly support the amendment.

Mr. TRIBLE. Mr. President, I rise in opposition to this amendment. I suggest that it is an attempt to get an additional pound of flesh—as the case might be, several thousand pounds of flesh. Let me explain.

This Airports Authority will be required, under the terms of this legislation, to pay $117 million for the right to use these properties—not an insubstantial sum of money—plus, under the terms of this legislation, the Airports Authority will be required to incur obligations approaching $1 billion to improve and modernize these airports.

In days past, the opponents of the bill could come here and argue, with some force, that the figure was inadequate because at the end of the lease term, these properties were to be turned over, lock, stock, and barrel, to the Airports Authority. That however, was not central to our purpose, which was to move these airports from Federal control and operate them more ef-

fectively. In order to allay those concerns, we have provided these leases for 50 years.

Surely, if the Senate rejected an amendment to increase the cost before, when these properties would have been turned over to the Airports Authority, we will overwhelmingly reject this initiative, because it makes much less sense today. The sum of money provided for in this bill is substantial; and when one considers that we are talking now about a lease term and not a sale, it is more than adequate compensation.

This amendment suggests that the Comptroller General render an opinion. But the amendment, by its terms, is unwilling to adhere to that opinion. Perhaps the reason is that the Comptroller General has already passed judgment on the $47 million figure of hypothetical debt embodied in this legislation and found it to be fair. In hearings before the committee chaired by Senator MATHIAS, the Comptroller General's Office indicated that the amount in this bill of FAA estimates of the Federal cost was fair.

The $108 million figure embodied in the Mathias amendment includes the estimated $47 million hypothetical debt already in our bill, but it drives up the figure by including costs for the development of a prototype of the mobile lounges used at Dulles and the construction of the Dulles access road. That is unfair.

The FAA correctly determined long ago that the cost of these items should not be passed on to the airport users because they benefit a much larger universe. The mobile lounges are used at many other airports, and all other users should share in the cost. That ought not be charged strictly to the users at National and Dulles.

Moreover, the access road does not serve only this airport, anymore than the Baltimore-Washington Expressway, paid for by the taxpayers, serves only BWI. These airports serve a large body of people in the Washington metropolitan region.

It is unfair and unnecessary to do this. We are placing a huge burden already on this Airports Authority, and to do this will only complicate the task of the authority to get on with the mandate of this legislation: to incur a debt approaching $1 billion and expand, modernize, and enhance these airports and improve service to all our citizens.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. I yield such time as I may consume.

Mr. President, the General Accounting Office has not endorsed the figure of $47 million. The General Accounting Office, using the administration's hypothetical indebtedness method, suggested, after a preliminary investigation—and for the third time, I underscore "preliminary"—that the airports may be worth $108 million.

The Grace Commission, I say parenthetically, thought it was $341 million; and Rothschild, the merchant bankers of London, think it is worth $1 billion. So there is a wide range of opinion as to what it is worth. At any rate, everybody thinks it is worth more than $47 million. Nobody thinks it is worth $47 million. Everybody thinks it is more.

The problem with the FAA figures—and this was pointed out in testimony before the Senate Government Affairs Subcommittee on Government Efficiency and the District of Columbia—is that the calculation of hypothetical indebtedness, as the Senator from Virginia has suggested, did not include all the costs that went into the construction of these airports.

It may be a matter of opinion whether or not the Dulles access road should be included, but clearly that is a facility which was vitally necessary to the operation of Dulles. Without an access road, there would not be any planes landing there or any traffic going there. The development of mobile passenger lounges, which was a substitute for the construction of satellite facilities, and, therefore, just as much part of the airport as the satellite areas have been, was deemed to be a nonrecoverable cost. The Federal expenditure on these two items was $61 million.

So it seems to me that it is fair to say to the Comptroller General: "You are an expert. You have all the facts and figures. You figure the amount."

The Senator from Virginia throws out the sum of $117 million as the cost figure. That is subject, I think, to a little analysis.

What he is talking about, for example, is not the real estate price of $47 million. He wants to include there the payments to employees, the vested sums that are due to employees. How can you throw that sum into the real estate cost? You are talking about a going business now; and when you are talking about a going business, there is a real estate element; there is a certain amount of fixtures; there is a certain amount for other elements of the business.

And to say that you are going to throw in the cost of doing the right thing, the fair thing, and just thing, by including funds reserved for employees as part of the real estate price, simply begs the question.

I think the right thing to do is to leave this to the Comptroller General.

That is all this amendment proposes. I urge the Senate to adopt this fair and just practice.

Mr. TRIBLE. Mr. President, let me conclude by simply saying that we are not buying a business here. Rather, we are talking simply about leasing property to be used as an airport on a nonprofit basis. This is not a sale. This is not a transfer. These airports will remain in the hands of the Federal Government.

The $117 million is a fair price for a lease. Indeed, this body determined it was a fair price for a transfer at some future time. But it is surely fair for a lease. It is the $36 million to Maryland, $37 million for pensions, and $44 million for the hypothetical debt which fairly represents those moneys that must be repaid to the taxpayers to make them whole.

To require more to increase the price would simply be punitive. It would impose an unrealistic burden on the users of this airport, not on Virginia, not on Maryland, not on the District of Columbia, not on the Airports Authority, but rather on the people who will use this airport.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATHIAS. Do I have any time, Mr. President?

The PRESIDING OFFICER. The Senator has 8 seconds remaining.

Mr. MATHIAS. I yield back the remainder of my time.

Mr. TRIBLE. Mr. President, I move to table the amendment now pending and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Maryland.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. INOUYE. Mr. President, on this vote I have a live pair with the distinguished Senator from Vermont [Mr. LEAHY]. If I were permitted to vote, I would vote "yea." If Mr. Leahy were present and voting, he would vote "nay." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Arizona [Mr. GOLDWATER], the Senator from Florida [Mrs. HAWKINS], the Senator from Delaware [Mr. ROTH], and the Senator from Vermont [Mr. STAFFORD], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Louisiana [Mr. LONG], the Senator from New York [Mr. MOYNIHAN], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

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

The result was announced—yeas 46, nays 39, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—46

Abdnor	Gore	Murkowski
Boren	Gorton	Nickles
Boschwitz	Grassley	Packwood
Chafee	Hatch	Pressler
Cochran	Hatfield	Quayle
Cohen	Hecht	Rockefeller
D'Amato	Heinz	Rudman
Danforth	Helms	Simpson
Denton	Johnston	Stevens
Dixon	Kassebaum	Symms
Dodd	Kasten	Thurmond
Dole	Laxalt	Trible
Domenici	Lugar	Wallop
Durenberger	Matsunaga	Warner
East	McClure	
Garn	McConnell	

NAYS—39

Baucus	Ford	Mitchell
Bentsen	Glenn	Nunn
Biden	Gramm	Pell
Bingaman	Hart	Proxmire
Bumpers	Heflin	Pryor
Burdick	Hollings	Riegle
Byrd	Humphrey	Sarbanes
Chiles	Kerry	Sasser
Cranston	Levin	Simon
DeConcini	Mathias	Specter
Eagleton	Mattingly	Weicker
Evans	Melcher	Wilson
Exon	Metzenbaum	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Inouye, for.

NOT VOTING—14

Andrews	Hawkins	Moynihan
Armstrong	Kennedy	Roth
Bradley	Lautenberg	Stafford
Goldwater	Leahy	Stennis
Harkin	Long	

So the motion to lay on the table the amendment (No. 1770) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was laid on the table.

Mr. TRIBLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

Mr. BYRD. Mr. President, I would like to ask the distinguished majority leader as to whether or not he foresees any rollcall votes following the vote on final passage, and, if so, how many and on what.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, as I understand, there will be votes on S. 426, the so-called hydro-relicensing bill. There is a time agreement. We do not believe it will take 4 hours, but there are 4 hours equally divided, 1 hour on all first-degree amendments with the exception of an amendment to be offered by Senator METZENBAUM and Mr. McCLURE dealing with antitrust issues limited to 30 minutes, with 1 hour on a Hart substitute.

It is my understanding that the principals involved have been working with a lot of Members. I do not anticipate many votes, but maybe one or two after this is disposed of.

The other bill we had scheduled was the crime bill, but we can do that any time. It does not have to be done today.

Mr. BYRD. For the information of the distinguished majority leader, I know of no objection on this side to going to the relicensing bill, but I do anticipate a rollcall vote on final passage on that measure.

Mr. DOLE. Perhaps we can do that by voice vote. The distinguished chairman of the committee is here. I know he has been working with a number of Members on both sides.

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. I yield.

Mr. McCLURE. To the best of our knowledge, there are two and possibly three amendments with the possibility of a substitute, which has not been verified, and the amendment between Mr. METZENBAUM and myself has been worked out. I do not know that a vote will be required on that.

From my standpoint, I do not have any request for a vote on final passage. I would anticipate that perhaps it would not be necessary.

Mr. BYRD. Mr. President, it will be necessary to have a rollcall vote on final passage.

Does that cause the distinguished majority leader to revise his earlier prediction?

Mr. DOLE. Well, the prediction then would be that there will be a vote.

Mr. BYRD. Yes, but what I am asking is, Will that rollcall vote occur today?

The reason I am asking that is that I am not sure that that rollcall vote can occur today. I hope it will be helpful to the distinguished majority leader to understand that.

Mr. DOLE. If we can go as far as third reading, we could agree on a vote for next Monday.

Mr. President, let me indicate to the distinguished minority leader if there is a demand for a vote, and certainly everybody has a right to request a vote, we could go down to third reading and agree to have a vote at a time certain on Monday or Tuesday. That would be satisfactory with the majority leader and I believe all the principals involved.

Mr. McCLURE. Mr. President, if the Senator will yield.

Mr. BYRD. Yes.

Mr. McCLURE. If we could move through the amendments and all that is left is final passage, I would certainly have no objection to putting off until some time certain, if that accommodates the needs of other Senators.

Mr. BYRD. One other question: I assume the distinguished Senator from Idaho will be managing the bill.

Mr. McCLURE. That is correct.

Mr. BYRD. Does he anticipate rollcall votes on amendments?

Mr. McCLURE. I only know of one amendment that might require a rollcall vote. I do not know that it will be required. It is an amendment to be offered by Senator EVANS. It may or may not require a rollcall vote.

On the others, I do not know of any rollcall vote that would be required. I think we will know very shortly, after we start on the bill, as to whether or not that will be required.

Mr. BYRD. I thank the majority leader and I thank the Senator.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Is time controlled?

Mr. DOLE. Yes.

Mr. BYRD. I ask for 1 minute.

Mr. TRIBLE. I yield 1 minute.

Mr. METZENBAUM. Mr. President, I rise for 1 minute to commend the Senator from Virginia [Mr. TRIBLE] and the Senator from Maryland [Mr. SARBANES]. We have been engaged in debate on this legislation now for several weeks. Both the Senator from Virginia and the Senator from Maryland have brought to the issue a sense of commitment and determination that we have witnessed on occasion in the past. But quite often in the past when we have seen that kind of confrontation, nerves get frazzled and the parties get irritable with each other. But in this instance, without any question, both Senator TRIBLE and Senator SARBANES have certainly conducted themselves in such a manner as to bring a special respect from all of us who have been participants.

I just wanted to say a word of commendation to both the Senator from Maryland and the Senator from Virginia. I think they have elevated the level of debate and conduct of this body by the manner in which this legislation has been handled.

I might say I must include Senator WARNER, also, because he has certainly handled the matter in an equally commendable way. It sort of makes me rather proud to be a Member of this body and see how this rather difficult issue has been handled by three of the main participants.

Mr. SARBANES. If the Senator will yield, I would like to say to the Senator I am most appreciative of his remarks.

Mr. TRIBLE. If the Senator will yield, I must say I am deeply gratified by his remarks. I have learned a lot during the process.

Mr. WARNER. Mr. President, I join my colleague in expressing our appreciation, not only to the Senator from Ohio but really to all Members of the body who have been very patient as we deliberated these issues.

I would certainly like to include the distinguished senior Senator from Maryland [Mr. MATHIAS] also who has been an active participant throughout.

Mr. METZENBAUM. I did not mean to overlook Senator MATHIAS. I totally agree with the Senator.

Mr. WARNER. Mr. President, I would like to acknowledge the participation of the Governor of Virginia, Governor Baliles, and the Mayor of the District of Columbia, Mayor Barry.

They have been active in this matter and I think have helped to provide a constructive analysis.

Mr. TRIBLE. Mr. President, there is a long list of people who ought to be commended at some point. I hope that we can turn to that after successfully resolving this matter.

I understand that my friend from Maryland [Mr. SARBANES] has one remaining amendment. I hope we can turn to that amendment now and resolve it promptly. Then I can tell my colleagues that we can move forward very quickly to passage of this measure.

Mr. SARBANES. Mr. President, I yield 2 minutes to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the Senator from Maryland for yielding to me. I do not choose to speak on the amendment which the Senator from Maryland [Mr. SARBANES] will offer, but rather to echo what the Senator from Ohio has said about the level of debate on this issue. It has been excellent on both sides, particularly, by both Senators from Virginia and both Senators from Maryland. It has been edifying.

What I want to state is my position on this bill. There are very persuasive arguments on both sides of this issue and sometimes I wish I could vote half yes and half no.

But I am convinced, and I have been lobbied by Secretary Dole—who is very persuasive on this matter. She makes a very good case. But on balance, I think this is bad policy.

I cannot imagine why, after roughly 40 or 50 years of the operation of National Airport and all the money we poured into Dulles Airport, suddenly, somehow, it has been bad. I know that Secretary Dole spends a lot of time on operating these two airports, but this could be easily cured. Maybe we should have a division within the Department of Transportation to handle these airports. But to give up properties—and I come down on the side of Senator HOLLINGS on this—which in my opinion are easily worth $1 billion, for $45 million or $46 million or $49 million, is irresponsible and not in the taxpayers' best interest.

The only thing that I can say is if we wanted to set up an authority, say, and allow Virginia to operate Dulles, that would make some sense. But to literally give both of these airports away at fire-sale prices will haunt us later. I promise you if you stay in this body long enough, you are going to live to regret the passage of this bill.

I simply want to say I think this is bad public policy and it is bad economic policy.

AMENDMENT NO. 1771

(Purpose: To provide that revenues may exceed costs directly related to certain developments)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 1771.

On page 37, strike out lines 1 through "such" on line 3.

Mr. SARBANES. Mr. President, I yield myself 3 minutes.

Does the Senator have 5½ minutes remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. SARBANES. I yield myself 2½ minutes.

Mr. President, this amendment is very simple. What it does is preclude commercial building development on the property that is necessary for additional runway development and property that serves as a perimeter buffer area at Dulles Airport. That is all it does. It is very simple.

If you do not accept this amendment, in effect, what you are arguing is that it ought to be possible to do commercial building development on property that is necessary for additional runway development and property that serves as a perimeter buffer area.

Anyone who knows about airports knows that you have to protect potential runway development in buffer area zones; otherwise, if you allow development to creep into those areas, what you are really doing is crippling its capacity to serve as an airport.

The very fact that this bill allows such commercial development to take place in areas necessary for runway development and perimeter buffer is some indication, I think, of much of the thinking behind this legislation in terms of what is going to take place at Dulles Airport.

I am for economic development in the vicinity of Dulles Airport. It takes place in the vicinity of every airport in the country. One of the strong arguments made for airport development is its related economic development. But to go as far as this bill goes and in effect to permit it to take place in areas necessary for runway development or needed perimeter buffer area is going too far.

The PRESIDING OFFICER. The Senator's 2½ minutes have expired.

Mr. SARBANES. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Without any time yielded, therefore, the time will be yielded back.

Mr. SARBANES. Mr. president, what is the time situation?

The PRESIDING OFFICER. The Senator from Virginia has 7½ minutes. The Senator from Maryland has 3 minutes and 21 seconds.

Mr. SARBANES. Mr. President, is it the intention of the Senator from Virginia that we should use up all our time before he addresses the amendment?

Mr. TRIBLE. No, that is not the Senator's intention. In fact, in a minute, I shall speak to this amendment. I shall do so briefly and we can move to the vote very quickly.

I just looked a copy of the amendment. The Senator did share that with me. I want to review it one last time before I speak to it. I see the distinguished senior Senator from Maryland wishes to speak. Let us let him speak and then I shall speak to the amendment.

Mr. SARBANES. I yield to my colleague from Maryland.

Mr. MATHIAS. Mr. President, I think this is a very straightforward amendment and it makes a lot of sense. It says there shall be no commercial development in those areas that are necessary for the safety of the public; you will not encroach in those areas that are necessary for the safe operation of aircraft by commercial development; that you will not build the kind of structures that make it less safe for travelers to take off from Dulles Airport. That is all my colleague from Maryland is proposing.

It is not a complicated issue. It is simply that that is the way it is: We are trying to take care of the traveling public. If there were extraordinary technological developments in the future, if short takeoff and landing planes become available and commercially useful, if there are other technological developments of that kind, Congress will be in session and can address them. But for the moment, I think the danger is that this property will be commercially developed in order to raise money. That danger is at its highest point in the early days of development and this protection which the Senator from Maryland proposes is going to be most useful in the early days of development.

It is a safety amendment, an air safety amendment, it is in the interest of every traveler at Dulles, every citizen of the United States who comes to the Nation's Capital through the Dulles gateway. Every Member of the Senate has an interest in it. I would think the managers of the bill would be more than happy to accept the

amendment. Opposition to the amendment is simply an advertisement that you are going to encroach on safety areas for the purpose of commercial development. I hope the Senate will accept the amendment.

Mrs. KASSEBAUM. Mr. President, I wish to address a question to the senior Senator from Maryland.

Is this not an issue, however, that every regional airport authority has to answer? They have to make these decisions and we hope they will do it in the best interest of the long run of that airport. Why should they not be allowed to make that same decision that we feel confident they would regarding Dulles or National?

Mr. MATHIAS. I think there is some indication at Dulles that there may be encroachments. I think we are on notice. I think that we have a particular responsibility. This is land which belongs to the people of the United States. It is in our custody; we are the trustees of it.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mrs. KASSEBAUM. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. TRIBLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes 58 seconds.

Mr. TRIBLE. Let me say my reason for my additional delay in responding to the Senators from Maryland is that yesterday, the Senate approved a Metzenbaum amendment that already precludes all nonaviation use of these properties. The terms of the amendment provide specifically that the properties can only be used for "activities necessary and appropriate to serve passengers or air cargo and air commerce or for nonprofit and public use of facilities."

I accepted that amendment because I agree with the proposition that the perimeter should not be used for commercial purposes. But I do believe the airport should have the right to use these properties for activities that bear on the operation of the airport—such as general aviation maintenance facilities, fuel farms, these kinds of things.

I wonder, quite frankly, whether, first, this amendment is necessary in view of the Metzenbaum amendment or, second, whether it does go beyond that, because I would have to insist that the airport have the right to use the perimeter for purposes that are important to airport services. But as I say, we by our action yesterday have already foreclosed the possibility that these properties could be used for nonaviation use.

Mr. SARBANES. Will the Senator yield?

Mr. TRIBLE. Yes, I will be happy to yield.

Mr. SARBANES. It is not altogether clear in my judgment that that has been achieved. In other words, this amendment may in fact not be necessary, but I do not think that is certain by any means because the language in the bill on page 36 states:

> The real and personal property constituting the airports shall be used only for airport purposes.

It then says:

> In addition, property that is necessary may not be devoted to commercial building development.

But it then has an exception under which such property can be devoted to commercial building development, and that is to be found at the top of page 37, lines 1 through 3. It is that exception I am seeking to knock out of the bill. So it would be very clear. I would simply read:

> In addition, property that is necessary for additional runway development and property that serves as a perimeter buffer area at Washington Dulles International Airport may not be devoted to commercial building development.

It would not then go on to have a qualifier which would allow certain kinds of commercial building development. It seems to me that language ought to come out and make it very clear there is not going to be any commerical building development on property that is necessary for additional runway development, property that serves as a perimeter buffer area.

Mr. TRIBLE. I say to the Senator that if his purpose is to insure that the perimeter properties will not be used for commerical purposes, that has been accomplished by the Metzenbaum amendment. What troubles me is that this amendment would go beyond that and preclude those kinds of legitimate activities that are necessary for the proper operation of this airport. It is for that reason I am reluctant to accept the Senator's amendment.

Mr. SARBANES. I simply say to the Senator, unless we do this, I think there is a loophole left in this legislation that is going to allow commercial building development, under the qualifying circumstances at the top of page 37, to take place in the runway area and the perimeter buffer area.

Mr. TRIBLE. How much time remains?

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Virginia has 3 minutes, the Senator from Maryland has 30 seconds.

Mr. TRIBLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? The time of the Senator from Virginia?

Mr. TRIBLE. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TRIBLE. Mr. President, having run out of time on this amendment, I ask unanimous consent that I may speak to this amendment for such time as I require, from the time reserved to the manager of the bill at the end.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Mr. President, could the Senator just ask for 2 minutes, and then a minute for me to respond? There will not be any time left after a rollcall vote.

Mr. TRIBLE. I willingly and happily agree to 2 minutes on my side and 1 minute on my friend's side.

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

Mr. TRIBLE. Mr. President, I had hoped that we could resolve this without a vote, but it appears that we cannot.

The concern is that in some way these perimeter properties will be used for commercial purposes. That is not our intention.

By accepting the Metzenbaum amendment yesterday, we made it very clear that these properties would not be used for commercial purposes. Rather they could be used only for activities necessary to serve passengers or cargo in air commerce for nonprofit public use facilities.

I am concerned that to go beyond that, by way of this amendment, will prohibit the airport from using these perimeter properties, not for commercial use—that is not intended and that is not permitted by this bill—but, rather, for legitimate operations that support these airports, such as hangars, general aviation maintenance facilities, fuel farms, and that kind of thing. We cannot exclude these activities. We cannot deny total use of these properties.

Therefore, I oppose the amendment, and at an appropriate time I will move to table the amendment.

Mr. SARBANES. Mr. President, as my colleague has stated, the amendment is very simple. It says that there shall not be commercial building development in property necessary for runway development or sources of perimeter buffer area.

For the life of me, I cannot understand why you would want to have commercial building development take place on that property. It flies in the face of every safety requirement. It flies in the face of every requirement for future development of the airport.

We are told there is no intention to do commercial building development and then we are told that an amendment that makes it clear that it may

not be devoted to commercial building development is not acceptable. What is at work here? What is going to be done with these properties that is going to constitute commercial building development? The way the language is now written, such development would be allowed.

Mr. TRIBLE. Mr. President, the Metzenbaum amendment adopted yesterday forecloses for all time the possibility that these properties could be used for commercial purposes. But, very likely, Senator METZENBAUM recognized that we should not restrict the use of these properties for those activities necessary and appropriate to serve passengers, air cargo, air commerce. We should not go beyond that. We should reject this measure.

I move to table the Sarbanes amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. BOREN. Mr. President, the Senator from Vermont [Mr. LEAHY] is necessarily absent today. Were he present, he would have voted "no." I have been recorded in the affirmative and, therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Delaware [Mr. ROTH], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

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

The result was announced—ayes 57, nays 32, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—57

Abdnor	Garn	Lautenberg
Bentsen	Glenn	Laxalt
Boschwitz	Gore	Long
Chafee	Gorton	Lugar
Cochran	Gramm	Mattingly
Cohen	Grassley	McClure
D'Amato	Hatch	McConnell
Danforth	Hatfield	Metzenbaum
Denton	Hecht	Moynihan
Dodd	Heflin	Murkowski
Dole	Helms	Nickles
Domenici	Humphrey	Packwood
Durenberger	Inouye	Pressler
East	Kassebaum	Quayle
Evans	Kasten	Rockefeller
Rudman	Symms	Warner
Simpson	Thurmond	Weicker
Stennis	Trible	Wilson
Stevens	Wallop	Zorinsky

NAYS—32

Baucus	Exon	Melcher
Biden	Ford	Mitchell
Bingaman	Goldwater	Nunn
Bumpers	Hart	Pell
Burdick	Hollings	Proxmire
Byrd	Johnston	Pryor
Chiles	Kennedy	Riegle
Cranston	Kerry	Sarbanes
DeConcini	Levin	Sasser
Dixon	Mathias	Simon
Eagleton	Matsunaga	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Boren, for.

NOT VOTING—10

Andrews	Hawkins	Specter
Armstrong	Heinz	Stafford
Bradley	Leahy	
Harkin	Roth	

So the motion to lay on the table the amendment (No. 1771) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I take this opportunity to commend my colleague on the Commerce Committee, the Senator from Virginia [Mr. TRIBLE] for his outstanding performance as the committee leader and floor manager of S. 1017, the Metropolitan Washington Airports Transfer Act.

This bill was introduced 1 year ago this month. As an original cosponsor, Senator TRIBLE did a masterful job guiding the bill through several committee hearings and two complicated executive sessions. The committee vote on this measure, 12 to 4, is a tribute to Senator TRIBLE's negotiating talents.

Mr. President, it's not often that a first term Senator has the opportunity—and the challenge—of managing such a complex piece of legislation on the Senate floor. We have spent 9 days debating this measure. Senator TRIBLE's tenacity and endurance have been remarkable. He has patiently worked through a variety of procedural obstacles, including two cloture petitions on the motion to proceed. His skillful and knowledgeable approach to opponents' arguments and amendments is truly commendable.

I would be remiss if I failed to mention the efforts of Senator WARNER, whose expertise on this issue, dating back to the Holton Commission, has been invaluable to this endeavor. My sincere congratulations to my two colleagues from Virginia for a job well done.

Mrs. KASSEBAUM. Mr. President, the National-Dulles Airports transfer legislation is an important effort which has been successfully concluded in the Senate. I believe that Mr. TRIBLE and Mr. SARBANES have contributed in the very best tradition to a most constructive debate, which has informed the Members of the Senate on all aspects of the issue. Whether one would agree or disagree with the final outcome, it has been a successful and productive debate.

For me, the matter of transferring authority over National and Dulles Airports from the Federal Government to a regional authority is one of practicality and common sense. While there are many concerns in this matter, I believe the legislation shaped by our debate here is sound policy and in the best interests of the Nation and the capital area.

Mr. TRIBLE. Mr. President, in 10 days of debate, everything that needs to be said has been said time and time again. Now is the time for the Senate to work its will.

I yield back my time.

Mr. HEINZ. Mr. President, I rise today to express concern about S. 1017, a bill to transfer control and ownership of the Metropolitan Washington Airports to an independent airport authority.

My concern is not that I oppose the transfer of the airports in principle, not that I oppose the underlying purpose of the bill—to facilitate needed capital construction projects at National and Dulles Airports. Rather, Mr. President, I rise today because I believe that this bill represents the second attempt in as many months to engage in a fire sale of Federal assets on the floor of the Senate. This bill would transfer ownership to an independent airport authority, for the price of $47 million, airports that have been valued at $300 million by the Grace Commission. It would also allow the independent airport authority to issue tax-exempt bonds for capital construction that the Congressional Budget Office estimates would represent $366 million in foregone revenues to the taxpayers of this Nation. These foregoing revenues are particularly disturbing when one considers that with a simple authorization bill these same capital construction projects could be funded out of the airport and airway trust fund, which currently has a $7 billion budget surplus.

Obviously, there are many ways that one can add the figures in question here. But taking the simplest method of computation, we can fairly estimate that the transfer of these airports will result in a net loss to the taxpayers of $319 million—$366 million in foregone tax revenues less the $47 million purchase price.

I find this scenario all too reminiscent of another piece of legislation considered recently on the Senate

floor at the behest of the Department of Transportation.

The bill to which I refer authorized the sale of Conrail to a private bidder. As some of my colleagues will remember, there was a real controversy raised here on the Senate floor regarding whether or not the Federal Government and the American taxpayers were receiving the best deal, financial and otherwise, for Conrail. The controversy arose because at the time the bill to sell Conrail to Norfolk-Southern was being considered, there were two outstanding alternative offers to this proposal—the Morgan Stanley proposal, which was $200 million higher than Norfolk-Southern and would have entailed none of the tax losses or foregone revenues that would result from Norfolk-Southern offer and that we appear to be ready to accept in this airport bill, and the Allen & Co. bid, which would have provided $450 million more than the Norfolk-Southern offer. I might add that the Congressional Budget Office [CBO], in its analysis of the President's proposed budget for fiscal year 1987, has estimated that the Government would lose approximately $1.5 billion over the next 5 years under a sale of Conrail—$500 million in lost tax revenues and $1 billion in interest and dividend payments from Conrail. By subtracting from this figure the $1.25 billion that CBO estimates the Government will receive from Norfolk-Southern Corp. for Conrail, one can calculate that the net financial effect of this transaction on the Federal Government would be a $250 million loss.

The Conrail bill was the first bill considered by the Senate in the 2d session of the 99th Congress. The reason for this haste, according to the bill's proponents, was that we needed to get the Government out of the railroad business, which is of course all part of an overall effort to shrink the size of the Government and reduce our deficits and the burdens on our taxpayers. It did not seem to matter then, as it does not appear to now, that there was significant dissent from such bodies as, in the case of Conrail, the U.S. Department of Justice and the Interstate Commerce Commission, and in the case of the regional airport bill, the General Accounting Office and the highly esteemed Grace Commission. In fact we are being faced with a similar plea for urgency from the Department of Transportation—that this bill needs to be enacted in order to get the Federal Government out of the airport business.

What especially disturbs me is that both of these bills are being taken up ostensibly because we are pursuing lofty and important goals in the interest of the American public and the American taxpayer—to shrink the size of the Federal Government as a means to reduce our Federal budget deficit—goals so lofty that we can afford to rush to judgment in the face of well-documented facts and judgments of Federal agencies. Yet at the same time very few of us seem to be asking a far more fundamental and basic question. And that question is, At what cost are these properties being sold by the Federal Government? The answer in both cases, of course, is that both Conrail, and now the Washington airports, are being sold off by the Federal Government not at a profit, but at a significant cost—roughly $300 million in each case.

Mr. President, I believe that the Department of Transportation is making a mockery of the Senate's legislative process here. It has urged a deliberative body to move with haste, it has patently disregarded the reasoned and well-researched advice of several Federal and independent agencies, and in doing so, is acting in direct contradiction to its stated goals—to reduce the size and budget of our Federal Government. This type of legislation is entirely inconsistent with the imperative need to reduce Federal budget deficits.

When I first learned that the airport bill was scheduled to come before this body early in the session, so soon after the Conrail bill, I seriously considered offering an amendment to require the loss that the Federal Government will sustain through the sale of the airports be made up through an increase in the sale price for Conrail. Although I've decided not to offer this amendment, I think that it is important for all of us to stop and think for a minute about exactly what we are doing when we consider such legislation without considering the real costs involved.

I am concerned that the airport bill and the Conrail bill send the wrong signal to the administration and to the American taxpayer. To the administration, these bills suggest that when it comes to the privatization of Federal assets, we are a rubber-stamp Senate. I fear that sending this signal will only result in more sales of public assets at bargain basement prices.

To the American taxpayers, these bills say that we are not really serious about deficit reduction. It is as if the Government is saying, "we know that you agree with the principle of reducing the size of our Federal Government, so you won't mind if we take $300 million of your money each time we sell a railroad or a couple of airports." Mr. President, that is not the signal we should be sending.

I hope that on this bill, and on other such proposals that come before the Senate, that my colleagues will take a moment to think about whether the U.S. Senate should be engaged in conducting bargain basement fire sales of valuable public property.

Mr. HOLLINGS. Mr. President, as we prepare for final disposition on S. 1017, the Washington metropolitan airports transfer, I would like my colleagues to carefully consider exactly what they will be voting to do.

In recent months we've heard a great deal of talk in this Chamber about fiscal responsibility in Government. We talk about bringing the deficits down. We talk about balancing the budget. We vote for Gramm-Rudman-Hollings and nearly two-thirds of us vote for a balanced budget amendment. And then we all go home and tell the folks how fiscally responsible we are. Worse, we rail about waste, fraud, and abuse—then start $462 million of waste, fraud, and abuse right here on the floor of the Senate.

Today we have a chance to find out if we really do as we say, or whether all that talk was just a bunch of baloney.

In this era when the Federal Government is going deeper and deeper into debt—when we now spend $500 million a day just to pay the carrying charges on the national debt—I simply cannot believe what we are being asked to do today.

We are being asked to sell off Federal assets worth hundreds of millions of dollars for a mere $47 million.

We are being asked to endorse a plan for making $250 million in improvements at National and Dulles Airports at a total cost of $712 million.

And, most incredibly, we are being asked to do these things when we now have over $7 billion sitting in a trust fund that was created for the purpose of improving airports.

This proposal is more than just a giveaway of valuable Federal assets and a waste of the taxpayers' money. It is also a divestiture of Federal responsibility in an important area—the maintenance of first class air service in the Nation's capital.

What we really should be asking ourselves is this—"What would be the quickest and most cost-effective way to make the needed improvements at National and Dulles Airports?" "What would best benefit the taxpayers and the travelling public?"

The legislation before us today is not the answer. With congressional resolve and a commitment from the administration, we could do what needs to be done. We could take the needed $250 million from the airport and airways trust fund and perform the necessary renovation and expansion at the two airports. Why are we not considering this alternative?

The answer, sadly enough, is that no one wants to take the responsibility—not the Congress, not the President, not the Secretary of Transportation. Instead of taking the bull by the horns and making the needed airport improvements in the best way possible, we won't even ask for the money. Rather, we consider legislation to

transfer the responsibility to Richmond.

Mr. President, after months of rhetoric about fiscal responsibility here in this Chamber, it is time for the Senate to act accordingly. The issue is how to make millions of dollars' worth of improvements to the Washington area airports. Will we choose the one that will end up costing the taxpayers $712 million? Or will we look for a better way?

If we should pass S. 1017, then I really see no hope for us. We'll just continue to sell everyone who's still listening what a great bunch of fiscal conservatives we are, and then in the meantime turn around and perpetrate the kind of waste, fraud, and abuse that is characteristic of the legislation we are about to vote on.

I urge my colleagues to think carefully about what they are about to do. And I implore them to vote against S. 1017.

Mr. ROCKEFELLER. Mr. President, the extended debate over this measure in the Senate has raised many arguments—ranging from economic competition between Maryland and Virginia, philosophies toward privatization and the sale of public assets, whether or not the terms of the transfer reflect the taxpayers' interest, and considerations of airport noise and other matters of concern to residents of the metropolitan area. But none of this has shaken my basic belief that the transfer of authority for the airports is the best means available of upgrading facilities at these airports and facilitating air travel to and from the Nation's Capital.

To me, the main issue is the urgent need to make substantial capital improvements at both National and Dulles. I don't fault the FAA's daily management of these airports, but I really don't think there's any chance—in the current budget environment—that the Federal Government will commit the resources needed to expand facilities at National and Dulles.

It's not just a matter of the Reagan administration refusing to ask for such resources. How likely, in the midst of tense debates over budget priorities, is it that the Congress will appropriate over half a billion dollars needed for terminals, parking, roads, and other improvements at National and Dulles Airports? I'm confident that the proposed regional authority will obtain the financing needed for these improvements and turn these airports into first-class facilities.

I recognize that the transfer proposal has been opposed as favoring one part of the metroplitan area—northern Virginia, at the expense of another—Maryland. It's true that airports tend to be magnets of growth: that commercial development of the areas surrounding airports can bring great economic benefits to a local area. But the evidence doesn't support the fears of Maryland that its airport is destined to lose passengers to Dulles: on the basis of recent experience, at least, there is enough growth to keep all three airports busy and economically strong.

In principle, I have considerable reservations about proposals for privatizing functions of Government. I certainly don't support any large-scale turning over of public assets to private interests—or the general notion that most public services can necessarily be provided more efficiently by the private sector.

But I don't see the proposed airport transfer as setting a precedent for adopting the rest of the administration's privatization proposals. What this legislation represents is an effort to operate National and Dulles in the same way that virtually every other major airport in this country is operated. Airports, in fact, are typically operated by local or regional authorities—not units of Government. Aside from National and Dulles, the only other exceptions are the Baltimore and Honolulu Airports.

There is a legitimate issue, I think, as to whether the terms of the transfer are fair—and reflect the interest of the taxpayers who built and invested in these airports over the years. Since airports rarely change hands, there isn't much market experience on which to determine a suitable price. Under the legislation, the price to be received by the Federal Government would be $117 million: $44 million for the costs to the Federal Government that haven't already been recovered from airport users; $37 million as the cost of Federal retirement obligations and $36 million to Maryland. Alternative figures have been mentioned, but the methods of deriving them aren't necessarily based on the premise that the airports will continue to be operated as airports, on a nonprofit basis.

For example, I consider the proposal floated by a group of British investors last month to buy National and Dulles Airports for a price approaching $1 billion as wholly irrelevant to our debate. The intentions of these British investors would be to run the airports as private, profit-making businesses, which should be unacceptable to us. By the same token, I don't think it matters how much the land at National or Dulles is worth if put to some other use—if our purpose is to see them maintained as airports.

Finally, I'm troubled that the opponents of the pending transfer bill have not put forward alternative proposals which meet this area's needs for improved airport facilities. If there were a practical, alternative means of obtaining the required financing without relinquishing the Government's authority over the airports, I would be happy to consider it. But I don't think the traveling public is well served by perpetuating substandard conditions at National Airport or constraining the development of Dulles. The proposed regional authority, in my view, offers the best hope of meeting these needs, and I will support the transfer legislation.

AIR SAFETY SHOULD BE TOP CONCERN

Mr. BIDEN. Mr. President, I supported the amendment offered by the distinguished Senator from New Jersey, Senator LAUTENBERG, during debate on this bill. That amendment was not about whether the Congress should urge the President to rehire workers he rightly fired 4 years ago. Rather, the amendment correctly recognized that American travelers now face a dangerous situation in the skies, and the administration should not remain locked to a rigid policy while the air travel industry has gone through dramatic change.

Let me make one point clear—the air traffic controllers were wrong to strike and put public safety at risk. But now we are in a situation in which the public is again at risk. Demands on air traffic controllers have increased, the level of experience of controllers in the tower has not reached hoped-for levels, control tower equipment has not been able to meet demand, and as many as one-third of air traffic controllers—the ones with the most experience—are up for retirement in the next several years.

Mr. President, after the crash of Delta flight 191 near the Dallas-Fort Worth Airport last year, the Dallas Times Herald printed an in-depth series of articles on air safety issues. Those articles asked a very basic question: "'How safe are the skies?" Unfortunately, the answer was "not as safe as they could be." The Times Herald series showed that the shortfall in air travel safety is not caused by a single problem, but is the combination of a number of factors, including maintenance, relaxed or inconsistent regulations, human factors, the effects of deregulation and increasing strain on air traffic controllers—the problem we are addressing today.

With so many other problems in need of attention, improving conditions in airport control towers is not the only answer to improving the safety record of air travel and rehiring the fired controllers will not, by itself, answer all the problems that are based in the towers. But it is an important first step.

It has been argued, with some reason, that rehiring the fired controllers will cause turmoil in the ranks, will possibly create a morale problem. But the Lautenberg amendment was flexible: it allowed the Department of Transportation to adjust for this potential conflict. It was not a blanket

amnesty. Only those who could fit in well and could be expected to contribute to increased safety conditions would be allowed back.

Two important measures of air traffic controller effectiveness, incident, and near-miss reports, increased dramatically last year. These are danger signals we cannot continue to ignore. Public safety demands that we review the ban on rehire, and weigh it against the lives that can be saved. This resolution would have sent a message to the administration that it should consider all reasonable options in working to correct the growing concern over air safety.

Mr. DOLE. Mr. President, I would like to take just one moment to reaffirm my support for passage of the regional airport bill.

There are a few things the Federal Government—and only the Government can do well. Running local airports is not one of them.

Transferring control of National and Dulles Airports makes good sense from every aspect. Economically both the Federal Government and the consumer should benefit. And it should help to provide the best transportation system for the Washington metropolitan area—one of the fastest growing and most mobile in the Nation.

I understand the concerns of Senators SARBANES, MATHIAS, HOLLINGS, and others. But I believe everyone would agree, that this issue has been fully debated. I appreciate their hard work. And I want to especially acknowledge Senators DANFORTH, TRIBLE, WARNER, and their diligence on the bill.

Mr. President, final passage on this measure has been a long time coming. But now that we are here, I would like to urge my colleagues to vote for S. 1017.

BETTER AIR SERVICE FOR THE WASHINGTON REGION

Mr. SARBANES. Mr. President, the current debate in the Senate about the future of National and Dulles, which along with Baltimore-Washington International, are the region's three major airports, has raised a number of controversial issues. All agree that major improvements at the two federally owned airports are needed, but whether the airports should be transferred from Federal ownership and, if so, how and on what terms are more difficult questions. Unfortunately, the airport transfer bill now before the Senate is not the answer. It fails to recognize the fact that all three airports serve the National Capital area and that a fair competitive airport policy will result in better air services.

In 1984, Transportation Secretary Dole directed a Commission, chaired by former Virginia Governor Linwood Holton, to devise a plan for divesting the Federal Government of National and Dulles. Regrettably, the final report, not supported by a single Maryland representative on the Holton Commission, ignored a viable and sensible proposal put forth by the Maryland members.

The Maryland proposal recommended transfer of National to an interstate authority composed of three members each from the District of Columbia, Virginia, and Maryland, and representatives of the Federal Government in recognition of the national interest in the central airport serving the capital. Dulles would be transferred to Virginia, which could develop it in the same way Maryland has developed BWI, thus allowing those two airports, which compete with one another directly, to do so on an equal footing.

Placing National under a regional authority and selling Dulles to Virginia would avoid the deficiencies in the transfer bill now before the Senate. These deficiencies include:

First, unequal representation on the authority board governing the airports.

Second, cross-subsidization, permitting the authority to use profits from one airport to subsidize the other—for example, the highly profitable National underwriting Dulles—in unfair competition with BWI.

Third, an incredibly low price for both facilities in which hundreds of millions of dollars have been invested.

Fourth, the potential use of thousands of acres of land at Dulles for nonaviation business or activities.

Fifth, the power of the authority after the lease period to use the transferred properties for purposes other than an airport.

Sixth, A lack of adequate protections for the present employees at the two airports.

Seventh, the prospect of significantly increasing nighttime use and hence noise at National.

By focusing exclusively on National and Dulles and treating them as a single unit, the bill sets up a competitive situation unfair to BWI and places in jeopardy BWI's ability to provide high level service for the benefit of the entire region. At the heart of this problem is cross-subsidization between National and Dulles allowing revenues at one to be used to underwrite costs at the other.

Acknowledging the unfair competitive nature of such a practice, the airport transfer bill contains some provisions seeking to limit direct cross-subsidization. Unfortunately, these provisions contain a loophole, wide as a hangar door, that permits any revenues at one airport to be used for capital costs, like debt service and depreciation, at the other and permits some revenues, like concessions and leases, at one airport to be used for any costs at the other. Clearly, the loophole swallows the limitation.

If the cross-subsidization provision raises the prospect of unfair competition between Dulles and BWI, the selling price for the two airports makes the situation even worse. The authority established by the bill to buy and operate National and Dulles would be required to pay only $47 million over a 35-year period, to be financed with tax-exempt bonds.

Whatever the arguments for or against selling the airports, $47 million is hardly a serious price. Estimates of the two airports' value have ranged in the hundreds of millions and a group of private investors has offered $1 billion for them. While the issue of privatizing the airports is complex, the offer only underscores the ridiculously low price established by the bill.

While the cutrate price would be controversial in any circumstance, it is downright irresponsible in the context of today's deficit pressures on the Federal budget. Furthermore, the use of tax-exempt bonds represents additional significant revenue loss to the Treasury. Curiously enough at a time when the administration is seeking to end the use of tax-exempt bonds, it is proposing their use in this instance. All in all the sales package adds up to the Federal equivalent of a fire sale, and at a time when National and Dulles are increasingly profitable.

From both the fiscal and competitive perspectives, therefore, the proposed transfer is indefensible. It is further unacceptable because it would open the way to repeal of the limits on nighttime noise which Washington area residents fought long and hard to obtain.

Apart from a few, well-defined exceptions a 10 p.m.-7 a.m. curfew is now in effect at National. To minimize the impact of noise on the densely populated areas surrounding the airport, the required approach and takeoff patterns all follow the Potomac River; but the points at which pilots leave these patterns are located in large part over Maryland. All the communities which have successfully fought for the curfew now face the stark fact that the bill gives the authority power to ease the hard-won restrictions on operating hours and noise levels. They may, in time, Face round-the-clock airport operations.

The composition of the independent authority only adds insult to injury. Of its 13 members, 5 would be appointed by the Governor of Virginia, three by the Mayor of the District of Columbia, two by the Governor of Maryland, and three by the President. The airport transfer bill rides roughshod over the regional, and indeed national, interest in airport facilities serving the National Capital area. BWI and Dulles are, after all, equidistant from down-

town Washington, and both have important roles to play in the region's air transportation network.

BWI is proof that a State authority can turn a struggling airport into a stunning success. Fourteen years ago, Maryland purchased Friendship Airport from Baltimore, and with vision, hard work, and an investment in current dollars, of over $250 million, created an efficient and convenient airport. Virginia can certainly do as much with Dulles, and Maryland would welcome the competition Dulles would provide. Since National is a vital concern to residents of the District, Maryland, and Virginia alike, it belongs under a truly triparte local authority.

In sum, the problems facing our regional airports are real but they require fair and sensible solutions. These are not found in the airport transfer bill. It would be better for all the parties to seek a more balanced and constructive proposal, which would command a regional consensus. Then we could all get on with the job of providing quality air service for the National Capital area.

Mr. President, I yield to my colleague from Maryland.

Mr. MATHIAS. Mr. President, S. 1017, the bill to transfer Washington National and Dulles International Airports to a regional authority, clearly does not serve the public interest. The public in question is the local, national, and international constituency of the three airports serving the Washington metropolitan area.

While certain refinements were made as the bill progressed through the legislative process, we still have not eliminated the basic flaw in the bill—that is, the isolation of one of the three airports serving the Washington metropolitan area, the Baltimore-Washington International Airport.

The bill does not provide a balanced approach to all three airports serving the Washington metropolitan area. Instead of promoting harmony among the three airports, as it should, the bill threatens to promote a disquieting discord.

By serving to codify the isolation of BWI, the bill still gives Dulles a competitive advantage over BWI. National would be used as a "cash cow" to underwrite the user fee structure at Dulles. Our hopes of addressing that problem unfortunately were dashed yesterday when the Senate rejected the amendment to prevent cross-subsidization between the two airports.

The board, composed of representatives of Maryland, Virginia, the District of Columbia, and the Federal Government, will have difficulty functioning with BWI isolated from the scheduling of flights and other operational decisions at National and Dulles. Voting blocs are almost certain to develop in ways that will reduce effectiveness.

Beyond the equity problem, the bill is defective from the standpoint of the local community. It unravels the carefully crafted Washington Metropolitan Area National Airports Policy by lifting the 1,000-mile perimeter rule, eliminating the passenger cap and freezing the number of airline slots, and leaving open the possibility that the nighttime noise restriction may fall by the wayside.

The public needs a safe and convenient air travel system. Flight schedules at the three airports should be complementary. Competition should prevail between air carriers, but not between airports. The large demand today will grow steadily as we near the year 2000, and must be anticipated. We need to plan for the coordinated operation we need. The bill falls short of accomplishing that goal. I urge my colleagues to vote against S. 1017 when it is considered by the Senate today.

Mr. SARBANES. Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, we know that National and Dulles are well run and that is why the Congress has not paid any attention. We do have needs for expansion. The money is there in the airport and airway trust fund.

I put in a bill over a year ago, but you learn how to act as a minority. We cannot get it out. Otherwise, what we are doing now is waste, fraud, and abuse. In order to get the $250 million by way of bonds, it costs $712 million. So it is a $462 million waste, fraud, and abuse measure.

So do not come around voting for a balanced budget amendment and then waste the public's money right here on the floor. As John Mitchell said, "do not watch what we say, watch what we do."

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to thank all colleagues for their patience and understanding on this issue. We had a fair, clear deliberation.

I urge adoption of the measure.

The PRESIDING OFFICER. All time on the measure has expired.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. TRIBLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. TRIBLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Delaware [Mr. ROTH], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. HEINZ] would vote "no."

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] would vote "nay."

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

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—62

Abdnor	Gorton	Murkowski
Bentsen	Grassley	Nickles
Biden	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Chafee	Hecht	Pressler
Cochran	Helms	Quayle
Cohen	Inouye	Rockefeller
Cranston	Johnston	Rudman
D'Amato	Kassebaum	Sasser
Danforth	Kasten	Simpson
Denton	Kerry	Stevens
Dixon	Lautenberg	Symms
Dodd	Laxalt	Thurmond
Dole	Long	Trible
Domenici	Lugar	Wallop
Durenberger	Matsunaga	Warner
East	McClure	Weicker
Evans	McConnell	Wilson
Garn	Metzenbaum	Zorinsky
Gore	Moynihan	

NAYS—28

Baucus	Glenn	Melcher
Bingaman	Goldwater	Mitchell
Bumpers	Gramm	Proxmire
Burdick	Heflin	Pryor
Byrd	Hollings	Riegle
Chiles	Humphrey	Sarbanes
DeConcini	Kennedy	Simon
Eagleton	Levin	Stennis
Exon	Mathias	
Ford	Mattingly	

NOT VOTING—10

Andrews	Hawkins	Specter
Armstrong	Heinz	Stafford
Bradley	Leahy	
Harkin	Roth	

So the bill (S. 1017), as amended, was passed, as follows:

S. 1017

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 "Metropolitan Washington Airports Transfer Act of 1986".

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FINDINGS

SEC. 2. The Congress finds that—

(1) the two federally owned airports in the metroplitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interests of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of the limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) adequate congressional oversight of airport operation and development in the Federal interest can be provided through a lease-transfer mechanism which also provides for increased local control and operation.

PURPOSE

SEC. 3. (a) It is therefore declared to be the purpose of the Congress in this Act to authorize the transfer under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority to be created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control over the management, operation, and development of these important transportation assets.

(b) Nothing in this Act shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

DEFINITIONS

SEC. 4. DEFINITIONS.—In this Act, the term—

(1) "Airports Authority" means the Metropolitan Washington Airports Authority, an agency to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 7 of this Act, for the purpose of operating the Metropolitan Washington Airports under the terms of the lease and transfer agreed to in accordance with this Act;

(2) "date of transfer" means the date established for transfer by the Secretary and memorialized in the lease authorized by section 5 of this Act;

(3) "employees" means all permanent Federal Aviation Administration personnel employed on the date of transfer by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration;

(4) "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport, and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66;

(5) "Secretary" means the Secretary of Transportation;

(6) "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770); and

(7) "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

TRANSFER OF METROPOLITAN WASHINGTON AIRPORTS AND PERSONNEL

SEC. 5. (a) The Secretary is hereby authorized and directed to undertake all necessary actions to negotiate a long-term lease and related agreement for the transfer of authority over the Metropolitan Washington Airports and transfer of employees to a single, independent airport authority that conforms to the requirements for an "Airports Authority" set forth in section 7 of this Act. Authority to enter into a lease and agreement under this Act shall lapse two years after the date of enactment of this Act.

(b)(1) In consideration for the transfer of the Metropolitan Washington Airports, the Airports Authority shall make payments to or for the account of the United States, as specified in this subsection.

(2) Basic lease payments sufficient to repay to the United States the amount of hypothetical indebtedness of the Metropolitan Washington Airports shall be made to the Treasury of the United States, as determined by the Federal Aviation Administration as of the date of transfer in accordance with appropriate Federal financial directives, and at the imputed interest rate for such indebtedness on that date, within 35 years. The Comptroller General of the United States shall conduct an audit of the Federal Aviation Administration's determination of hypothetical indebtedness, and shall also report on any costs incurred for the Metropolitan Washington Airports not included in such determination.

(3) In addition to the consideration required for lease and acquisition of the Metropolitan Washington Airports under paragraph (2) of this subsection, the Airports Authority shall, not later than one year after the date of transfer, pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined appropriate by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, and an amount to represent the present value of the difference between (A) the future cost of benefits payable from the Fund and due the employees covered under section 9(e) of this Act that are attributable to the period of employment following the date of transfer, and (B) the future contributions that will be made by the employees and the Airports Authority under section 9(e) of this Act. In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(4) In addition to the consideration specified in paragraphs (2) and (3) of this subsection, the Airports Authority shall, not later than 1 year after the date of transfer, pay $36,000,000 to the State of Maryland, to be deposited to the credit of the Transportation Trust Fund.

(c) Transfer of employees shall conform to the requirements of section 9 of this Act.

(d) The lease of the real property that constitutes Washington Dulles International Airport and Washington National Airport, including access highways and any other facilities related to the airports, shall include provisions that conform to the re-

quirements of section 8 of this Act and shall further meet the following conditions:

(1) Operation, maintenance, protection, promotion, and development of the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area; and

(2) Such terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this Act.

(e) The transfer of all Federal property held by the Metropolitan Washington Airports not described in subsection (d) of this section shall be consistent with the provisions of this Act.

CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION

SEC. 6. It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause such improvement, construction, and rehabilitation to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 7 of this Act for any of the purposes identified in this section.

INDEPENDENT AIRPORTS AUTHORITY

SEC. 7. The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum shall be—

(1) authorized to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) independent of the State and local governments of the two jurisdictions;

(3) authorized to issue bonds from time to time in its discretion for public purposes, including the purpose of paying all or any part of the cost of airport improvements, construction, rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds fo such bonds;

(4) authorized to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(5) a corporation constituted solely to operate both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area;

(6) authorized to levy fees or other charges: Provided, That all revenues generated by the airports will be expended for the capital or operating costs of the airports;

(7) authorized to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this Act;

(8) subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority; exceptions to this requirement may be made by the official appointing a member at the time the member is appointed: Provided, That any such interest is fully disclosed and the member does not participate in board decisions that directly affect such interest; the Airports Authority shall include in its code developed under section 8 of this Act the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted; and

(9) governed by a board of thirteen members, as follows:

(A) Five members shall be appointed by the Governor of Virginia, three members shall be appointed by the Mayor of the District of Columbia, two members shall be appointed by the Governor of Maryland, and three members shall be appointed by the President with the advice and consent of the Senate; the Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(B) Members shall (i) not hold elective or appointive political office, (ii) serve without compensation other than for reasonable expenses incident to board functions, and (iii) reside within the Washington Standard Metropolitan Statistical Area, except that the members appointed by the President shall not be required to reside in that areas.

(C) Appointments to the board shall be for a period of 6 years; however, initial appointments to the board shall be made as follows: each jurisdiction shall appoint one member for a full 6-year term, a second member for a 4-year term and, in the case of Commonwealth of Virginia and the District of Columbia, a third member for a 2-year term. The Governor of Virginia shall make the final two Virginia initial appointments for one 2-year and one 4-year term. The President shall make initial appointments as follows: one member for a 6-year term, one member for a 4-year term, and one member for a 2-year term; subsequent appointments by the President shall be for a period of 6 years with all such Federal appointees subject to removal for cause.

(D) Nine votes shall be required to approve bond issues and the annual budget.

MINIMUM TERMS AND CONDITIONS OF LEASE

SEC. 8. (a) The lease authorized by section 5 of this Act shall be for a term of 35 years and shall, at a minimum, conform to and be consistent with the following requirements:

(1) The real and personal property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. In addition, property that is necessary for additional runaway development and property that serves as a perimeter buffer area at Washington Dulles International Airport may not be devoted to commercial building development which would return to the Airports Authority revenue in excess of the Airports Authority's costs directly related to such development. For the purposes of this paragraph, the term "airport purposes" includes a use of property interests (other than a sale) for aviation business or activities, or for activities necessary and appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the land leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such land in conformity with airport purposes, and (B) retake possession of such land should the Airports Authority fail to bring the use of such land into a conforming use within a reasonable period of time, as determined by the Secretary.

(2) The Airports Authority shall furnish without cost to the Federal Government for use in connection with any air traffic control and navigation facilities or weather-reporting and communication activities related to air traffic control at these airports, such areas of land or water, or rights in buildings, at the airports as the Secretary considers necessary or desirable for these purposes, including construction at Federal expense of additional space or facilities. In addition, all airport facilities shall be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, a charge may be made for a reasonable share, proportional to such use, of the cost of providing, operating, and maintaining the facilities used.

(3) All of the facilities of the Metropolitan Washington Airports shall, during the term of the lease, be available to the public, including commercial and general aviation, on fair and reasonable terms and without unjust discrimination, as these terms are used in section 511(a)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2210(a)(1)).

(4) In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures: *Provided*, That by a vote of nine members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) All regulations of the Metropolitan Washington Airports (14 CFR 159) shall become regulations of the Airports Authority upon transfer of the Metropolitan Washington Airports in accordance with this Act, and shall remain in effect until modified or revoked by the Airports Authority under its own procedures: *Provided*, That regulations concerning new-technology aircraft (14 CFR 159.59(a)), violations of Federal Aviation Administration regulations as Federal misdemeanors (14 CFR 159.191), and the Federal Aviation Administration air traffic regulations designated 14 CFR 93.124 (Modification of Allocation: Washington National Airport) shall cease to be in effect on the date of transfer and no limitation may be imposed on passenger levels: *Provided further*, however, during the term of the lease, that the number of operations authorized by the High Density Rule (14 CFR 93.121, et seq.) for air carriers at Washington National Airport may be changed only for considerations of safety.

(6)(A) Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and

obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports at the time of transfer of authority and jurisdiction over the airports under the lease and transfer agreement, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date of transfer, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) The procedure for disputes resolution contained in any contract entered into on behalf of the United States prior to the date of transfer shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising prior to the date of the transfer, shall be adjudicated as if the transfer of authority did not occur.

(C) The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to the provisions of section 8147 of title 5, United States Code, for compensation paid or payable after the date of transfer in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising prior to the date of transfer, whether or not a claim has been filed or is final on the date of transfer.

(D) Before the date of transfer, the Secretary shall assure that the Airports Authority has agreed to a continuation of all collective bargaining rights enjoyed before the date of transfer by employees of the Metropolitan Washington Airports.

(7) The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by the board and its employees.

(9) Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(b) The district courts of the United States shall have jurisdiction to compel the Airports Authority, its officers, and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

FEDERAL EMPLOYEES AT NATIONAL AND DULLES AIRPORTS

SEC. 9. (a) Not later than the date of transfer, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period commencing on the date of transfer. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date of transfer at or above the rates of pay in effect for such employees on the date of transfer;

(4) for credit during the 5-year period commencing on the date of transfer for accrued annual and sick leave and seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period commencing on the date of transfer which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before the date of transfer.

(b)(1) The Airports Authority shall adopt all labor agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the 5-year period commencing on the date of transfer, unless the provisions of the agreement provide for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) The arrangements made pursuant to this section shall assure, during the 35-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period commencing on the date of transfer shall be entitled, as a condition of any lease entered into in accordance with section 8 of this Act, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before the date of transfer.

(d) Any employee who transfers to the Airports Authority under this section shall not be entitled to lumpsum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance at the time of transfer, along with any unused sick leave balance at the time of transfer. During the 5-year period commencing on the date of transfer, annual and sick leave shall be earned at the same rates permitted on the day before the date of transfer, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) Any Federal employee hired before January 1, 1984, who transfers to the Airports Authority and who on the day before the date of transfer is subject to civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such law. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The Airports Authority shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability Fund such sum as is required by such section.

(f) An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) The Airports Authority shall allow representatives of the Secretary adequate access to employees and new employee records of the Airports Authority when needed for the performance of functions related to the period prior to the effectiveness of the lease. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

RELATIONSHIP TO AND EFFECT OF OTHER LAWS; APPROPRIATIONS

SEC. 10. (a) In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport, except as otherwise provided in this Act, during the period that the lease authorized by section 5 of this Act is in effect—

(1) the Metropolitan Washington Airports shall qualify as a "public airport" under the terms of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.), shall be eligible for Federal assistance on the same basis as any comparable public airport operated by a regional authority,

and shall be considered to have accepted a grant on the date of transfer;

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts;

(3) notwithstanding any other provision of law other than the provisions of this Act, the retention by the United States of fee simple title to the Metropolitan Washington Airports shall not subject these airports and the Airports Authority to any requirement of law that would not apply to an airport or airports not owned by the United States;

(4) the Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over the land described in "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686); and

(5) the authority of the National Capital Planning Commission, as provided in section 71d of title 40, United States Code, shall not apply to the Airports Authority: *Provided*, That the Airports Authority shall consult with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(b) Unobligated balances and obligated but unexpended balances of appropriations on behalf of the Metropolitan Washington Airports remaining in the fiscal year that includes the date of transfer shall transfer to the Airports Authority, but only to the extent that the Airport Authority agree to add an identical amount to the hypothetical indebtedness it assumes in accordance with section 5(b) of this Act.

CONCLUSION OF THE FULL TERM OF THE LEASE

SEC. 11. (a) the Airports Authority may extend the lease entered into under section 5(a) of this Act for an additional term of 15 years for the sole purpose of continuing to operate the airports under the terms and restrictions established in this Act.

(b) During the period of the lease the Secretary and the Airports Authority may negotiate a contract of sale for the transfer of the properties constituting the Metroplitan Washington Airports. Such properties shall not be sold until the Congress approves legislation implementing the terms of such contract.

(c) Upon approval by the Congress of legislation implementing the terms of such contract—

(1) title to all real property shall pass to the Airports Authority: *Provided*, That real property that is not then in use for airport purposes as defined in section 8 (a)(1) of this Act shall instead be reported to the General Services Administration for disposition under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.);

(2) the United States shall relinquish all jurisdiction (concurrent and exclusive) over the Metropolitan Washington Airports to the Commonwealth of Virginia; and

(3) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An Act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall be repealed.

STUDY RELATING TO CERTAIN TAXES

SEC. 12. (a) the Airports Authority shall conduct a study to determine whether and the extent to which the government of Arlington County, Virginia, should impose personal property and leasehold taxes at Washington National Airport.

(b) The Airports Authority shall submit to the Congress the results of the study required by this section within 12 months after the date of enactment of this Act.

AIRPORT SLOTS

SEC. 13. (a) The Secretary and the Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall—

(1) repeal the final rule regarding Slot Allocation and Transfer Methods at High Density Traffic airports, issued on December 20, 1985 (50 Fed. Reg. 52180), as in effect on the date of enactment of this Act; and

(2) after the date of enactment of this Act, not promulgate any rule or regulation or issue any order (other than on an emergency basis) relating to restrictions on aircraft operations at high density traffic airports designated in Subpart K of part 93 of title 14, Code of Federal Regulations (14 CFR 93.121 et seq.), that is inconsistent with the provisions of this section.

(b) Consistent with aviation safety, the Administrator shall, not later than 120 days after the date of enactment of this Act, provide by rule or otherwise for the recall and subsequent allocation pursuant to subsection (c) of this section of any air carrier or commuter operator instrument flight rule takeoff and landing operational privilege at high density traffic airports, hereinafter in this section referred to as a "slot", that is substantially unused. The provisions of this subsection shall not apply to any slot reserved for international operations or for essential air transportation (as defined in section 419 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1389)).

(c)(1) Consistent with aviation safety, the Administrator shall, not later than 120 days after the date of anactment of this Act, establish by rule or otherwise, after affording the opportunity for and considering public comment, a mechanism for the equitable allocation of slots to which Subpart K of part 93 of title 14, Code of Federal Regulations, applies, in accordance with the provisions of this subsection.

(2) The allocation of slots (other than on a basis consistent with paragraph (4) of this subsection) shall be made by a separate air carrier and commuter air carrier scheduling committee established for each of such high density traffic airports. The Administrator shall establish the composition of each such scheduling committee.

(3) The scheduling committee shall allocate and reallocate slots according to a time schedule to be established by the Administrator.

(4)(A) The Administrator shall, no later than 120 days after the date of enactment of this Act, and after affording the opportunity for and considering public comment, establish a special mechanism for the allocation of slots, to be utilized in the event that any scheduling committee is unable to reach agreement on the manner in which it will allocate slots within the time period established by the Administrator. Such special mechanism may include commitment of the issues involved to binding arbitration, lottery, lease by the Administrator (by auction or other market mechanism) of some or all of the slots currently in use at such airports, or any other non-market mechanism determined by the Administrator to be appropriate. The duration of any such lease or other allocation of slots shall be determined by the Administrator, after giving due consideration to the need for maintaining competition between and among airlines at high density traffic airports, the capital investment of existing users of slots at such airports, and the need for adequate air service to such airports from small- and medium-sized communities, except that no such lease or other allocation of slots shall remain in effect after December 31, 1988. Notwithstanding any other provision of law, the revenues generated by any lease of slots by the Administrator under this paragraph shall be credited to the Airport and Airway Trust Fund established in section 9502 of the Internal Revenue Code of 1954 (26 U.S.C. 9502). The Administrator shall also formulate a mechanism to allocate all new slots, voluntarily returned slots, and unused slots.

(B) Any allocation mechanism established by the Administrator under this paragraph shall be adequate to ensure the opportunity for new entry, to maintain essential air transportation, and to protect the access rights of commuter operators. In addition, the Administrator shall employ a method for the withdrawal of slots currently in use that ensures that no carrier incurs the loss of an undue proportion of its slots.

(d) No mechanism formulated or utilized under section 93.123 of title 14, Code of Federal Regulations, as in effect on February 1, 1986, or under this section shall be construed to create a permanent property right in any slot. Any such slot shall be public property, and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Administrator. Any such privilege may be withdrawn, recalled or reallocated by the Administrator for reasons of aviation safety or airspace efficiency, or to enhance competition in air transportation.

(e)(1) Other than on an emergency basis, the Administrator shall not promulgate any rule or regulation or implement any practice that restricts aircraft operation by means of slot controls at any airport or air traffic control facility other than those specified in section 93.123 of title 14, Code of Federal Regulations, as in effect on February 1, 1986, unless the Administrator first transmits to the Congress a written report justifying the need for such rule, regulation

or practice not less than 90 days before the effective date of such rule, regulation or practice.

(2)(A) No later than January 1, 1987, and every two years thereafter, the Secretary shall conclude a rulemaking to reauthorize or eliminate all high density traffic airport slot controls specified in section 93.123 of title 14, Code of Federal Regulations, and any other slot control created subsequent to such date by the Administrator. Each such rulemaking shall include a report to Congress concerning the extent to which the retention of slot controls at any airport, or the creation of new slot controls, is required in the public interest. Such report shall describe possible improvements in facilities or related air traffic control facilities or procedures that would allow slot controls to be reduced or eliminated, and shall describe any action taken by the Administrator to reduce or eliminate the need for such controls.

(B) No regulation imposing slot controls to which this paragraph applies shall have the force and effect of law after two years from the date on which it becomes effective, unless such regulation is reauthorized pursuant to subparagraph (A) of this paragraph.

(f) The Secretary and the Administrator shall make timely recommendations to the Congress regarding any additional statutory authority they consider necessary or appropriate to carry out the purposes of this section. In addition, the Secretary and the Administrator shall report annually to the Congress on the extent to which the allocation mechanisms established pursuant to subsection (c) of this section and any slot control regulations reauthorized pursuant to subsection (e) of this section have minimized barriers to entry at high density traffic airports.

SEPARABILITY

SEC. 14. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 15. (a) Notwithstanding any other provision of this Act, or any other law, or any regulation issued pursuant thereto, a person shall not be prohibited from operating an air carrier aircraft nonstop between Washington National Airport and any other airport which is located within 1,250 miles of Washington National Airport.

(b) Notwithstanding any other provision of this Act or any other law, the Airports Authority shall have no authority to issue any regulation imposing any such prohibition referred to in subsection (a) of this section.

SEC. 16. (a)(1) As recently as February 4, 1985, the Office of Management and Budget projected that deficits for Fiscal Years 1986 through 1990 would increase the federal debt by $697,289,000,000.

(2) Congress sought to remedy this problem of escalating debt by enacting the Gramm-Rudman-Hollings deficit reduction program, which was passed by both Houses of Congress and signed into law by the President on December 12, 1985;

(3) Even under Gramm-Rudman-Hollings, the federal debt is projected to grow to $2,323,100,000,000 in fiscal year 1987, $2,523,000,000,000 in fiscal year 1988, and $2,697,700,000,000 in fiscal year 1989;

(4) As a result, even Gramm-Rudman-Hollings will produce a federal debt which, by fiscal year 1989, will represent well over $10,000 for every man, woman, and child in the United States;

(5) The financial markets of the United States and the other industrialized nations of the world look to the government of the United States for leadership in the resolution of its deficit crisis; and

(6) The consideration of tax reform by the Senate of the United States without first making serious efforts to control the deficit will only succeed in enhancing the uncertainty in financial markets which those deficits create; Now, therefore,

(b) It is the sense of the Senate that tax reform should not be considered or debated by the United States Senate until a firm, definite budget agreement has been reached between the President and the Congress of the United States.

SEC. 17. The Food Security Act of 1985 established a milk production termination program intended to reduce the current oversupply of milk products, and

The Food Security Act of 1985 also provided that the Secretary of Agriculture should make purchases of specified amounts of red meat in order to offset the effects of the milk production termination program on the red meat market, and

The implementation of the milk production termination program has resulted in substantial declines in both current prices of red meat and future prices for red meat, and

Both cattle and dairy farmers would benefit from more stable red meat prices, and

Immediate action is necessary to counteract the adverse effects of the dairy diversion program: Now, therefore,

It is the sense of the Senate that the Secretary of Agriculture should immediately take the following steps to address the current instability in the red meat market—

(1) The Department should increase the present purchase of red meat and defense distributions during the first bid period, which has been announced by the Department to be from April 1, 1986 to August 31, 1986. The purchase should proportionately reflect the presently scheduled 633,176 cows; 216,970 heifers; and 165,900 calves, which are to be slaughtered during each disposal period in the program. The red meat purchases should reflect the number of cattle that are slaughtered each disposal period in the program:

Specifically, the Department should immediately begin purchasing more of the 200 million pounds of red meat that are to be purchased during the milk production termination program during the first disposal period. This purchase amount is in contrast to the 130 million pounds that the Department is presently scheduled to purchase during the first disposal period. Further, the Senate expresses its concern that the Department has not scheduled the present purchase of 130 million pounds until April 14, 1986 for canned meat and April 21 for frozen ground beef. These purchases do not correspond to the April 1 starting date of the first disposal period.

The Department should accomplish this purchase goal by expediting school lunch purchases and domestic feeding program purchases to begin in April rather than the traditional month of July. Toward the same end, the Department should act immediately on the provision of the law that requires that the meat be channeled through the Department of Defense.

(2) The Department should move approximately two hundred thousand dairy cows and corresponding heifers and calves, which are presently scheduled during the first disposal period, to later periods by moving those producers who submitted multiple bids at the same price. The move should be conducted on a voluntary basis. Any changes in the disposal period should be consistent with the existing contracts with dairy producers who are participating in the program.

(3) The Department immediately should take additional steps as necessary to alleviate the concerns in the red meat industry regarding the adverse impact on total red meat supplies due to the additional dairy cattle that are being slaughtered. The Department should implement a plan to encourage proportional spacing of dairy cattle slaughter within each disposal period for producers in the program. This could include monthly and weekly targets for dairy cattle slaughter during the disposal periods to minimize jamming of slaughter house facilities occurring in some parts of the country.

(4) The Department also should take further steps that would offset any further damage to the red meat industry. Producers should be assured that the Federal Government will purchase a pound of red meat to offset every pound of red meat which enters the market as a result of the milk production termination program, and that the Department is taking other steps to provide for the orderly marketing of dairy cattle slaughtered under the program.

SEC. 18. (a) the Senate also finds and declares that—

(1) the Food Security Act of 1985 established the Dairy Termination Program intended to reduce the current oversupply of dairy products, and

(2) the Food Security Act of 1985 directs the Secretary of Agriculture to minimize the adverse price effect of the Dairy Termination Program on red meat producers through the use of timely and judicious administrative actions, and

(3) the implementation of the Dairy Termination Program has resulted in substantial declines in both the current and future prices for meat, and

(4) immediate corrective action by the Secretary of Agriculture, utilizing the broad discretionary authority available to the Secretary under the Food Security Act of 1985, is necessary to abate the precipitous decline in meat prices:

(b) it is therefore the sense of the Senate that the Secretary of Agriculture should immediately significantly modify the Department of Agriculture's policies relating to the Dairy Termination Program, report to the Congress not later than April 15, 1986, what corrective actions have been taken, and what legislative changes, if any, are necessary to further modify this program to abate the decline in meat prices in a reasonable and judicious manner.

Mr. TRIBLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. TRIBLE. Mr. President, people have talked about this action for years and they said it could not be done. I thank my colleagues for their patience, for their attention, and for their resounding vote in favor of the airports legislation. By a majority of

over 2 to 1, by a vote of 62 to 28, our colleagues have decisively approved this legislation. That result reflects the fact that this bill is fair, is balanced, and it serves the best interests of all our citizens.

I note, Mr. President, that the Senate has dedicated 9 days to this enterprise; that we have spent 44 hours and 22 minutes on this initiative; that there have been 15 rollcall votes and 23 amendments and motions considered. I want to say a word of thanks to a number of people.

First, to the majority leader for sticking with us and for giving us the time to make our case;

To Senators DANFORTH and KASSEBAUM, the leaders on the Commerce Committee, for permitting me to shape this bill and guide its passage through the often treacherous waters of the Senate;

To my partner and friend JOHN WARNER of Virginia, for his active support and good counsel;

To Senator SARBANES and to Senator MATHIAS both able adversaries, whom I have learned to respect for their intellect, their persuasive powers, and their grace;

To Senators INOUYE and ROCKEFELLER, my thanks for making a bipartisan bill possible;

To Gov. Linwood Holton for his able leadership in crafting the consensus that makes this day possible.

Then to a bright and very able group of folks that I would characterize as "The Team." They include:

From the Department of Transportation, Rebecca Range, Shirley Ybarra, Greg Wolfe, Dean Sparkman, Tad Hearlihy;

From the Commerce Committee, Pamela Garvie, Steve Johnson, Mary Pat Bierley, Kevin Curtin, and Allen Moore;

From my own staff, my able administrative assistant and right arm, Mark Greenberg;

And, of course, from Senator WARNER's staff, Lee Califf.

To all of these individuals, my special thanks. They are bright, they are precise, they are hard charging, and they are always there when needed with wise counsel.

To the Metropolitan Washington Airports leaders, Jim Wilding, the Director, and Dave Lawhead, my thanks for their advice and counsel as well.

It is a good result. It reflects the hard work and contribution of a lot of good folks. For that, I am most grateful.

Mr. WARNER. Mr. President, I join my distinguished colleague [Mr. TRIBLE] in praising Governor Holton, Greg Wolfe, Lee Califf, and the many others who worked on this bill.

I was privileged to be a member of the Holton Commission. I also extend my appreciation to the members of that Commission who crafted the foundation documents that led to the successful passage of this legislation.

Those of us who have fought hard for this bill also owe a great debt of gratitude to former Governor Robb of Virginia and Governor Baliles and the Mayor of the District of Columbia, Marion Barry.

As to my distinguished colleagues, the senior Senator from Maryland [Mr. MATHIAS] and the junior Senator [Mr. SARBANES], I thank them for their fairness and their cooperation, and we admire them for having represented their constituency with distinction.

Last, Mr. President, to my colleague, Mr. TRIBLE, whom I have been privileged to work with these many years, he has always admired a certain set of buttons that I have that I got from the U.S. Navy.

Mr. TRIBLE, I say to you, well done. As we say in the Navy, 4 to 0. You have won your buttons.

Mr. TRIBLE. I thank the Senator.

I happily yield the floor to whoever wants it.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, it is my intention to call up the hydrorelicensing bill which I have been directed by the majority leader to bring up at this time. Before doing that, I want to indicate that we are trying to work out all of the amendments that we are aware of in such a fashion that rollcall votes will not be required and, in the expectation that we shall be able to do that, to go as close to third reading and passage of the bill as it is possible to do in a very short period of time this afternoon.

Then if we accomplish that, I hope to set over the rollcall on passage of the bill to a time certain early next week. If we are capable of doing that, and I believe we can be, then we shall avoid any rollcall votes this afternoon. But I am in no position to announce that and I am certainly not announcing that there will not be rollcall votes this afternoon.

ELECTRIC CONSUMERS PROTECTION ACT

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 355, S. 426, the hydrorelicensing bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 426) to amend the Federal Power Act to provide for more protection to electric consumers.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be referred to as the "Electric Consumers Protection Act of 1985".

SEC. 2. Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)), as amended, is further amended—

(a) by inserting "original" after "hereunder or"; and

(b) by striking "and in issuing licenses to new licensees under section 15 hereof".

SEC. 3. Section 10 of the Federal Power Act (16 U.S.C. 803), as amended, is further amended—

(a) in existing subsection (a) after "water power development,", by inserting "for the adequate protection, mitigation, and enhancement of fish and wildlife,";

(b) in existing subsection (a) after "including", by inserting "irrigation, flood control, water supply and"; and

(c) by redesignating existing subsection (a) as paragraph (a)(1) and by inserting the following new paragraphs:

"(2) In order to ensure that the project adopted will be best adapted to the comprehensive plan described in paragraph (a)(1), the Commission shall consider:

"(A) the extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by—

"(i) an agency established pursuant to Federal law that has the authority to prepare such a plan; and

"(ii) the State in which the facility is or will be located; and

"(B) the recommendations of Federal and State agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, and cultural resources of the State in which the project is located, and the recommendations of Indian tribes affected by the project.

"(3)(A) Upon receipt of an application for a license, the Commission shall solicit recommendations for proposed terms and conditions to be included in the license from the agencies and Indian tribes identified in paragraph (a)(2) of this section.

"(B) If any recommendation for a proposed term or condition is received by the Commission at least thirty days prior to issuing any license under this section, the Commission shall explain in writing its reason for rejecting or modifying any such proposed term or condition.".

SEC. 4. Section 15 of the Federal Power Act (16 U.S.C. 808), as amended, is further amended—

(a) by striking subsection (a) through "terms and conditions to a new licensee," and inserting in lieu thereof:

"SEC. 15(a). If the United States does not, at the expiration of the existing license, exercise its right to take over, maintain and operate any project or projects of the licensee, as provided in section 14 of this Act, the Commission may issue a new license to the existing licensee upon such terms and conditions, taking into account existing structures and facilities, as may be authorized or required under the then existing laws and regulations, or to another applicant under said terms and conditions. If the existing licensee applies for a new license, the Commission shall issue a new license to such ex-

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isting licensee unless the Commission determines that the plans of another applicant are better adapted to serve the public interest. If the existing licensee does not apply for a new license, the Commission shall issue a new license to the applicant the plans of which are best adapted to serve the public interest. In either case, the Commission shall not issue a license unless it is satisfied that (1) the applicant is able to carry out such plans and (2) the plans represent a cost effective approach to achieving the benefits to be derived therefrom.

"(b) The Commission shall make its determination of which plans are best adapted to serve the public interest on the basis of—

"(1) how each plan would develop, conserve, and utilize the water resources of the region in accordance with the provisions of section 10(a) of this Act;

"(2) the relative economic impact upon customers served by each applicant upon the failure of such applicant to receive the license, including an assessment of the economic impact upon the customers of an applicant that is the existing licensee that would result from the difference between the compensation to be paid under subsection (c) of this section and the cost of replacement power;

"(3) the economic impact, in the case of a nonutility license holder, upon the operation and efficiency of the dependent industrial facility or related activity, its existing employees, and the surrounding community, if the existing licensee fails to receive the new license;

"(4) the ability of each applicant to operate and maintain the project in a manner most likely to provide efficient, reliable electric service; and

"(5) the need of each applicant for the electricity generated by the project or projects to serve its existing customers including customers served by any electric utility which receives power from the existing licensee.";

(b) by redesignating the remainder of subsection (a) as subsection (c);

(c) by striking "which license" and inserting in lieu thereof "A license issued under this section";

(d) by redesignating existing subsection (b) as subsection (d);

(e) by adding a new subsection:

"(e) A new license may only be issued for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall a new license be issued for a period of more than fifty years."; and

(f) by adding a new subsection:

"(f) Notwithstanding any other provision of this section, for projects using tribal lands embraced within Indian reservations, the original license for which was issued prior to October 1, 1985 and for which a new license has not yet become effective by such date, the Commission shall not consider the factors set forth in sections 15(b)(2) and 15(b)(5) in evaluating the plans of Indian tribes to which such lands belong that apply for a new license.".

SEC. 5. The amendments made by this Act shall not apply to any relicensing proceeding in which the Federal Energy Regulatory Commission has issued an order awarding a new license on or before July 31, 1985, regardless of whether such order is subject to judicial review, nor shall they operate to diminish the amount of the annual charge to be paid pursuant to section 10(e) of the Federal Power Act to Indian tribes for the use of their lands within Indian reservations.

SEC. 6. Section 30 of the Federal Power Act (16 U.S.C. 824), as amended, is further amended by striking subsection (b) and inserting in lieu thereof the following new subsection:

"(b) Exemptions granted under subsection (a) of this section shall be granted for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in questions. In no case shall an exemption be granted for a period of more than fifty years. The Commission may not grant any such exemption to any facility the installed capacity of which exceeds 15 megawatts.".

SEC. 7. Section 405 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705), as amended, is further amended in subsection (d) by inserting at the end thereof: "Exemptions shall be granted for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall an exemption be issued for a period of more than fifty years."

SEC. 8. Section 6 of the Federal Power Act (16 U.S.C. 799), as amended, is further amended after "fifty years" by inserting "unless the Commission determines a shorter period is desirable".

SEC. 9. The amendments made by sections 6 and 7 of this Act shall apply only to exemptions granted after the date of enactment of this Act.

SEC. 10. Section 3(17) of the Federal Power Act (16 U.S.C. 796(17)), as amended, is further amended—

(a) by adding a new paragraph (B) as follows:

"(B) Notwithstanding paragraph (A), no hydroelectric project shall be considered a small power production facility (other than for purposes of section 210(e) of the Public Utility Regulatory Policies Act of 1978) if such project impounds or diverts the water of a natural watercourse other than by means of an existing dam or diversion, unless:

"(i) such project is located at a Government dam; or

"(ii) such project meets terms and conditions set by fish and wildlife agencies under the same procedure as provided for under section 30(c) of the Federal Power Act;

"(iii) for the purposes of this paragraph, the term 'existing dam or diversion' means any dam or diversion that is part of a project for which a license has been issued on or before the enactment of this paragraph, or which the Commission determines does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) except for the addition of flashboards (or similar adjustable devices);"; and

(b) by redesignating the existing paragraphs.

SEC. 11. Section 26 of the Federal Power Act (16 U.S.C. 820), as amended, is further amended—

(a) by redesignating existing section 26 as "section 26(a)"; and

(b) by adding the following new subsections:

"(b) The Commission may—

"(1) after opportunity for a hearing on the record revoke for significant violation of its terms any permit, license, or exemption issued pursuant to this part; and

"(2) issue such other orders as it deems necessary to ensure compliance with the provisions of this part, or of any lawful regulation or order promulgated thereunder, or of any permit, license, or exemption issued pursuant to this part.

"(c) The Commission may institute proceedings in the district court of the United States in the district in which the project or part thereof is situated for the purpose of enforcing an order of the Commission under subsection (b) of this section. The court shall have the same powers as provided for under subsection (a) of this section.".

SEC. 12. Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource,

(b) alter, amend, repeal, interpret, modify or be in conflict with any interstate compact made by the States, or

(c) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

Mr. McCLURE. Mr. President, I am pleased that the Senate has turned to consideration of S. 426, the Electric Consumers Protection Act of 1985. This is important legislation, because it resolves a number of issues affecting the Federal Government's issuance of new licenses for certain hydroelectric power projects upon expiration of each initial license. The relicensing process, and particularly the selection of one licensee from competing applicants, has extremely important economic consequences for the electric utility ratepayers who presently benefit, or seek to benefit, from this Nation's hydroelectric resources.

Hydroelectric power is a major renewable energy resource available to millions of Americans, and it has the advantage of being immune from the whims and vagaries of world energy prices. During the decade of the 1970's, when a series of energy shocks swept our Nation, our awareness of the value of hydroelectric power was considerably heightened.

The true value of the hydroelectric resource can be measured in terms of its relatively lower cost of production, and its stabilizing influence on the cost of electricity to the consumer. We recognize the exceptional value of this energy source, and we must ensure the fair and equitable distribution of the benefits of that resource to consumers. Nothing could be gained by encouraging an arbitrary selection system that would award the benefits of hydroelectric power solely on the basis of the nature of the entities seeking those benefits.

Unfortunately, the relicensing issue addressed by S. 426 has become clouded by the misconception that this is a private power versus public power

controversy. That is not the case at all. This is a resource issue, and in that context S. 426 favors neither public nor private power interests. As reported by the Committee on Energy and Natural Resources, S. 426 is neutral as to public versus private power concerns, but the legislation does take a strong stand in favor of the customers of existing licensees. It is a simple fact that loss of a license by either a privately owned or publicly owned utility would not only increase electricity rates to its customers, it might also adversely affect the utility's overall system reliability. Thus, the committee concluded that the public interest would be best served by legislation which tends to favor existing licensees, whether privately or publicly owned, rather than another entity.

Mr. President, at this point I shall describe in greater detail the so-called preference issue, which is the major issue resolved by the bill. Pursuant to the Federal Power Act, licenses are issued by the Federal Energy Regulatory Commission [FERC] to non-Federal public and private entities for the construction and operation of hydroelectric power projects. Such licenses may be issued for a term of up to 50 years. At the end of the term of the initial license, a new license may be issued for the project, or the United States may take over maintenance and operation of the project. If a new license is issued, it may go to the original licensee or to a new licensee.

Section 7(a) of the Federal Power Act recognizes that the issuance of a license may be the subject of competition between applicants, and it directs the Commission to choose that application which it finds best adapted to develop, conserve, and utilize in the public interest the water resources of the region. In the event that the Commission finds competing applications equally well adapted, the act directs the Commission to give preference to the applications of States and municipalities.

In 1980, the FERC concluded that the municipal preference applied to relicensing proceedings. Three years later, it reversed its position. The issue is now pending before the U.S. Court of Appeals for the District of Columbia Circuit. The crux of the issue is who will receive the extremely valuable rights to the power production from a facility up for relicensing.

It is evident that the loss of a hydroelectric license would result in higher electric prices for the customers of the licensee. For a utility gaining a new license to an existing facility previously operated by another licensee, a windfall would be received.

Interest in this issue has been heightened because of the large number of licenses which are due to expire in the next few years. Between now and the year 2000, 294 licenses will expire which involve 502 dams with a production capacity of 3,629 megawatts. These licenses are held by both investor-owned utilities and municipalities. Approximately 40 percent of the total installed licensed capacity in the United States is held by public power corporations; 55 percent is held by investor-owned utilities; and the remainder is held by direct industrial end-users, other private developers, and rural electric cooperatives.

These facts readily demonstrate the importance of the preference issue. A large number of utilities and other entities hold hydroelectric project licenses that either have expired or will expire within the next few years. Each of these licensees must continue to plan its future operations, and the question of the license renewal is an important—if not critical—element of that process. Certainly, each licensee is entitled to be able to assess, with a reasonable degree of accuracy, the prospects for renewal of its license. S. 426 would enable licensees to conduct that assessment, by clarifying the preference issue as it relates to the relicensing process.

Mr. President, through the concerted efforts of the senior Senator from Wyoming [Mr. WALLOP], and the ranking minority member of the committee [Mr. JOHNSTON], the Senate is able to consider this important measure at this time. As chairman of the Committee on Energy and Natural Resources, I extend my sincerest appreciation for their efforts and express my admiration for their spirit of cooperation in dealing with and resolving this important and potentially divisive legislative issue.

Mr. President, I thank the members of the Energy and Natural Resources Committee for the assistance that they have given in resolving the issues both within the committee and in the markup and since with respect to agreed-upon amendments which will be offered and accepted this afternoon. I particularly commend the distinguished ranking minority member, the junior Senator from Louisiana [Mr. JOHNSTON] for his usual consistent assistance in getting matters of this kind brought to the floor in an expeditious way.

Mr. JOHNSTON. Mr. President, it has been a real pleasure to work on this bill with the distinguished chairman of the Energy Committee as well as the Senator from Wyoming [Mr. WALLOP]. Mr. WALLOP and I initially started out on this issue from different directions and met on a compromise which we think serves the interests of the Nation and the particular economic and electricity concerns that are inherent in the bill. We think we have a very good bill.

Mr. President, the problem of hydro relicensing has to do with those hydroelectric dams built 30, 40, maybe even 50 years ago that now are supplying electricity, by and large, to a group of investor-owned utilities. Those licenses are now expiring and the question is who should get the license upon the expiration. Of course, the utilities which now have those licenses think they ought to get it and get it automatically because they built it; they have it; they are operating it; their customers have an interest, they think a vested interest, in a continuation of that.

The city group, the municipal group, thinks there ought to be a municipal preference so that at the expiration it should transfer over to the cities and transfer over to them with the payment of little or no compensation—well, really, under the law very little compensation.

Either one of those alternatives, Mr. President, seemed unjust, unworkable and improper to us. We thought that the test ought to be the public interest, and consequently we fashioned a bill which involves a test of the public interest, which we think is about as precise as the mind of man, at least the minds of men of reasonably limited ability, that is, Senator WALLOP and I, could devise after a lot of work. I think it is a pretty good test. What it says is that the Commission shall decide this matter based on a number of factor such as, first, how each plan, that is, the plan for taking over the dam, would develop, conserve and utilize the water resources of the region. Second, the relative economic impact upon customers served by each applicant upon the failure of such applicant to receive the license, including an assessment of the economic impact upon the customers of an applicant, that is, the existing licensee that would result from the difference between the compensation to be paid under section C and the cost of the replacement power. In other words, you look at the economic impact upon the customers if you get the license or if you do not get the license. Third, the economic impact in the case of a nonutility license holder upon the operation and efficiency of the dependent industrial facility or related activity, its employees and the surrounding communities. Fourth, the ability of each applicant to operate and maintain the project in a manner most likely to provide efficient, reliable electric service, and finally the need of each applicant for the electricity generated by the project or projects to serve its existing customers including customers served by any electric utility which receives power from the existing licensee.

So what we do is we look at the customers, we look at the reliability of the electricity, we look at the economic impact upon everyone. It is not an exact mathematical test because

indeed a mathematical test is impossible to confect in this kind of situation. But it is a situation that in effect measures the greatest good for the greatest number according to what you might call sandlot justice.

We think it is in that respect a good and fair and workable bill.

Mr. President, hydroelectric generation—the use of falling water to produce electricity—is one of our most desirable energy resources. It's clean and inexpensive compared to other alternatives. For these reasons everybody wants it. Today we move to consider legislation which will determine how a significant portion of the Nation's hydropower is going to be shared in the future. S. 426, The Electric Consumers Protection Act of 1985, would specify the rules under which existing hydroelectric projects not owned by the Federal Government are to be relicensed. The stakes for electric consumers in this matter are high. The gain or loss of a project by a utility as a result of relicensing will generally have a corresponding effect on its electric rates.

Those of the Nation's utilities that control or could potentially control existing non-Federal hydroelectric projects have focused intense concern on Congress' deliberations. On one side of the relicensing debate, electric utilities owned by municipal and State governments claim that as public bodies they have a special right to obtain existing projects for their own customers, regardless of the rate increases that would befall electric consumers already served by those projects. On the other side, investor-owned utilities argue that projects should remain with those who presently control them, whether publicly or privately-owned, unless the award of a license to another entity would better serve the public interest. In order to understand the merits of these positions, some explanation of Federal hydroelectric regulation is helpful.

The Federal Power Act requires nearly all hydroelectric projects now owned by the Federal Government to be licensed by the Federal Energy Regulatory Commission [FERC]. Hydroelectric licenses are issued for a maximum of 50 years, convey the exclusive right to operate a project, and may be the subject of competition between different license applicants. At the end of a license term, a project may be relicensed to the existing licensee or transferred to another applicant upon payment of minimal compensation.

In the initial competitive licensing of a project, FERC is required to issue a license to the applicant whose plans for a proposed project are best adapted to serve the public interest. However, if two license applicants submit plans which are equally meritorious—that is there is a tie, and if one of the applicants is a municipal or State entity, FERC is required to issue the license to the municipal or State applicant.

Mr. President, the principal question now before Congress is whether the tie-breaker preference that favors public power entities in initial licensing should apply in relicensing as well. That question is also before the D.C. Circuit Court of Appeals in the Merwin case. A decision by the court in favor of a public power preference is likely to result in a flood of relicensing applications by publicly-owned utilities and ultimately the transfer of significant numbers of existing hydroelectric projects away from investor-owned utilities and the customers they serve. Unless Congress acts, the court will probably decide the matter based on evidence of Congress' intent in 1920 when the predecessor to the Federal Power Act was enacted. Given the dramatic and unexpected changes that have taken place in the world since 1920, the question of preference in relicensing should not be left to a determination of past legislative intent.

Mr. President, the Committee on Energy and Natural Resources has concluded that a public power preference should not apply in relicensing and that the public interest would best be served by providing a tie-breaker preference for existing licensees, regardless of whether they are publicly or privately-owned. Accordingly, the committee voted 16 to 1 to report S. 426 favorably.

I strongly support enactment of S. 426 because I believe that simple fairness demands a tie-breaker in favor of existing licensees. Unless a competing license applicant can show superior stewardship under a broad public interest standard, there is simply no good reason for the customers of an existing licensee to suffer a rate increase as a result of project transfer, merely so that the rates of a competing applicant can go down. The arguments advanced by public power interests to support a contrary position are wholly unpersuasive.

It has been claimed that a tie-breaker in favor of municipal and State applicants is necessary in order to ensure that State and municipal utilities—which tend to be smaller than investor-owned utilities—have the incentive to compete for existing projects. Such competition is good, it is argued, because it ensures that relicensing results in project improvements.

Mr. President, hydropower is a public resource, and project improvements are a worthy goal. However, the practical opportunities for project improvements in relicensing are limited by the fact that the projects are already built and are thus difficult to alter in any fundamental way. The opportunities that do exist, while potentially significant, are likely to be apparent to all parties, including FERC. FERC has the existing legal duty to require improvements in the public interest regardless of competition. Thus, the value of competition is diminished in the context of relicensing.

Furthermore, as established in testimony before the Committee on Energy and Natural Resources, the fact that the opportunities for project improvements in relicensing are generally apparent means that ties among competing applications are likely. In short, Mr. President, the provision of a tiebreaker preference for publicly-owned utilities would make possible what one newspaper has called the public power "power grab."

Public power supporters have additionally argued that municipal and State utilities should be favored because they are operated for public benefit, whereas investor-owed utilities and other private corporations are operated for private gain. This consideration may have some validity in the context of intial licensing—although municipal and State utilities must themselves generally obtain private sources of capital and provide a return. However, in the context of relicensing the distinction is immaterial. Investor-owned utilities earn negligible profits on their projects currently coming up from relicensing due to the age of the projects and the manner in which the profits of investor-owned utilities are regulated. For all practical purposes, investor-owned utilities pass on the full cost benefits of hydroelectric projects to their ratepayers.

Ultimately, therefore, relicensing presents a conflict between different groups of consumers rather than the different kinds of utilities that serve them. The equities of that conflict hardly favor consumers served by public power.

One might think, Mr. President, that municipal and State utilities are somehow have nots with respect to licensed hydropower. To the contrary, however, public power entities and investor-owned utilities presently control comparable amounts of existing non-Federal hydroelectric capacity—39 percent and 50 percent respectively. Yet public power serves only a small minority of the Nation's electric consumers, and thus, on a per customer basis, publicly owned utilities control approximately four times more licensed capacity than their investor-owned competitors. As a result of this and other substantial advantages, notably tax-exempt financing and preferential access to all federally generated hydropower, the customers of publicly owned utilities enjoy average retail rates that are nearly 30-percent less than those of investor-owned utilities.

Given all these facts, the provision of a tie-breaker preference in relicens-

ing for publicly owned utilities is indefensible. It would amount to nothing less than a taking from the many for the benefit of the already privileged few.

Having said all this, Mr. President, I hasten to emphasize that S. 426 is not directed against public power. To the contrary, the bill would ensure that the customers of publicly owned utilities, as well as those of investor-owned utilities, are protected against the economic disruption of project transfers unless the award of a license to a new licensee would better serve the public interest. I believe that publicly owned utilities are a valuable and essential part of the system we have in this country for generating and delivering electricity. Let no one make the mistake, therefore, of thinking that S. 426 is the first step toward privatizing the Federal power marketing administrations, for example, or doing away with the power marketing preference enjoyed by public power. I certainly would oppose any such efforts.

Mr. President, I have focused on the relicensing preference issue and its relationship to investor-owned and publicly owned utilities because I believe it is the most important matter resolved by S. 426. I would be remiss, however, if I did not mention some of the other significant provisions of S. 426. The bill would specify a set of specific criteria to be used by the FERC in evaluating competitive relicensing applications in the public interest. In addition, S. 426 would make a number of improvements with respect to the treatment of environmental considerations in hydroelectric development. For example, the bill limits the availability of PURPA benefits for projects at new dams, requires more comprehensive consideration of State resource agency license recommendations, and gives FERC greater enforcement powers over licenses.

In closing, Mr. President, I would like to thank the sponsor of S. 426, my good friend from Wyoming, Senator WALLOP, for his dedication to achieving a just resolution of the relicensing issue. I also want to thank the distinguished chairman of the Energy and Natural Resources Committee, Mr. McCLURE, for his leadership in helping to bring S. 426 to the Senate floor. The bill has been crafted in a spirit of bipartisan cooperation. I am gratified to have been part of that undertaking.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, first I would like to ask for the yeas and nays in connection with the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, one of the good things about this body is that two people can look at the same piece of legislation, in this case three people, and come up with a totally different perspective as to its value. This Senator believes that this bill should be called the "Private Utility Protection Act." Its purpose is simple and direct, to give private utilities a perpetual stranglehold on a valuable public resource and to crush public power competitors.

Now, we are told this is proper consumer legislation. That matter probably belongs before the Federal Trade Commission because it is false advertising.

In the short term, rates of some existing customers may be maintained; in the long run, though, this legislation limits competition. It reduces the likelihood of new entrants challenging existing private power monopolies; as a result, the downward pressure on rates that robust competition would exert will never materialize. We all know what that means: Fatter profits for utilities and higher rates for consumers.

We will hear a lot of rhetoric about how the present law will result in a massive transfer of licenses to municipals and huge rate hikes.

Indeed, that has been the basis of the lobbying campaign on this bill.

But now the truth is coming out; those claims were sophisticated, trumpted-up deceptions designed to cloak this bill in a pro-consumer mantle.

Utility executives have publicly admitted that the threat of wholesale transfer and subsequent rate increases never existed; now that they have mislead and scared the Senate into acting, they are cleansing their consciences by telling the real truth. But going to confession on Sunday is not sufficient to cleanse the record with respect to their acts the other 6 days of the week.

In a recent Wall Street transcript, the chairman of Pacific Gas & Electric, the most indiscriminate purveyor of the transfer/rate hike claim, stated:

> If the law does not go through the Congress, and the law remains as presently interpreted by the courts that there is such a preference, that doesn't mean ipso facto that municipals get to take over the project, because it still is clear in the law that the FERC applies the preference only if the two applicants are in equally good standing in what they propose to do with the project.
>
> If one applicant would develop the river resource in a more comprehensive, beneficial, economic way than the other, that party gets the project.
>
> And we would expect to prevail on that basis by showing that our plans for the future development of these projects are superior to those of our competitors. We expect to win on that basis.

Well, let us take a look at that.

"We expect to win on that basis." What happened to this question of massive transfers that he and the utility industry have been talking about? What happened to the claims that current law was biased to municipalities? With the law as is, this gentleman indicates that we expect to win on that basis.

The original claims have apparently disappeared on the eve of passage.

Besides destroying competition in the industry, this bill will result in less efficient use of public resources.

It does so by creating standards that are so skewed to incumbents that no prudent municipal will invest the millions necessary to seek a license.

Once again, the public loses and private power wins.

The record is clear that vigorous compentition for hydro licenses has resulted again and again in a wiser, more efficient use of the public's water resources.

The GAO has documented that competition over existing sites has resulted in improvements in power production potential, new fish and wildlife mitigation measures and new or improved recreational facilities.

Private license holders have been forced by challengers to amend and improve their original applications; with this bill, the impetus for such amendments will disappear.

The requirement to establish financial and technical feasibility could be used against challengers to incumbent licensees. For example, the technical capability standard works against a newly formed public power company with no prior experience in operating a hydroelectric facility.

In its Merwin decision, FERC made it clear that it will always favor a company with a proven track record against the promises of a challenger:

> Although we find it difficult to balance PP&L's (the private applicant) good operating record against JOA's (the municipal) lack of such record, we have concluded that PP&L's demonstrated performance is more convincing that JOA's promises.

Further, the phrase "cost effective approach" is ambiguous. Suppose one applicant's plans are more cost effective with respect to power production and another applicant's plans are more cost effective with respect to environmental and recreational factors?

The economic test contemplated in the bill is vague and unworkable. It will be reduced to a numbers game where the winner will always be the applicant serving the most customers. In almost every case, that favors the IOU's.

The language "relative economic impact upon customers served by each applicant upon the failure to receive the license" (section 15(B)(2)) is confusing. Suppose the rates of one applicant's customers would come down 5 cents while the rates of the competing applicant's customers would come down $1? Who does that favor? Also, customers are not defined. Are we talking about customers directly

served by the utility or also wholesale customers?

The second part of the economic impact test—"an assessment of the economic impact upon customers of an applicant * * * that would result from the difference between the compensation to be paid and the cost of replacement power"—is biased toward incumbents.

A current holder who has benefited from cheap hydro for 50 years will always be able to show some negative impact upon loss of the license. For a competitor, failure to receive the license simply means maintenance of the status quo, which is not, by definition, a negative impact.

Also, competing applicants have had to develop alternatives to not having the power in question for 50 years, including long term wholesale contracts and energy conservation programs. On the other hand, current licensees will claim tremendous negative impacts which may never occur because there is no requirement that their ability to implement conservation programs and to continue receiving power at cost from the site be taken into account.

Continuing, the term "replacement power" is vague. How do you determine the cost of replacement power? Would it not make more sense to refer to the least expensive alternative sources of energy and to explicitly state that savings from conservation should be taken into account?

Over what period do you calculate relative economic impact? Can it be calculated 50 years in advance? Even FERC confessed in its Merwin opinion that—

> The record does not permit a determination of precise costs and rate impacts on PP&L and JOA of relicensing the Merwin project upon which the Commission could reasonably rely with confidence.

In fact, even PP&L conceded in its filing that:

> The circumstances of the case preclude a neat arithmetical calculation determining the exact economic impact in each of the next fifty years.

The "ability to operate and maintain" standard will, like the technical capability test, always favor incumbent license holders against newly formed municipals.

The need standard is also overwhelmingly favorable to incumbents, because it includes wholesale customers as part of a utility's needs. Bulk sales occur when there is excess capacity. Why should that be considered part of a utility's needs? Excess capacity should weigh against a licensee, not in favor of them. Further, there is no requirement that FERC consider the extent to which the challenger will meet the needs of the wholesale customers—as well as the direct customers.

What if a wholesale customer is the competing applicant? Why should a private utility be allowed to count their needs as part of its own.

There is much more to criticize. Suffice it to say that, in the final analysis, it is the special interests who are served by this bill, not the public interest.

With regard to new environmental and comprehensive planning requirements in section 3 of the bill, I was pleased at the inclusion of new language by the committee. I was most dismayed, however, that the committee report accompanying the bill sought to minimize the importance of this language by saying "section 3 does not impose any new duties or obligations beyond those which the FERC is already subject to under existing law now would it modify current FERC practice" (p. 8).

While strong argument can be made that FERC should be developing plans and coordinating closely with the plans of other agencies of all levels of government with regard to how hydropower licensing is handled in a river basin wide context, it is totally false to suggest that FERC is doing this in practice.

The committee heard much testimony to the effect that FERC has long operated as something of a "lone wolf," much to the frustration of many who have had to experience working with it.

The committee report, by implication, appears to endorse current FERC "practice," even though the agency over the past 2 years, has had an abominable record defending its practices below the courts.

The 1984 Escondido Supreme Court decision repudiated FERC's contention that it could override Federal land management agencies' conditions.

The subsequent Tulalip Tribes decision by the ninth circuit voided FERC's overbroad interpretation of its exemption authority, and the Confederated Tribes and Bands of the Yakima—Rock Island Dam—decision soundly criticized FERC's NEPA practices and its manner of handling fishery issues in relicensing. Other more recent cases have underscored concerns that the hydroelectric programs at FERC have major problems in their implementation.

This, I simply cannot agree that the committee report accurately describes the circumstances regarding the Commission's "practices" as affected by testimony we heard which underscored the committees' adoption of the new language.

Mr. President, is the manager of the bill prepared at this point to move with respect to the amendment I am prepared to offer, or are there other opening statements?

Mr. McCLURE. Mr. President, the Senator from Washington indicated that he desires to make an opening statement before the amendments are offered.

Mr. METZENBAUM. I will withhold until he has concluded his statement.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, my opening remarks will be short.

The three Senators who have spoken before me have spoken wisely, I think, and all have a view of the bill with which I agree in part. So I find myself, perhaps, with a fourth opinion on the relative importance of the elements of this bill.

One thing I do know is that this bill will be of more importance to Washington State than any other State in the Nation. There are a larger number of hydroelectric projects in my State which would be covered by relicensing. Such projects create more electricity and there is a balance currently between publicly and privately owned utilities with licenses that would cause us to be more affected than any other part of the country. While Washington State is involved directly to a larger extent than other States, the Northwest region, with its integrated power distribution system through Bonneville, is certainly affected. And, of course, the whole Nation will be affected by this bill.

This is a much more important bill than the title might indicate. Hydro relicensing is a subject which would send most people outside the Chamber with rapidity. But it is important for the industrial future of the Pacific Northwest, terribly important for the economic well-being and stability of our State. And it is important to try to moderate, if we cannot end, the fights between public and private power utilities which have gone on for years, decades, generations, in this Nation.

In fact, I cut my political eye teeth more than 25 years ago, as a member of the Washington State legislature, on just such a bitter, difficult fight between publicly owned and privately owned utilities over who should have rights to a certain valuable public resource.

The question of who should get a license, however, is less important than the issues surrounding the increasingly competitive uses of our water resources. We think of water as a common resource, except in the arid parts of this country, as relatively abundant. But it has unquestionably become increasingly valuable, and today there are increasingly numerous and competitive uses for the same water.

In the great river systems of the Pacific Northwest, we have created the largest generating capacity and distribution system for hydroelectricity this Nation, and perhaps the world, has ever seen. But those same rivers and that same water harbors one of the

largest fish runs, or used to harbor one of the largest fish runs, of any in the world—that of the Columbia River system. Those runs have been seriously damaged by the construction of hydropower dams.

In the Pacific Northwest, we are attempting to bring those resources back by the wise use of water and making the passage of fish and the generation of electicity more compatible. But that is not all this water is used for. It is a major transportation system to bring agricultural products from Idaho, eastern Oregon, and eastern Washington down the Snake and Columbia River system to the deep-water ports at the mouth of the Columbia. Those dams have created very large and successful flood control benefits for the downstream population. Water from these streams has created enormously productive agricultural areas in the great Inland Empire of eastern Washington, some of the most productive anywhere in the country. Of course, people from all over the country use the waters of this system for recreation.

So the question really ought not be a fight between publicly and privately owned utilities, for certainly that is only a minor portion of what should be the major issue before us. The broader concern is over the wise use of this increasingly valuable resource—water. We cannot and should not descend into bitter squabbles between publicly and privately owned utilities. By doing so, we miss the important and main concerns of this legislation.

I am pleased that in the Energy and Natural Resources Committee we took actions, through adoption of various amendments, to move us toward this larger concern. We added proposals that, in my view, will bring the fish and wildlife responsibility to the fore and treat it as an important factor in any relicensing proceeding before the FERC.

We have narrowed the term of licensing from 50 to 30 years under most circumstances. I offered that amendment for the reason, that each generation, or every 30 years, we ought to have the opportunity to take another look, to see if the current use fo that water resource for hydroelectric energy is still the highest priority and the best use of that water.

In these and many other ways, I believe we have crafted a bill that does address these broader interests. I do not believe, however, that we have, at least as yet, gone far enough. Therefore, I hope that during the course of the debate on this bill there will be further amendments agreed to by the managers on both sides. If not, I will pursue at least a couple of amendments which will further this important goal—the important goal of recognizing water as a resource—and not just confine ourselves to this narrower and contentious problem of who, a privately or publicly owned utility, should receive a new license.

Mr. McCLURE. Mr. President, I take this time only to add one footnote to the conversations that have taken place here.

I think the Senator from Washington, whose State is as much affected by this legislation and these policies as any State in the Union, would also recognize instantly the truth of what I am about to say, and that is that this bill does not affect the licenses only of investor-owned utilities. It regulates the competition between competing utilities, be they investor-owned or public bodies. Am I not correct?

Mr. EVANS. The Senator is correct. In fact, we may well find that in future relicensing applications the competition may well be not just between a public owned and privately owned utility. It may be among several privately owned utilities or between two publicly owned utilities.

Mr. McCLURE. And some of the more severe impacts in the Senator's State or in my State might be competing applications in which the existing license is held by a public body and another public body is the competing applicant?

Mr. EVANS. The Senator is correct. I think that is perhaps the most likely case in many of the projects in our State.

Mr. McCLURE. I take the time to say that only because I do not want it to be cast solely in the terms of the old public versus private debate. It is a different kind of a problem and this bill addresses it and produces a different kind of a result.

Mr. EVANS. I think the Senator is correct in pointing that out. I would add those intraparty squabbles, if you will, between competing publicly owned utilities are just as deleterious to our region as the kind of squabbles that might break out between a privately owned and a publicly owned utility or, for that matter, two privately owned utilities.

The issue and the concern is much broader and much deeper and we ought not to let our focus drift away from that.

Mr. BURDICK. Mr. President, may I ask the Senator from Louisiana what is the intent of this legislation?

Mr. JOHNSTON. I thank the Senator from North Dakota. This bill is intended to reaffirm the preference for States and municipalities in original licensing of hydroelectric projects, while making that policy inapplicable in the relicensing of these projects.

Mr. BURDICK. Does this bill affect the development, pricing, or marketing of power from Federal dams?

Mr. JOHNSTON. No, it does not. I fully support the continuation of the marketing preference afforded States, municipalities, rural electric cooperatives, and public agencies as well as the Federal role in developing these projects, and current Federal power marketing practices.

Mr. BURDICK. I thank the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the Senator from Maryland.

Mr. THURMOND. Mr. President, the legislation before us today, S. 426, is needed to clarify existing law regarding relicensing applications for hydroelectric projects. Over the past few years, the courts and the Federal Energy Regulatory Commission have seesawed back and forth in decisions as to whether municipally owned or investor-owned utilities should be granted a preference in relicensing procedures. This measure would amend the Federal Power Act to specify that preference in a relicensing application be granted to the existing license holder if the two competing applicants are equal. Such preference for existing license holders is equitable and should be made law.

Mr. President, this measure has strong bipartisan support as evidenced by the 16 to 1 vote it was approved by in the Energy and Natural Resources Committee. S. 426 has the backing of consumers across our Nation as it protects them from electric rate increases which could result from the transfer of hydroelectric projects. I urge my colleagues to support the swift adoption of this legislation.

Mr. D'AMATO. Mr. President, I rise today to reiterate my support for S. 426, the Electric Consumers Protection Act. I commend my colleague, Senator WALLOP, for his leadership on this issue. This bill responds to an issue of basic fairness and equity for millions of consumers. At stake are billions of kilowatt-hours of low-cost hydroelectricity. That inexpensive power could be taken away from the vast majority and made available to only a small segment of this country's consumers who, by geographic happenstance, are served by government-run State or municipal utilities if this legislation is not enacted

This is a matter of extreme importance to New Yorkers, since our State is rich in hydroelectric power. This important consumer issue is arising with increasing frequency in the relicensing of existing projects throughout the country. Congress must ensure that no Americans are forced to pay higher electric bills due to a preferential policy that would allow government-run utilities to take away this low-cost energy from millions.

A little background will help to make clear the inequities inherent in such a preferential policy. Hydroelectric projects are licensed by the Federal Energy Regulatory Commission for periods of up to 50 years. When the initial license expires, the existing licensee must file an application with

FERC for a new license if it wishes to continue to operate these valuable projects. At the time of relicensing, other applicants may file applications for the new license in competition with the existing licensee. If a competing application is judged on the merits by FERC to be better adapted to develop the resource, the competitor should, and would, receive the new license for the project.

Because of a lack of clarity in the Federal Water Power Act of 1920, now the Federal Power Act, and several conflicting interpretations by the Federal Energy Regulatory Commission in recent years, the law is now unclear whether competing State and municipal utilities are to be given a preference against existing private licensees at the time of relicensing these projects. If State and municipal licensees have a preference, they will be able to take away hydroelectric projects from existing licensees and their customers simply by filing plans to develop the water resource that are only as good as the existing licensees, not better. Thus, by reason only of the government status of such potential competitors, the low-cost hydroelectric power would be transferred from millions of consumers of existing licensees to the relatively small segment of consumers who happen to live in an area served by a State or municipally operated electric utility. This arbitrary transfer of benefits does not make sense.

If the existing licensee has had a good track record of operating these projects in the public interest and FERC determines the licensee would continue to do so in the future, it should receive the new license. Why cause the economic hardship and disruption associated with transferring ownership of these valuable assets when the public interest in utilizing the resource would not be served as well by the new owner?

The unfairness is readily apparent. In March 1985, for example, municipal competitors were trying to take away 11 hydroelectric projects from private utilities that had developed, operated, and maintained them for the benefit of their customers for periods of up to 50 years or more. Over 8.5 million customers benefited from these 11 projects operated by the existing licensees. The competing municipal utilities had only 955,000 electric customers. This is a 9-to-1 ratio. Using 1983 prices and data, those 8.5 million customers realized, in that year alone, fuel-cost savings based on equivalent fossil fuel generation of approximately $308 million, and such equivalent fuel-cost savings occur year after year. With approximately 177 investor-owned utility hydro projects coming up for relicensing by December 31, 1993, and more after that, these same comparisons will be arising across the country.

In New York State, Niagara Mohawk Power Corp., New York State Electric and Gas Corp., and Rochester Gas and Electric Corp. hold licenses for 33 projects. The licenses for 15 of those projects, representing 39 individual plants and approximately 380 megawatts of capacity, are up for relicensing between now and 1994. Fuel cost savings from these projects for the consumers of New York State amount to tens of millions of dollars each and every year.

Why should Congress allow a policy that could have the effect of making the vast majority of electric consumers in New York worse off for the sake of a handful who will benefit? Already, customers of State and municipal utilities, which represent approximately 13 percent of the electric customers in the country, have preferential access to 68.3 percent of the hydroelectric project capacity in the country. This is because Federal law already give them: First, a preference to obtain initial licenses to develop new hydroelectric sites and, second, a preference to purchase low-cost power generated at federally owned and operated hydroelectric projects. Because the customers of private utilities, which represent 76.5 percent of the country's electric consumers, have none of these preferences, they have only 31.6 percent of the country's hydrolectric capacity. Given these facts, I do not believe it is good public policy for the small segment of electric consumers served by municipal utilities to receive through a relicensing preference even more of such inexpensive electricity simply because of the government ownership status of the electric utility that provides them service.

In New York, hydroelectricity helps to moderate the cost of electricity for millions of consumers served by the New York investor-owned utilities having a generating mix that includes more expensive fossil or nuclear generation or both. If these utilities lose their hydroelectric projects, their cost of electricity will increase. Consumers should not be forced to bear the burden of increased electric rates, no matter what the amount, in order to benefit a relatively small segment of preferred consumers whose only claim on the resource is that they happen to be served by State or municipal utilities.

During the course of congressional hearings on this subject, Mr. William T. Bagley rendered a statement on behalf of the National Association of Regulatory Utility Commissioners with regard to the public policy question of whether a preference should exist. In expressing his support for the House version of the Electric Consumers Protection Act, Mr. Bagley observed that never have so few tried to take so much from so many for so little.

Congress must act now to protect the vast majority of electric consumers by ensuring fair competition for this valuable, low-cost form of electricity in order that it be spread equitably among as many consumers as possible. S. 426, the Electric Consumers Protection Act, would do just that. I am pleased to join in supporting this important legislation.

AMENDMENT NO. 1772

(Purpose: To amend section 10(h) of the Federal Power Act regarding anti-trust laws and policy)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] for himself and Mr. MCCLURE proposes an amendment numbered 1772.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

At the end of the Committee Amendment insert the following:

"SEC. 13. Section 10(h) of the Federal Power Act (16 U.S.C. 803(h)) is amended by redesignating section 10(h) as 10(h)(1) and adding a new section 10(h)(2) as follows:

(2) That conduct under the license that: A) results in the contravention of the policies expressed in the antitrust laws; and B) is not otherwise justified by the public interest considering regulatory policies expressed in other applicable law (including but not limited to those contained in Part II of this Act) shall be prevented or adequately minimized by means of conditions included in the license prior to its issuance. In the event it is impossible to prevent or adequately minimize the contravention, the Commission shall refuse to issue the license to the applicant."

Mr. METZENBAUM. Mr. President, this amendment is the product of painstaking negotiations between Senator JOHNSTON, Senator MCCLURE, and myself. It is a compromise in the truest sense of the word.

I think it is extremely significant that it mitigates some of the anticompetitive aspects of this bill.

Finally, I wish to single out and commend the work of Bill Conway, of the Energy Committee minority staff, and Gary Ellsworth and Jim Beirne of the majority staff, for work done on this amendment.

I know at times the negotiation resembled the torture chamber and I appreciate everyone sticking with the process.

The amendment which I have offered is intended to clarify the application of antitrust laws and policies ex-

pressed therein to hydroelectric licensing and relicensing proceedings.

Mr. McCLURE. I commend the Senator from Ohio for his amendment which does provide clarification. However, I do have one question. Does this amendment require a nexus between conduct under the license and a contravention of the policies expressed in the antitrust laws?

Mr. METZENBAUM. yes, it does. FERC shall consider all relevant administrative and judicial precedents in making this analysis.

Mr. McCLURE. I thank the Senator and appreciate his response.

I would also like to make clear that this amendment is not a criterion to be applied in selecting an applicant in a relicensing proceeding. It merely required conditions to be imposed on a selected applicant in appropriate circumstances. The amendment does indicate that FERC shall refuse to issue a license in the event it is impossible to prevent or adequately minimize a contravention of the policies expressed in the antitrust laws which is not otherwise in the public interest. However, frankly I cannot conceive of a situation in which appropriate conditions could not be set.

I would like to make clear that this amendment does not alter in any way the public interest standard which is applied in selecting an applicant in an initial licensing proceeding.

Mr. METZENBAUM. Mr. President, I urge the adoption of the amendment. I think that the managers are prepared to accept it.

Mr. McCLURE. Mr. President, the Senator is correct.

I think anybody looking at this amendment would be amazed that it is the product of 4 months of intense negotiations because on the face of it it does not look that way, but it seriously is that, and I think it is a good product.

I thank the Senator from Ohio, the Senator from Louisiana, and their respective staffs and the committee staff for having made it possible to reach this agreement. I appreciate the cooperation of all those who have been involved in it.

I support the amendment as offered and indeed I am a cosponsor of the amendment.

Mr. JOHNSTON. Mr. President, I am delighted that this very contentious and difficult matter could be worked out amicably. It did indeed require 4 months because it is a difficult matter and it has been settled.

In that spirit, I wish the Senator from Ohio could say some nice things about the bill as a whole now that it will contain his handiwork. It makes a great bill even greater.

Mr. METZENBAUM. The Senator from Louisiana makes a reasonable request, but I am not quite in a position to indicate that kind of enthusiasm for the bill.

But as some way of accommodating his wanting me to offer greater praise, I do want to say that it was not I who sat through those torturous negotiations, but Doug Lowenstein, of my staff, who was a party to it, and deserves much of the credit with the others I have previously mentioned for having brought about that result.

Having said that, I will say this amendment makes a bad bill a little better but does not really make it very good.

Mr. JOHNSTON. Mr. President, I am informed by my staff who did negotiate with the Senator's staff and with Doug Lowenstein on this matter that he indeed did do an excellent job, does deserve a lot of the credit, and I might suggest that he stand in for the Senator on the floor. This matter might be handled with greater expedition if he does.

Mr. METZENBAUM. I have no problem with his doing that. If I could get unanimous consent to that effect, I am sure he will handle it well.

The PRESIDING OFFICER. Is there further discussion on the amendment,

Mr. GORE. Mr. President, I wish to speak on the bill itself.

The PRESIDING OFFICER. Will the Senator withhold? We are now on the amendment which we are just proceeding to adopt.

Mr. GORE. I withhold.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Without objection, the amendment (No. 1772) is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Thank you, Mr, President.

I rise to speak against this legislation. I commend those who have worked long and hard to bring it to the floor of the Senate, and I commend those who have worked hard to improve it.

But in spite of the negotiations that have taken place and in spite of the amendments that have been agreed to, this is still fundamentally a bad bill, in my opinion, and should not be enacted into law.

I realize that it will be enacted into law and I realize that my views are in the minority within this body but I would, nevertheless, like to state my views: It is a poor proposal essentially for four reasons:

First, it undercuts the basic premise that the Nation's rivers belong to all its citizens and cannot be ceded in perpetuity to private parties.

Second, it rejects the principle that competition for licenses is an effective means for insuring comprehensive water development in the public interest.

Third, it ignores the real-world implications of monopoly tendencies in the electric utility industry.

Fourth, it discards the historical reasoning that resulted in passage of the Federal Water Power Act of 1920 to protect the public interest.

Today, we take for granted that the Nation's waterways belong to the people. But that was not a universally accepted idea at the turn of the century. On the contrary, private power companies maintained that ownership of the land adjacent to the rivers gave rise to rights to use the rivers which were subserviant only to Federal interests in navigation. Congress refused to accept this theory, and eventually the idea of public ownership of the resource was reflected in the Federal Water Power Act of 1920, which established public preference in licensing and relicensing and the Federal recapture provisions of the law.

That law codified the concept that the water resources of our country are owned by the people and should be developed in so far as possible for their benefit.

A second major theme in the long history of the act—the end result of nearly two decades of congressional struggle—was the refusal to allow perpetual control. This thought was stated in 1908 in the veto of the Rainy River bill by President Theodore Roosevelt. President Roosevelt spoke at that time about the award by Congress of special permissions to use certain river reaches. He said this in his veto message:

> The present policy pursued in making these grants is unwise in giving the property of the people and the flowing waters to individuals or organizations practically unkonwn, and granting in perpetuity these valuable privileges in advance of the formulation of definite plans as to their use.

Existing law reflects President Roosevelt's point of view by limiting the term of the permit awarded for use in a particular site and insuring opportunity of new users to benefit from use of the location.

Another central element in the development of water power legislation was the fear of monopoly control over water and over the generation and distribution of electric energy.

The report of the Inland Waterways Commission to President Roosevelt in 1908 expressed the concern in the following was:

> In the light of recent progress in electrical application it is clear that over wide areas the appropriation of water power offers an unequalled opportunity for monopolistic control of industries.

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President Roosevelt and Congress reacted to that concern by not only limiting license terms but also by setting up antimonopoly preference provisions for public bodies to prevent potential abuse of monopoly power by private parties.

The comprehensive development test was a fourth feature of the 1920 law which retains its validity today.

Public policy makers recognized that the rivers were clearly suitable for a multiplicity of uses from power production to navigation to irrigation to recreation. But only power production produces revenue. There was a fear that private companies would seek only to exploit power production to the detriment of other useful purposes to which the river might be put, and that profit maximizing might block full use of the potential of the waterway.

For that reason, the 1920 statute directed the Government to issue licenses to those applicants whose plans are "best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power developments, and for other beneficial public purposes. * * *" Because many believed that public agencies would be better trustees of this public resource than private corporations, they were accorded a licensing preference.

Thus, history shows us four major themes embodied in the existing law which governs licensing of hydroelectric plants—public ownership of the resource, control of monopoly power, prohibition against perpetual rights, and a commitment to comprehensive development.

S. 426 does damage to all four ideas.

It takes away the preference granted to smaller, nonprofit, consumer-owned electric utilities in the licensing of hydroelectric projects and substitutes an assurance that existing licensees will keep a public resource forever. By effectively eliminating competition by public bodies, the bill abandons the comprehensive development test and enhances the monopolistic position of the Nation's largest private power companies.

A quarter of a century ago, a man I never met but whose words I admire—Gus Norwood, former executive director of the Northwest Public Power Association—said this:

> Within the common law a large body of laws, principles and precedents has become established on the subject of perpetuities.
>
> The gist is that perpetuities are contrary to the public interest.
>
> A similarly large body of law and tradition has grown in the United States on the subject of monopoly.
>
> The gist is that monopolies are against public interest.
>
> It follows that a monopoly in perpetuity is doubly against the public interest.
>
> If the United States intends to relicense automatically all outstanding licenses issued by the Federal Power Commission, then there is no point in discussing the terms of the license. Practically, the term is perpetual. Some people think 50 years is already too close to perpetuity.
>
> The legislative history of the Federal Power Act not only does not support the idea of licenses in perpetuity, but indeed is focused sharply on preventing and abolishing the idea of licenses in perpetuity. That's what this is all about.
>
> It is well also to understand just what a license amounts to. There is much confusion on the meaning of an FPC license. Firstly, it is not a sale of the dam site or a sale of the water. Secondly, it is not a contract, lease or rental arrangement. Thirdly, it is a privilege to occupy a site and produce power. Ownership in the dam site and rights to its use remains in the people of the United States. It is part of the public domain.

These are simple, straightforward words which explain some very large, important concepts which are violated by S. 426.

There is no need for this legislation. Private power company interests who have pushed it admit this themselves. Listen to the chairman of Pacific Gas & Electric Co., as quoted on preference in relicensing in the Wall Street Transcript:

> If the law does not go through the Congress, the law remains as presently interpreted by the courts that there is such a preference, that doesn't mean ipso facto that municipals get to take over the project, because it still is clear in the law that the FERC applies the preference only if the two applicants are in equally good standing in what they propose to do with the project. If an applicant would develop the river resource in a more comprehensive, beneficial, economic way than the other, that party gets the project. And we would expect to prevail on that basis by showing that our plans for the future development of these projects are superior to those of our competitors. We expect to win on that basis.

Only a handful of license applications are contested. But where they are, the competition has pushed private utilities to amend their applications with improved plans, including expanded power production, new fish and wildlife protection measures, and better recreation facilities for the public.

S. 426 uses an economic impact test to stack the deck in favor of the companies winning licenses. One "might-makes-right" element even suggests that the utility with the largest number of customers is the automatic victor, a principle which would assure that General Motors got every Government car contract and that Exxon fueled each such vehicle.

In short, Mr. President, S. 426 is giveaway legislation. It gives away public protections that have guarded our water resources for nearly three-quarters of a century. It is unnecessary and undesirable. And, in spite of the fact that I realize it has strong support here in this body, for reasons that I believe I understand, I will vigorously oppose this bill while, nevertheless, working with my colleagues to try to improve its eventual impact.

I yield the floor.

(Mrs. KASSEBAUM assumed the chair.)

Mr. BURDICK. Madam President, will the Senators from Idaho and Ohio affirm my understanding of the Metzenbaum amendment that nothing in this subsection shall be construed to vest the Commission with primary, exclusive jurisdiction over any allegation, claim, or other matter which could arise under antitrust laws? I address the question to the Senator from Ohio and the Senator from Idaho.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. BURDICK. Yes.

Mr. McCLURE. The answer to the question is, the Senator is correct. I think, from my discussion with the Senator from Ohio, he agrees that that is correct.

Mr. BURDICK. I thank the Chair.

Mr. MELCHER. Madam President, I, too, want to make a comment on the amendment worked out on antitrust by the Senator from Ohio, Senator METZENBAUM, and the Senator from Idaho, Senator McCLURE. I commend them on addressing what I believe to have been a rather serious flaw in the bill itself. Having made that correction, there is a reason to be confident that some of the serious antitrust problems that might arise can be either eliminated or taken care of properly.

There is one other point in the bill that is lacking as of now that I believe is essential, and that is to address wheeling services. I shall offer an amendment at some point which would balance the bill by addressing some of the problems smaller utilities have had in obtaining transmission or "wheeling" services from larger utilities.

This hydrorelicensing bill provides an opportunity to solve many of the transmission problems of smaller public and private utilities and rural electric cooperatives. This opportunity should not be wasted. Broader wheeling provides for efficient and fair distribution of electricity at reasonable rates to all consumers.

The amendment that I shall offer does not create a new wheeling requirement; instead, it amends the existing wheeling provisions of the Public Utilities Regulatory Policy Act of 1978 to remove the unduly restrictive aspects of these provisions which, to date, have prohibited the Federal Energy Regulatory Commission from issuing any wheeling orders under PURPA.

We had the act in 1978, and since then the Federal Energy Regulatory Commission has not issued any wheel-

ing orders, not one. So somehow we failed.

The PURPA provisions have been interpreted by the courts very narrowly to bar a wheeling order if the utility seeking the order is presently a customer of the utility that would be ordered to wheel.

In light of this restricted interpretation it seems to me to be very necessary to strike the provisions of section 211 of PURPA which requires that a wheeling order "reasonably preserves existing competitive relationships."

Those five words read very well to me. But yet, without an amendment to PURPA competition in the market for wholesale power will continue to be seriously deterred. In addition, the amendment which I shall offer makes several technical changes to facilitate wheeling while protecting the ratepayers of existing licensees.

I believe we need to strike the provision which bars a wheeling order to a utility which currently provides to an applicant power subject to a rate schedule on file with FERC. My amendment will not alter the restriction which bars a wheeling order to a utility required to provide power to an applicant pursuant to an existing contract. I do not believe that we should authorize FERC to issue a wheeling order that interferes with an existing power contract.

So the sum and substance of the amendment which I shall propose is a rather narrow wheeling amendment. The utilities should not be allowed, as seems to be the case now, to refuse to wheel power to an applicant in perpetuity simply because it filed a rate schedule at FERC with respect to a licensed applicant.

Finally, the amendment that I shall offer provides that a wheeling order not unduly affect the cost of service provided by the licensee.

That, obviously, is to protect consumers by requiring that a wheeling order not unduly affect the cost of service. This kind of amendment does not change the important provisions of PURPA which protect the customers of large utilities which are required to wheel power. Any utility applying for a wheeling order would still be required to demonstrate that wheeling is in the public interest, and would: First, conserve a significant amount of money: Second, significantly promote the efficient use of facilities and resources; or third, improve the reliability of any electric utility system to which the order applies.

In addition, the wheeling order could not be issued if it impaired an existing transmission contract which is inconsistent with State law, or providing for transmission of energy directly to an alternate consumer.

Finally, an order would not be issued if it places undue burden on or unreasonably impairs the reliability of any electric utility affected by the order, or would impair the ability of any electric utility affected by the order to render adequate service to the customers. That, obviously, is to make sure the continued reliable and efficient electrical service would continue for all ratepayers.

I strongly believe that the wheeling issue should and must be addressed by Congress if hydrolicensing legislation is to be fair. I urge my colleagues to support this amendment, and correct the problems which have developed in the application of the PURPA wheeling provision, and in assuring that Congress does not pass legislation whose sole impact would be to reduce competition and enhance the privileged position at the expense of other utilities and their ratepayers.

Madam President, there is nothing very mysterious about all of this. It is in the public interest. We have somehow gotton into sort of a crevice that says, well, PURPA passed in 1978 took care of anything to do with wheeling. Who wants it? What advantage would there be to amend it again?

First, of all, the act passed in 1978 had not provided for any wheeling. Not one single order for wheeling since 1978 has been given out of FERC.

Where is the wheeling? What did PURPA do to help wheeling? And wheeling is not difficult to understand. It is this simple: If there is some room on a transmission line to transport, say, a rural electric's power, then that transmission line will carry that power. There has to be room. And it has to be paid for.

We have on the question of oil pipelines and gas pipelines a requirement for what we call the common carrier provision—the same provision.

If there is room on a pipeline, then you have to carry that additional oil or gas. It is paid for. You might say, why do we need the law on that. We need the law on that simply because sometimes it was competitively better for the owner of the pipeline not to transport anybody's oil or gas. We found it in the public interest to make certain that could happen.

I want to reopen wheeling. I want to reopen it on a very narrow basis. I think this amendment that I shall offer does that. But there may be others here in the Chamber now, or who will read the RECORD, or hear the debate, and hear of my proposal who may take umbrage with it and may disagree. If that is the case, I would like to understand what the disagreements are, and why this would not be in the public interest. That is what I would like to understand.

If I can be convinced that it is not in the public interest, then I would not offer the amendment. Or perhaps there is something I have overlooked in the amendment, or am not familiar with, or do not understand correctly. If that is the case, I would correct the amendment on the oversight or the misunderstanding.

But surely what I have described here in these past few months is clearly in the public interest. Therefore, I hope when we do get to a vote on the amendment that we have it in the proper form because I do believe this bill has come a long way, and can be termed a bill that is well balanced and necessary providing we can take care of this wheeling situation.

Madam President, I yield the floor.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Madam President, I know the Senator has not yet submitted an amendment. I will respond not to the detail of the amendment, which I have not seen.

To respond in general terms to the thrust of the statement of the distinguished Senator from Montana, the Senator from Washington has already indicated that he is grateful, as the Senator from Idaho is grateful, that we have not gotten into the public versus private power fight, that we have skirted that issue and avoided that issue in this legislation. I am grateful for that because it makes the legislation possible and makes resolution of a very difficult issue possible.

It may be possible to construct some kind of a limited wheeling arrangement that would not, in my judgment, destroy our opportunity to legislate.

As I listened to the Senator from Montana, I believe that what the Senator has suggested would thrust us back into the same kind of a long embedded fight that has been going on for so long that the results of that fight are predictable. To try to resolve the broad questions of wheeling in this legislation would be fatal to the legislative effort.

I am going to make a statement at this point and I do not know that it will be of any help to the Senator from Montana.

I believe that transmission arrangements between utilities that deal with both their competitive positions and their opportunities to serve consumers, and the flip side of that, the opportunity for consumers to have access to blocks of electric power, is where a lot of the economic business and legislative activity may be focused over the next decade.

In the last 10 years we have seen just exactly that kind of a discussion going on in the gas pipeline industry, where there are questions of common carriage, which are within the jurisdiction of the Commerce Committee and which have been debated there at length, and they have been debated in the context of contract carriage within the context of an omnibus natural gas

bill which we tried to fashion in this committee.

Just as we have before the Federal Energy Regulatory Commission today those questions of contract carriage, common carriage, freeing up the market to more competition and more access to supply having been the recent debate in the natural gas industry, I think it will likely be the future debate of the electric utility industry.

Having said that, the parallels are not exact. The electric utility industry is not the natural gas industry. It is structured differently, its relationships are different, the regulatory processes have evolved in different lines and, therefore, the similarities, while obvious, are limited. The differences are also obvious.

I anticipate that what the Senator from Montana is doing is not only a continuation of the old debates that have been very evident over the last several decades but also a precursor of the debates that will sharpen the policy choices that will be discussed over the next decade, or within the next decade.

I do sincerely hope that the Senator from Montana will decide that, although it is a serious issue, this is not the time or the place to resolve it, and that indeed it will probably be impossible to resolve it in the context of this legislation. I hope he will not offer the amendment.

Mr. JOHNSTON address the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, this little simple-sounding amendment is what we call in the trade a killer amendment because cloaked in these few words is a great deal of mischief and a fundamental change in policy in the way public utilities operate.

It would build unfairness upon inequity upon great expense to utilities and all clothed in very simple, mild, fair-sounding language.

Ultimately at issue here, Madam President, is the question of what we call wheeling. Wheeling is, of course, what might be the obligation of a utility to use its lines or wires, if you will, to carry electricity from someone else to someone within their territory.

If we may use the example of the U.S. Capitol here in Washington, DC., in a territorial area served by Pepco, let us suppose that the Capitol decides they do not want to be served by Pepco, that they have a deal where they can get power from the city of Warrenton, VA, let us say. So the Capitol goes to Pepco and says, "Will you wheel that power to me from Warrenton? I have a better deal from Warrenton."

Under the Senator's amendment that would be permitted or in some cases required to be done.

One of the fundamental problems with his amendment, Madam President, is that under State law, and maybe my example is not too good because this is the Dictrict of Columbia, though I think the District of Columbia is similar to State law, State law will usually require that all customers within a geographic area, in this case the Capitol, would be entitled to power from Pepco at any time. That means that even though the Capitol made a deal with the city of Warrenton to get power wheeled in at some cutrate price for some period of time, Pepco would still be required under State law to furnish the power, what you might call backup power, standby power, or ready-to-serve power to the Capitol.

What is the significance of that?

The significance of that, Madam President, is that Pepco has all the cost without getting compensated, because the cost is in being ready to serve.

It is like the fire department. The fire department has its costs going on whether it has to fight a fire or not. In this case, Pepco, or your utility whoever it is around the country, would have its costs in standby obligation to serve. This amendment makes not one whit or one jot or tittle of a suggestion as to how that compensation would be taken care of. The fact of the matter is it would not be.

It would be an enormous inequity and a great expense to utilities in the kind of situation I referred to.

The fact of the matter is, Madam President, that electricity and wheeling is an enormously complicted subject. We did deal with that in earlier legislation. We had agonizing, difficult, and protracted hearings dealing with this very esoteric subject. It is not at all like a pipeline. In a pipeline, oil is shipped from point A in a straight line through the pipeline to point B. Electricity does not act like that. Electricity goes through a grid and goes through the point of least resistance, the point that is carrying at that point in time the least voltage or the least power. So to get from point A to point B the electricity may take a couple of loops around the alphabet before it gets from A to B because that is the way the electricity is flowing on that day.

In the process of doing that, it displaces power throughout the alphabet that I have just described; it displaces the ability of others to transport that electricity.

All of these intricate relationships, Madam President, are entitled to be taken care of and they ought to be considered, where necessary compensated, with provisions made for that.

A wheeling obligation would affect not only the fairness and the economics of the situation but would also affect the reliability of power transmissions.

Mr. WALLOP. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. WALLOP. The point the Senator is making is very important, with one tiny expansion, and that is who is getting compensated. The "who" is the consumer of the power which is being wheeled and taken.

It is not the company, it is the consumers who are, under these programs, obligated to continue to pay for the retirement of the debt that exists on the hydroelectric installation. So it is not a question here of leaving Pepco, for example, uncompensated, but the very consumers of Pepco uncompensated. It means a rise in their rates in order to compensate for mandatory dispersal of the power they are entitled to because of the fact that they are the ones who are building it.

Mr. JOHNSTON. Madam President, I thank the Senator for making what is a very fundamental point. Sometimes when we deal with a bill, we forget the forest for the trees.

The Senator's point is exactly the point. That is, it is the Pepco customers who would have to pay for that obligation to have the standby power uncompensated. I really do appreciate his making that point. It is fundamental to this bill.

Madam President, we knew what we were doing in the Senate when we passed PURPA because those amendments to section 16 U.S.C. 824(k) were Senate amendments which were passed as part of PURPA. As I say, it was passed after long hearings. This provision with respect to wheeling goes way beyond and indeed has little to do with the question of hydrorelicensing. It is like putting an abortion amendment on a simple appropriation bill. It is designed to sink—well, it may not be designed to, may not even be the purpose or motive to sink the legislation, but that would be the effect.

I hope, Madam President, that my dear friend, the Senator from Montana [Mr. MELCHER], would offer this matter up in a discrete piece of legislation to give us time to hold hearings on it to determine the intricate relationships between the customers of the various utilities, to treat them fairly and equitably and without upsetting these relationships.

It has no place on this legislation. It has no place being considered on the Senate floor until the difficulties which it poses are considered in hearings.

Mr. WALLOP. Madam President, I ask unanimous consent that Senator HOLLINGS be added as a cosponsor.

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

Mr. WALLOP. Madam President, I rise in complete support of S. 426 which I introduced on February 7, 1985 with 12 original cosponsors. As

we consider the bill today, and with the addition of Senator HOLLINGS, the bipartisan support of this legislation has almost tripled to 33.

Before we immerse ourselves in the heart of any debate on this bill, I want to especially thank both Senators JOHNSTON and MCCLURE for the hard work they have personally put into the Wallop-Johnston compromise we passed out of the Energy Committee on October 2, 1985, and which is the version we are presently considering today.

This compromise came about as the result of extended debate between Senators MCCLURE, JOHNSTON, and myself as well as with other members of the committee. The compromise was offered in recognition of the fact that form, not substance, separated Senator JOHNSTON's bill, S. 403, and my original bill. As a matter of policy, both bills were identical in my mind. By fine tuning the new relicensing evaluation criteria offered in the S. 403 approach to relicensing, existing licensees should have a reasonable opportunity to retain the projects they built and paid for in a relicensing proceeding against competitors for the license. In our view in a relicensing proceeding free-for-all competition is simply not in the public interest. What is important is protecting electric consumers from potential power disruptions based on greed, and not need. In relicensing the project represents power in use.

This compromise version also clarifies that the municipal preference clause does not apply in relicensing. Also, new public interest criteria are added which the Federal Energy Regulatory Commission [FERC] must utilize in determining which applicant has the best adapted plan in a relicensing proceeding.

A new feature added by the compromise bill requires applicants to be economically and technically capable of carrying out the plans it proposes in a relicensing proceeding. The plans must also be cost-effective in their approach to achieving the benefits to be derived therefrom. In other words, artificial bidding up of the proposed plans by a competitor who is seeking to take over the project in order to get the windfall gains represented by the actual value of the hydro projects over their takeover price under the net investment test in existing law will be disallowed.

This provision, along with new evaluation criteria requiring that FERC consider in its economic impact criteria that if a license transfers new replacement power will have to be acquired at a much higher cost, allowed me to drop the provision in the original version of S. 426 which would have required that "just compensation" be paid to an existing licensee if a license transferred. Together, these elements in the substitute stop the "raids" on hydro licenses based on windfall profits which I was seeking to avert with my "just compensation" provision.

This compromise also moves us into the 20th century in a relicensing situation by establishing solid relicensing criteria which the Commission must exclusively use in a relicensing proceeding. These standards have been carefully thought out, and they are much broader in dimension than the standards presently used by FERC in initial license proceedings.

Last, but not least, a proviso has been added which would allow litigants currently trying relicensing cases to proceed under existing law. This has been done at the express request to both parties to the Merwin Dam proceeding.

On behalf of the millions of electric consumers served by the 180 investor-owned utility hydroelectric projects which will come up for relicensing before 1994, I urge the Senate to pass this important legislation.

Madam President, I compliment the Senator from Louisiana on the argument he made. There is one other problem with all this. That is the uncertainty that would be created by the adoption of the amendment of the Senator from Montana. First, if utilities are required not to serve major consumers and are left with only the poorest of consumers, then there is real question as to whether or not local regulatory agencies, whatever they may be called in a given State, would pass on this uncompensated use of power to the consumer, the lower-income consumer. All then is a matter of rates between the industrial consumers and otherwise.

It is likely that you would have some diminution of use of that power which evolves then down to uncompensated taking from stockholders or, worse still, uncompensated taking requiring diminution of efficiency.

As the Senator correctly pointed out, it is really a very complex issue where power goes and who gets to use it and how those relationships are maintained. We have in this country, I think it is fair to say, perhaps the cheapest unsubsidized electric power in the world. To distort this with what are perhaps good ideas but that are not fully developed in concept is to begin to make disruptions in the system which I think we would all regret, but particularly the most regrettable instance in all of that would be the electric consumer. That I think we ought not to lose sight of in this process.

Madam President, I thank the Senator from Louisiana.

Mr. JOHNSTON. Madam President, I do not know whether the Senator was here earlier when I praised him and complimented him for being so effective in putting this legislation together and in working together on fashioning a compromise. I really think it was legislation at its best which the Senator from Wyoming has exemplified, along with the chairman of our committee [Mr. MCCLURE].

Having put together this one compromise and seeing that there is no amendment now pending, I hope that maybe the Senator from Montana is ready for passage.

Mr. MELCHER. Madam President, I think we are going to get closer to an understanding of the issue and this discussion has been so far instructive, though not too helpful.

First, both the managers of the bill have had the amendment before their staffs. I do not know how much attention was given to it, but at least their staffs have had this amendment. My purpose in discussing it this afternoon is to get some specifics. If this amendment does not do just what I described a few moments ago, I would appreciate learning where it fails.

Mr. JOHNSTON. Would the Senator yield at that point?

Mr. MELCHER. Not at this point. I hope the distinguished Senator from Louisiana will not get discouraged, because I shall yield in just a few moments.

It seems we are not even discussing the same thing so far. PURPA was passed in 1978. It has a section 211 which, among other things, requires that a wheeling order would reasonably preserve the existing competitive relationships.

1978 was 8 years ago and so far, because the courts have interpreted it rather narrowly, there has not been a wheeling order issued. So somehow, we bobbled, in section 211 of PURPA, any possibility, any likelihood, any chance for a wheeling order.

Mr. JOHNSTON. Madam President, will the Senator yield on that point?

Mr. MELCHER. I am sure the Senator from Louisiana would not want me to yield to lose my train of thought or anything. I know it is important, so I am going to yield.

Mr. JOHNSTON. Just on this question of how many orders have been issued, Madam President, the staff advises me that the Senator is correct that there have been no orders issued, or perhaps one order issued. I am also advised, however, that there have been many, many voluntary wheeling arrangements entered into and those have been voluntarily entered into for two reasons.

First of all, because of the existence of this provision which makes wheeling possible under the circumstances as set forth in the act, and where they would be liable to get it ordered anyway, they tend to do it voluntarily.

Second, and perhaps most important, under the antitrust laws, the wheelers, prospective wheelers, sense

in some cases an anticompetitive obligation to wheel, which I think impels them to voluntarily do so. So the voluntary use of the wheeling device has been very wisely entered into, and it has been done without a resort to these provisions.

Those are the two main points. One additional point. There is just not a huge amount of transmission capacity available for wheeling. The indication we have is that it is rather narrow in scope and to the extent that it is available it is voluntarily used to a large extent.

If I may add one more point, our chairman has just indicated to me that if the Senator would put this in as freestanding legislation, he could guarantee hearings on it because it is a very serious question. The Senator says if he is not right, he would like to know the answers. Well, correspondingly, if we are not right, we would yield to evidence to the contrary, which the hearing process would establish. I hope the Senator would take a promise of prompt hearings on this legislation as being the best way to solve a very difficult, complex, and challenging issue.

Mr. MELCHER. I thank my friend from Louisiana. I want to take that last point first in my discussion. First of all, it is a serious enough issue to be addressed. Second, there has been plenty of time to hear from everybody on this. We had this bill before us I think sometime in November or October. We are not raising anything new here. Third, there are people who would like to see this in this bill. Now, they are not very strong in terms of dollar value. They really do not have a lot of clout. Some rural electrics—I do not know how many of them, perhaps all of them in the United States—would like to see this provision put in the bill. Some small utility companies would like to see this provision put in the bill. Some municipalities would like to see this provision put in the bill.

On this matter, if there had even been one order issued by FERC since the 1978 passage of PURPA for wheeling, I would like to know about it—even one.

The Senator from Louisiana certainly is positively correct that there have been some wheeling agreements, voluntary wheeling agreements, and should there not be. They get paid for it. They get paid for doing it. It is profitable. It is not something shoveled on them. It is profitable.

So the question naturally comes up: Why would they not do it? Why would they not do it voluntarily?

The answer to that I suspect can be put in one word. There may be other reasons, but I suspect that the main reason is they want to prevent some competition.

Now, we had some discussion about who is going to pay for this. Well, of course the consumer pays for it. But what are they paying for? The consumer pays when rates are raised. As I described the amendment that I shall offer, we have that protected. It could not possibly be ordered in to raise somebody's rate. And so really the question evolves, if we do not put it in, who pays? Does somebody have to pay more? Well, the answer to that is if somebody is not wheeling just because they do not want the extra competition somebody pays. So the amendment is not causing consumers to pay more.

That is why I want the amendment. It is in the public interest, I believe. It is in the public interest. It is not so confusing. It is rather elementary. When was greed confusing? That is what anticompetitiveness is—greed. We would not have common carrier provisons in Federal law if it was not to strike down some anticompetitive obstacle.

They are in the public interest. We are not repealing those common carrier provisions. This is not a very broad provision that I an offering. It is a very narrow one. If these comments are not correct—I made them earlier—if they are not correct, I would like to know why they are not correct.

Specifically, the amendment which I will offer does not alter the restrictions which bar a wheeling order to a utility required to provide power for an applicant pursuant to an existing contract. It is obvious why we want that. They could not possibly ask for that. I do not believe that we should authorize FERC to issue a wheeling order that interferes with an existing power contract. That would go against my grain. I would not offer such an amendment, so I do not believe the amendment does that.

But I do not believe we should allow utilities to refuse to wheel power to an applicant in perpetuity simply because it filed a rate schedule at FERC with respect to a licensed applicant. I think all my colleagues would share that view. And then the amendment specifically provides that a wheeling order not "unduly affect the cost of service provided by the licensee."

So it is an amendment to protect consumers. It is an amendment to help those consumers of the small utility, rural electric, that would need wheeling.

Finally, I should repeat that in those instances where wheeling would be directed by FERC to conserve a significant amount of energy, that is in the public interest, and a wheeling order issued by FERC would have to significantly promote the efficient use of facilities and resources.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. MELCHER. Let me give the final response.

Also, it has to improve the reliability of any electric utility system to which the order applies. That is in FERC.

I yield to the Senator from Louisiana.

Mr. JOHNSTON. Madam President, the Senator asks what is wrong with the language that says that in the case of any electric utility affected by the order it is not unlikely to unduly affect the cost of service provided to its customers.

As I say, that on its face seem to answer the question. It seems to be fair. It seems to be good. Of course, initially, it was a question of what "unduly" means, and that is a very wide question. But the principal problem with that is that it is not FERC's right or obligation to set the power rates. Rather, it is the duty and obligation of the State to set those power rates.

I think the State, in effect, will make that determination after FERC has already ruled, and FERC cannot have any idea what the State is going to do, and the State would not be bound by this phrase here, "likely to unduly affect the cost of service." That does not bind the State at all. As a matter of fact, the thought is that the State will set those rates as they always have, and that is, set the rates without respect to wheeling.

Mr. MELCHER. The Senator from Louisiana is absolutely correct. The States are going to set the rates.

The point is that FERC is going to hear the evidence. The point is that it could be reopened. Even after giving the wheeling order, it could be reopened. FERC does not set rates—we understand that—and they are not going to set rates under this bill, under any amendment I should offer, or anything else. But the argument that it would increase rates would nullify any chance of a wheeling order.

If the argument were fictitious and could be proved to be fictitious to FERC's satisfaction, it might issue the wheeling order.

What the Senator from Louisiana is leading up to is that, after a while, some public service commission, even in my State, would say, "Look, you made a mistake."

By the way, Montana Power is a privately owned utility and sees no harm in having the wheeling provision in this act.

If FERC granted one and the Montana Public Service Commission said, "You can't raise the rates because you have the wheeling provision there," if the rates had to be raised, that would certainly trigger the opportunity of FERC to deny the wheeling order that they might have already granted.

My friend from Louisiana and I agree on the fundamentals. But what

we have to find out is, having agreed on the fundamentals, why we cannot devise something whereby we agree on the principles of wheeling. Perhaps there is some reason why wheeling is bad in Louisiana or all the South, or it might be bad east of the Mississippi or it might be bad somewhere. But it is not bad in my country. It is good in my country.

Mr. JOHNSTON. I say to the Senator from Montana that wheeling is not necessarily bad. Indeed, since the passage of PURPA, wheeling has increased by 75 percent. Most or virtually all of that is voluntary wheeling. Wheeling can be done in some circumstances fairly, and in all these circumstances it has been done voluntarily.

The problem is that when you order wheeling and you change the competitive position of the different parties, but everybody is trying to anticipate what a public utility commission may or may not do, it is an impossible job for FERC to do. The Senator says that FERC could wait until after the State rules or fails to rule and then come in and stop the wheeling order. I say to my friend that that is a terribly inexpedient, improper, and inefficient way to do it. It would be a very uneconomical way to do it, to order the wheeling, to allow the contractual relationships to go forward, and then to have to come in and undo them.

If that is what the Senator would have in mind, then why not simply preempt State law in this respect and say that in ordering the wheeling, FERC could set the compensation to be ordered, along with the wheeling which they would order? There may be objections to doing that, but it is the kind of issue that ought to be looked at in hearings and not decided here on the floor.

I believe I was chairman of the Senate conferees on that PURPA at the time we enacted it, and I can say that it is a very subtle, very difficult, very farreaching, and very controversial provision; and if it appeared that it was going to pass, you would hear reverberations all around this country because the States are so great on the issue of wheeling.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MELCHER. Madam President, I do not want it to be confusing. I did yield to the Senator from Louisiana. Do I still have the floor?

The PRESIDING OFFICER. Yes, the Senator from Montana has the floor.

Mr. MELCHER. I yield to the distinguished Senator from Idaho.

Mr. McCLURE. Madam President, I want to take this time now, for a couple of reasons. One is to suggest that rather than debating the wheeling arrangements endlessly, and since no amendment is now pending on that subject, we perhaps attempt to move to some other amendments and resolve as many issues as we can, and in the meantime discuss with the Senator from Montana a way to resolve this issue.

Pending that, I want to comment that the Senator from Louisiana rightfully pointed out that FERC, in making an order for wheeling, might well be asked to calculate the cost or the rate for wheeling. But there are other aspects as well. One is the transmission line capacity and the other decisions that might be made by the utility, as to whether it would require them to build another transmission facility and increase their expenses. Even though that would be outside FERC's jurisdiction or responsibility, the State regulatory commission might have to do that, too.

They might also have to look at not just the cost to consumers as a direct result of the wheeling arrangement. That affects the need for power calculation which is not within the responsibility of FERC, either under this amendment or otherwise, but is under the responsibility of the State regulatory commission.

Mr. MELCHER. First of all, I would not offer the amendment if it in any way preempted the State's authority over rates. That is No. 1.

Second, the provision would not even be considered—the wheeling application would not even be considered—if it were no capacity; also, if it appeared that the capacity that was now vacant was only temporarily vacant.

Mr. McCLURE. Madam President, will the Senator yield on that point?

Mr. MELCHER. I yield.

Mr. McCLURE. FERC has one responsibility, and that is to make one calculation. The State regulatory agency has the responsibility to make decisions based on precisely the same facts, and they might come to different conclusions.

So you might have FERC making one finding and the State regulatory commission making exactly the opposite finding on the same set of facts with the possible result of requiring construction of additional transmission facilities and perhaps also affecting the State regulatory commission decision with respect to another unrelated application for the construction of new power-generating facilities which has rate impacts which would be out of the purview of FERC's review.

Mr. MELCHER. That is correct. That would be out of FERC's purview.

Mr. McCLURE. But it could have an impact upon the ratepayers that flow from the action taken by FERC even though FERC could not properly review that?

Mr. MELCHER. What the learned chairman has presented is a situation where the applicant for the wheeling and the utilities that had the transmission capability of wheeling would not present accurate arguments to FERC.

Mr. McCLURE. If the Senator will yield further, not just where they presented inaccurate arguments but where FERC came to a different conclusion based upon the same arguments from that which the State regulatory commission would conclude.

Mr. MELCHER. I cannot conceive of it happening but if the learned chairman and the ranking member on the Democratic side of the committee could conceive of it happening, as part of the purpose of the discussion this afternoon, we could easily say that FERC's order would have to be approved by the State commission that was involved. That would be agreeable to me. But this is a very narrow amendment and if you want to make it narrower that is all right with me, too.

I believe the major objective of my efforts is to correct this bottleneck in PURPA after the courts have made some decisions interpreting it very narrowly, to correct that problem and to allow section 211 to be effective as it was intended in FERC.

I repeat, I do believe there is some real merit to addressing this issue, and I agree with the chairman there may be other amendments or other provisions that can be considered now because this one certainly has not been resolved. I would hope that before we complete action on this bill, we will have resolved, satisfactory to all of us, this point, and we do hope a narrow wheeling amendment can be adopted in this particular bill.

I thank my friends, the Senator from Idaho, Senator McCLURE, and the Senator from Louisiana for this colloquy and discussion we have had this afternoon. I will be happy to work with him in the next few hours and the next few days to draft something that is satisfactory to all of us.

AMENDMENT NO. 1773

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes amendment No. 1773.

Mr. McCLURE. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Section 11 of the Committee amendment is amended by:

(1) deleting "pursuant to this part" in subsections (b) (1) and (2) and inserting in lieu thereof "pursuant to this Act, whether granted under this Act or another provision of law"; and

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

(c) Section 13 of the Federal Power Act, as amended, is further amended by striking the final sentence thereof.

(d) Section 26(a) of the Federal Power Act, as amended, is further amended—

(1) by striking the first sentence and inserting in lieu thereof the following sentence: "The Commission, or the Attorney General on request of the Commission or of the Secretary of the Army, may institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for significant violation of its terms any permit or license issued hereunder or any exemption from any requirement of this Act, whether granted under this Act or another provision of law, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder." and

(2) by adding at the end thereof the following new sentence: "In the case of revocation of an exemption from any requirement of this Act, whether granted under this Act or another provision of law, the courts may exercise the same powers as they have under this section with respect to revocation of a license.".

(e) Section 402(a)(2)(A) of the Department of Energy Organization Act, as amended, is further amended by inserting between "4," and "301" the following: "5, 13, 26, 30,".

(f) The amendments made by this section shall apply to licenses, permits, exemptions, rules, regulations, and orders issued before, on, or after the date of enactment of this Act.

Mr. McCLURE. Madam President, this amendment is a technical and clarifying amendment to section 11 of S. 426. The amendment responds to a number of concerns raised by the staff of the Federal Energy Regulatory Commission following its review of S. 426, as reported by the committee. The Commission staff pointed out that section 11, as reported, contains language that could be read to diminish the Commission's enforcement authority, particularly its authority under part III of the Federal Power Act. That certainly was not the intent of the committee, and this amendment would remove that ambiguity.

Section 11 is intended to enhance the Commission's enforcement efforts by expanding the Commission's authority to revoke liceneses administratively. Section 11 would empower the Commission to revoke a license administratively for any significant violation of its terms. This change would substantially aid the Commission in its efforts to ensure compliance with the provisions of the Federal Power Act relating to hydroelectric projects.

Currently, under section 13 of the Federal Power Act, the Commission can revoke a license administratively only if the licensee does not commence construction of the project on time. Otherwise, the Commission must request that the Attorney General institute an action in Federal district court for revocation of the license.

The first provision of the amendment would modify the language in new subsection (b) of section 26 of the Federal Power Act to make clear that the Commission's revocation authority is not limited to permits, licenses or exemptions issued or granted pursuant to only part I of the Federal Power Act. Rather, the revocation authority would apply to permits, licenses or exemptions issued pursuant to any provision in the Federal Power Act or granted under another provision of law. This subsection, as amended, would make explicit the Commission's implicit exisiting authority to revoke , for violation of its terms, any exemption from the requirements of the FPA, whether issued under the FPA or another provision of law, such as PURPA.

The amendment would add four additional subsections to section 11, starting with new subsection (c). Subsection (c) would modify section 13 of the Federal Power Act by striking the final sentence, which specifies that if a licensee begins construction, but does not complete it within the time specified in the license, the Attorney General, upon request of the Commission, shall institute judicial proceedings for the revocation of the license. The deletion of this provision makes section 13 consistent with section 26 of the FPA, as amended by section 11(d) of this amendment.

Subsection (d) would amend section 26 of the Federal Power Act, which provides for judicial revocation of licenses for violations of terms. Under section 314 of the FPA, the Commission currently has authority to bring enforcement actions in the Federal district courts, with the exception of actions to revoke licenses. Section 26 currently provides that actions to revoke licenses must be brought by the Attorney General. Section 11(d) authorizes the Commission to institute on its own behalf judicial actions to revoke licenses under section 26 of the FPA. The amendments to section 26 are not intended to limit the Commission's existing authority under section 314.

Under the existing provisions of the FPA and PURPA, the courts lack explicit authority to revoke exemptions from the requirements of the FPA issued under those acts. Section 11(d) also amends section 26 by (1) authorizing the Commission to institute court actions to revoke exemptions from the FPA, whether issued under the FPA or another provision of law, such as PURPA, and (2) giving the Federal district courts express authority to revoke exemptions. In this connection, the courts are authorized to exercise the same powers with respect to judicial revocation of exemptions as they have with respect to judicial revocation of licenses.

Subsection (e) would amend section 402(a)(2)(A) of the Department of Energy Organization Act, which lists the sections of the FPA under which the Commission has express authority to exercise powers. In order to implement section 11(d) of this amendment, section 26 of the FPA is added to the sections listed. In addition, sections 5, 13, 30 of the FPA are added to those listed in order to make explicit the Commission's existing authority to cancel preliminary permits pursuant to section 5, to revoke licenses pursuant to section 13 in cases in which construction of project works has not begun on time, and to issue exemptions pursuant to section 30. Subsection (e) is not intended to affect the Commission's authority under other sections of the FPA.

Subsection (f) provides that the amendments made by section 11 shall apply to licenses, permits, exemptions, rules, regulations, and orders issued before, on, or after the date of enactment of this amendment.

Mr. JOHNSTON. Madam President, the Senator from Idaho correctly described this amendment. We endorse it.

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

The amendment (No. 1773) was agreed to.

Mr. McCLURE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1774

(Purpose: To clarify the intent of Section 3(c) of S. 426)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes amendment numbered 1774.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 4, line 19, strike all through page 5, line 3, and insert:

"(3)(A) Upon receipt of an application for a license, the Commission shall solicit recommendations from the agencies and Indian tribes identified in paragraph (a)(2) of this section for proposed terms and conditions for the Commission's consideration for inclusion in the license;

"(B) If any recommendation for a proposed term or condition is received by the Commission within 120 days of the public

notice of any license application under this section, the Commission shall explain in writing its reasons for adopting, rejecting or modifying any such proposed term or condition."

Mr. McCLURE. Madam President, the amendments to proposed new section 10(a)(3)(A) of the Federal Power Act are designed to clarify the intent that the Commission must exercise its independent judgment, as guided by the principles set out in the act, in fashioning the appropriate terms and conditions for inclusion in a license issued under the act. While proposed new section 10(a)(3)(B) will require the Commission to pass upon recommended terms and conditions received from interested agencies and Indian tribes based upon a record developed in a licensing proceeding and to explain its decision in writing, the Commission's authority and responsibility to fashion a license's terms and conditions balancing the competing concerns of the broad public interest should not be ambiguous. In this regard, the "to be included" language of the original version may create some ambiguity, whereas the "for the Commission's consideration for inclusion" allows of no such ambiguity. The reordering of the prepositional clauses is designed solely for grammatical clarity.

The amendments to proposed new section 10(a)(3)(B) are designed to cure unintended procedural difficulties that would be raised by the original version. The substitution of the clause "within 120 days of the public notice of any license application" for the clause "at least 30 days prior to issuing any license" allows the licensing process to proceed in a more efficient and orderly manner.

In order for the Commission to make a reasoned decision in judging any and all recommended terms and conditions, those terms and conditions must be proposed at the front end of the licensing process to permit creation of a record on those recommended conditions. This timeframe is reasonable since under the Commission's recently revised consultation requirements in its license application regulations, interested agencies will have been contacted regarding their concerns about the project at least 12 to 15 months before the "120 days from public notice" period proposed by this amendment. Moreover, the agencies will have had at least 8 months to review a complete draft application, which application must include the results of any studies or analyses requested by those agencies and a complete environmental report.

Requiring the Commission to address in writing any recommended term and condition received up to 30 days prior to license issuance—under current Commission procedure staff work on licensing decisions must be finalized and presented to the Commission at least 30 days before the proceeding can be considered on the agenda—would be disruptive to an efficient administrative process, inequitable to both project proponents and opponents seeking to address all concerns raised in the proceeding, susceptible to abuse, and inconsistent with the intent of requiring the Commission to undertake an on-the-record measured and reasoned analysis of license proposals.

The addition of the word "adopting" to the final clause of this subsection is designed to clarify that the purpose of this subsection is to require a reasoned decision in writing from the Commission regarding its actions on any recommended terms and conditions. Subsection (3)(B) is not intended to create any presumption for or against any recommended term and condition. This addition will clarify the neutrality of the subsection.

Mr. JOHNSTON. Madam President, we also endorse this amendment and it was correctly described.

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

The amendment (No. 1774) was agreed to.

Mr. McCLURE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1775

(Purpose: To provide a transition rule for the application of Section 10 of S. 426.)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1775.

Mr. McCLURE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10, following line 16 add the following new Section 11 and renumber subsequent sections accordingly:

"SEC. 11. The amendments made by section 10 of this Act shall not apply to any hydroelectric project for which an application for a license or preliminary permit was filed with the Federal Energy Regulatory Commission on or before April 11, 1986."

Mr. McCLURE. Madam President, this amendment is intended to remove some ambiguity and set some standards with respect to the grandfathering provision on licenses that are pending or applications that are pending and setting a standard that will remove an ambiguity.

Excuse me. The application of the PURPA provision. I misstated that. The staff corrects me. And they, of course, are correct. It is the application of the PURPA provision.

I urge the adoption of the amendment.

Mr. JOHNSTON. Madam President, as restated, the Senator is correct and we endorse the amendment.

The PRESIDING OFFICER. The question is on the amendment.

Mr. EVANS. Madam President, will the Chairman yield? I am sorry. That was a brief explanation and I would like a little more clarification of just what this amendment would do.

Mr. McCLURE. Madam President, does the Senator have a copy of the amendment?

Mr. EVANS. No, I do not.

Mr. McCLURE. I perhaps could have saved time by permitting that the amendment be read rather than asking that the amendment not be read. It is a very short one. It says:

The amendments made by section 10 of this Act shall not apply to any hydroelectric project for which an application for a license or preliminary permit was filed with the Federal Energy Regulatory Commission on or before April 11, 1986."

It is designed to indicate at which time the provisions of section 10 would apply. So it would remove that ambiguity.

The question is, When would the pending applications be under the provisions of this bill? If they are pending prior to today, they would be under the old law; if they are after today, they would be under the provision of the new statute.

Mr. EVANS. Could the Chairman enlighten me as to what would be the effect if this amendment were not to be adopted?

Mr. McCLURE. There would be some question as to the date at which it would be effective and there might be a rush between now and the effective date of the statute to move applications or to assert before FERC that applications were active or that they were in the process of application. This is simply a way of defining which ones fall under the ambit of the new law and which ones would be under the old law.

Mr. JOHNSTON. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. JOHNSTON. I am advised that some applications are pending to which as much as a half million dollars have been expended fashioning that application under the old law. And if those pending applications were required to come under the new law, there would be some question as to whether they would have to be pulled down and restructured all over again

and resubmitted, causing, as I say, perhaps a huge expense. So we just simply picked the date of April 11 as the date, which, in effect, is the effective date of the act with respect to applications.

Mr. EVANS. Could the Senator from Louisiana tell me how many are likely to be affected by this act and how extensive it might be? In essence, am I correct in saying this is really a grandfathering clause and it will separate out those who will apply under the existing rules as compared to those who will apply under the new rules that are set forth in this act?

Mr. JOHNSTON. Madam President, I am advised through staff that there may be somewhere in the neighborhood of 150 to 300 applications at new dams pending. So we are talking about a sizable investment in applications under the existing law.

Mr. EVANS. Well, that may be true with some. But are we grandfathering in under the old law a large number of applications which are nothing more than a filing which may not require any money or any expenditure? All the amendment says is "for which an application for a license or preliminary permit was filed with the Federal Energy Regulatory Commission." It does not take a whole lot of money to file at the beginning, it is my understanding. Do we have some danger that that will be the case?

Mr. McCLURE. If the Senator would yield, the question is whether or not you have retroactive or prospective application of new standards.

Mr. EVANS. I think that is correct.

Mr. McCLURE. What we attempted to do in this instance is to say that if they are pending and they have been active prior to this date, then they apply under the old law. We will not attempt to make this particular set of provisions in this bill apply retroactively.

Mr. EVANS. I would be much more comfortable if I knew, however, what share of the some 150 applications are large ones or small ones, and what share of those are nothing more than just a paper application where no particular work has been done. In such a case, there certainly would be no penalty to the applicant to come under the new rules and there would be substantial benefits to the people of the region or the country if they were to come under the new rules. I presume that all of us believe the provisions in S. 426 will make a better law than the current one.

Mr. McCLURE. Will the Senator yield?

Mr. EVANS. Yes.

Mr. McCLURE. Before an application for a license or a preliminary permit may be filed, the applicant has expended some substantial amount of money to get to that point. The question is one of equity, as to whether or not those who have already, prior to this date, moved in accordance with the statute which is currently on the books should find their position substantially changed as the result of a new action by the Congress. It seems to me that there is a question of equity that we are trying to solve by saying, in effect, let us give some guidance as to when we believe the new criteria should apply. We chose the standard of application for license or preliminary permit as this date, even though this is prior to the effective date of the statute.

Mr. EVANS. I understand.

Mr. McCLURE. But at least those persons who are out there looking at this are put on notice that if, from this day forward, even before this act can become effective, they then wish to move forward, that they will be under the provisions of the statute as revised by this pending legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. McCLURE. Madam President, during the quorum call we have had the opportunity to discuss with the Senator from Washington some of the potential questions with trying to establish any discreet or absolute threshold in the licensing process. Very honestly, we do not know that this amendment is the only possible formulation but there is certainly no apparent better solution.

I suggested to the Senator from Washington that we go ahead and adopt the amendment as offered here, and those provisions being in the House rules be a matter before the conference, and indeed if we could work up a better definition of a threshold than is contained in this amendment, we would work through that conference process to write that better definition.

I think, if I understand the distinguished Senator from Washington, that is a suitable arrangement.

Mr. EVANS. Madam President, if I may respond to the chairman, I do have a continuing concern that we not inadvertently exclude from this bill's provisions many hydro sites that have been filed upon but for which no extensive work has yet been done. We are trying to craft a better bill, one that will provide much more explicit conditions as we go through this licensing process.

And I am certainly willing to accept the chairman's assurance that we continue to seek a better, more explicit dividing line that does not penalize those who have made substantial investments in applications and yet attempts to perhaps bring in some of the additional applicants who have made no substantial investment and who probably ought to be covered by provisions of this bill.

Mr. McCLURE. I agree with the statement the Senator from Washington has made. I hope on that basis we can adopt the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1775) was agreed to.

Mr. McCLURE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER (Mr. McCLURE). The Senator from Hawaii.

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

The PRESIDING OFFICER. The bill is open to amendment.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I intend to offer an amendment at this point. The Senator from Hawaii is seeking recognition. Is he prepared to offer an amendment?

Mr. MATSUNAGA. Mr. President, I just want to proceed as if in morning business for a unanimous-consent request.

Mr. HUMPHREY. My amendment will not take very long. On the other hand, if the Senator from Hawaii requires a moment or two, I would be happy to wait.

Mr. MATSUNAGA. I will await the Senator's amendment.

AMENDMENT NO. 1776

(Purpose: To provide timely notice to land owners of the filing of a license application)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY], proposes an amendment numbered 1776.

Mr. HUMPHREY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 12, following line 2 add the following new Section 13:

"SEC. 13. Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(a) by striking *"And provided further"* and inserting in lieu thereof *"Provided further"*; and

(b) by striking the final period "." and inserting in lieu thereof the following:

": *And provided further,* That upon the filing of any application for a license the Commission shall seek to notify by certified mail the owner or owners of the property within the bounds of the project, and any State, municipality or other local governmental entity likely to be interested in or affected by such application.' "

Mr. HUMPHREY. Madam President, I say at the outset that this amendment has been cleared on both sides.

The amendment simply and directly resolves the problem associated with the licensing procedures for hydroprojects. The amendment would require that upon the filing of an application with Federal Energy Regulatory Commission [FERC] for a hydroelectric project, the Commission shall seek to notify by certified mail the owner or owners of the property within the bounds of the project, as well as any State, municipality, or other local governmental entity likely to be interested in or affected by an application.

Under present law, notification of proposed hydroelectric projects is required through public notices in newspapers published in the regions surrounding the proposed project.

However, it has become clear to me, through my personal involvement with several hydroelectric-related projects in the State of New Hampshire, that the present public notification procedures are not enough. One particular case comes to mind. In the village of Davisville, NH, a couple, Melville and Joan Ruggles, bought a retirement home on 15 acres of property bordering both sides of the Warner River. In March 1981, several months after they had purchased the property, developers who the Ruggleses did not know, submitted an application for a preliminary permit to redevelop a dormant hydrofacility on the Warner River. The effect of the proposed project, it was later learned, would have reduced the Ruggles retirement property to the size of a small city lot.

However, though notice was published in the local newspaper, the Ruggleses did not see the notice, and it was not until 3 months later that the Ruggleses, by chance, learned that a preliminary permit had been filed.

Similarly, when the developers applied for an actual license to develop the site, the owners of property most directly affected by the project were kept in the dark, as there is no requirement for property owners to be formally notified. As Mr. Ruggles wrote to me more than 4 years after the application for license was filed, "Under present FERC procedures, it is quite possible for a landowner to remain ignorant of any intent to build a hydroelectric installation on his property until served notice that his land will be seized under eminent domain * * * we have never, to this day, been personally notified by FERC or any other Federal or New Hampshire authority that either a preliminary permit or an application for a license had been field with FERC for building a hydroelectric installation on our property—the latter to be subject to seizure by eminent domain."

This is the essence of the problem which my amendment seeks to resolve. Clearly, if property owners are to be directly affected by a proposed hydroelectric project, they should have the right to be notified directly and in writing about the project. Under this amendment, FERC would develop procedures to ensure that such property owners would be notified.

Mr. President, I understand that the amendment has been approved by managers on both sides.

Mr. President, I ask unanimous consent that materials relating to this amendment be placed in the RECORD.

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

APRIL 11, 1986.

RE: Amendment to S. 426, hydro relicensing bill.

To: Senator Humphrey.

From: Gordon MacDonald.

Attached is our proposed amendment to S. 426, the hydro relicensing bill.

Our amendment would require that the Federal Energy Regulatory Commission notify affected landowners by mail of a hydroelectric project near their property.

The amendment has been cleared on both sides of the Energy and Natural Resources Committee.

MELVILLE J. AND JOAN TRON RUGGLES, DAVISVILLE DAM, NEW HAMPSHIRE (f.e.r.c. #4456), APRIL 10, 1985

NOTIFICATION: CHRONOLOGY, SPRING 1981 TO SPRING 1985

1. March 27, 1981: Developers submitted application for a preliminary permit for Davisville Hydroelectric Project.

2. May 6, 1981: FERC issued a notice which was published in the *Monitor* on May 19, May 26, June 2, and June 9, indicating that this application had been filed. (We know that the New Hampshire Water Resources Board received a copy of this notice on May 15th. No landowners affected by the proposal received this notice.)

3. June, 1981: We learned, by chance, that this notice had appeared in the *Concord Monitor.* (We occasionally saw New Hampshire newspapers at this time—we had only recently moved to New Hampshire—but it never occurred to us to read the public notices, since we knew of no reason to read them.) We also learned at this time that a "comment" was being prepared by some upstream neighbors (due July 9 according to the notice) and we joined those who signed this "comment."

4. September or October 1981: The developers appeared at our door telling us that they "had just learned" that the entire project was to be developed on land owned by us. They gave us assurances (verbal) that we would be little, if at all, affected (these assurances proved to be untrue).

5. March 18, 1983 Developers filed an Application for Short Form License (despite our requests in our comment of July, 1981; we were never informed that the preliminary Permit had been granted, nor were we notified at this time that the application for a permanent license had been filed).

6. May 1983: We learned, by chance, that the primary signer of the "comment" had recently received a copy of the application for a license, which we saw on loan.

7. June 6, 1983: We received a copy of this document from Senator Rudman's office.

8. October 24 and 11: Notice of this application appeared in the *Monitor* (this we saw since we then knew that we should look).

9. December 6, 1983: We filed as Intervenors.

10. December 6, 1983: Developers met with us and agreed to submit written proposal on disposal of our property after the holidays, and confirmed that agreement in a letter, December 9, 1983.

11. Spring 1984: Developers phoned us to say they had not submitted written proposals because the fate of the PSNH was uncertain at that time, but that "within two weeks" they would respond, as promised.

12. May 1, 1984: FERC's Environmental Assessment Statement was issued. (Despite the fact that we were intervenors, it was not sent to us.)

13. August 29, 1984: Senator Humphrey's office sent us a copy of this document. Reading the Environmental Assessment (plus an accompanying document from the Department of the Interior Fish and Wildlife Service). It was clear to us that some drastic changes had been made between the initial application document (March, 1983).

14. Fall 1984 (probably October): We received a copy of a letter from Humphrey's office written by developers to FERC in September 1983. It related to Tom Pond (of which we had never heard). As a result of our efforts, Tom Pond landowners filed as intervenor in Jaunary 1985.

15. October-November 1984: Developers called to say that intervenors plus New Hampshire State agencies demand for survey based on data from Environmental Assessment meant that they would not offer us payment for our property until they learned what these latest developments would cost them.

16. January 25, 1985: Supervisor of the New England Office of U.S. Fish and Wildlife Service sent letter to FERC requesting that, in light of 9th U.S. Circuit Court of Appeal decision for Rock Island, his office "anticipates that the studies for his project should be conducted *before* a decision is made on the license application (FERC has not sent us a copy of this letter, although we are intervenors).

17. January 26 to April 10, 1985: No word from FERC or developers, either to us or our neighbor/intervenors.

COMMENTS

General

Under present FERC procedures, it is quite possible for a landowner to remain ignorant of any intent to build a hydroelectric installation on his property until served notice that his land will be seized under eminent domain.

We acquired our property in Warner/Webster early in January 1981, though we did not move from Washington, DC until late in March 1981. In the autumn of 1981 Dimos and Katsekas knocked at our door, unannounced, told us that they had just learned that we owned the property on which they intended to build a hydroelectric installation, and wanted to discuss the terms under which they would acquire the portion of our property they needed. This was the first and only personal notice we ever received from a legally involved person or organization that our property was vulnerable to expropriation. We have never, to this day, been personally notified by FERC or any other Federal or New Hampshire authority that either a Preliminary Permit or an Application for a License had been filed with FERC for building a hydroelectric installation on our property—the latter to be subject to seizure by eminent domain.

1. We think that developers should be required to send, simultaneously, a copy of each application to FERC and to the Board of Selectmen of the town involved and that the latter be required to notify landowners likely to be affected.

2. We have not been able to find out when FERC approved this application. We should have been notified, particularly since FERC's approval automatically granted Dimos and Katsekas the right to roam on our property for two years, inspecting, measuring, testing whatever they wished. "No Trespassing" signs (we had many posted) were invalidated by FERC Fiat, but we were not so informed. This was a violation of our privacy. Incidentally, FERC's policy of non-notification could place developers at some risk. Many landowners are sensitive about intrusion of their land by strangers, especially if they are using transits, cameras and other measuring or detecting devices. Some landowner might have nervous trigger fingers.

3. Each month the Registry of Deeds in Concord reports to New Hampshire towns any change in ownership of land within the town's jurisdiction. If the developers had been interested in the identity of the owner of the property they wished to acquire, they could have obtained the information from the Board of Selectmen's office in Warner any time beginning with February 1981.

4. We 'phoned FERC in an attempt to obtain a copy of the Application'. The engineer assigned to this project refused; though knowing that we were 'phoning from New Hampshire' he told us that if we wanted to see this document we could come to FERC's office in Washington and read it there.

5. The Application does not mention that the land involved is owned by anyone. In the unpaginated section E.1 "Project Description" a map (Figure 3) shows the proposed dam, penstock, access road, generating units, etc. and shows several nearby houses, including a single-room shack (labelled "small camp") about 200 feet upstream from our house. It does not show that our house, a substantial structure, exists. The same map was made part of FERC's public notice. This notice stated that we "owned the dam," not mentioning, however, that we own all the land, including water rights, upon which the proposed installation would be placed.

6. We attach letters from our attorney, Joseph Ransmeier, to Dimos and Katsekas, and two letters from the latter two addressed to us. These should demonstrate how much "good faith" the developers were exerting in "trying" to reach an agreement with us as to the disposition of our property. Nearly a year has passed since the developers last promised to "finalize our proposal with the alternates and hopefully will be meeting with you some time next week."

7. Two or three weeks later FERC granted us status as intervenors. Our neighbors immediately upstream were granted the same status soon after. The Dimond Lake (Tom Pond) landowners were accepted by FERC shortly after they applied in early January, 1985. None of us received anything of substance from FERC.

HOLDING THEIR GROUND—COUPLE FIGHTS HYDRO PLAN THAT WOULD TAKE THEIR LAND

(By Diane Loiselle)

Since Melville and Joan Ruggles retired in 1981 and moved from Washington, D.C., to the woods of New Hampshire, they have fought a hydroelectric project that could force them to sell their land.

The Ruggleses learned how serious the proposal was in May 1983, when they saw a map of the proposed Davisville Dam Hydroelectric Facility. The Londonderry-based developers, Zoes Dimos and James Katsekas, are awaiting a license from the Federal Energy Regulatory Commission.

"It includes three-quarters of our land, all of our waterfront, on both sides of the (Warner) river," Joan Ruggles said.

According to the developers' application for a license, a law called the New Hampshire Mill Dam Act "gives any person the right to private eminent domain by permitting one party to make use of another's land for his own benefit." A court would rule on the price of the sale of the two parties could not agree.

The Ruggleses, who both worked as editors in Washington, own about 15 acres near Route 127, on either side of the Warner River. They live in a rustic brown house with bright yellow shutters.

"When we decided we were going to retire, we made a list of various things that we thought we'd like," Joan Ruggles said. "We wanted to live in the country. We wanted to live on water." They also had grandchildren in Henniker.

"We were only about a week looking," she said. "And as soon as we got here and heard this water, we got excited."

They especially like the porch, an attached gazebo. The eight-sided room is perched above the river, with windows on seven sides looking over the water as it rushes past rocks and trees.

They moved to the house in March 1981. This week the gazebo was cluttered with documents, notes, letters and maps they have collected in their three-year battle to stay informed and to have a say in what happens to their property.

The proposed project would place the penstock, or pipe, about 100 yards upstream from the home, the turbines about 100 yards downstream. The land the developers want does not include their home but would make it difficult to sell, Melville Ruggles said. It would reduce the property to the size of a conventional city lot.

Melville Ruggles said he feels powerless in the face of the eminent domain law. "What I think is the most distressing, un-American and devastating aspect of the whole system is that by federal law and New Hampshire law they can seize our property for the purpose of profit," he said.

The Ruggleses found out about the project just there months after they arrived, when the developers placed a legal notice in the newspaper announcing their application for a preliminary permit.

At the time they believed the plan would affect only residents upstream, and a group of concerned homeowners rallied to protest. The Ruggleses joined the group as complainants. They became intervenors in December 1983 when it became obvious that the project would affect their property.

The status of intervenor entitles them to information on the proposal and the right to comment, but the Ruggleses say the federal commission has not kept them informed. Sen. Gordon Humphrey complained to the commission that the Ruggleses and other intervenors did not get a commission study of environmental impact, completed in May, until September.

Melville Ruggles said his own contact with the commission was often fruitless. When he asked an engineer for a copy of the license application, the engineer refused.

"Do you know what he said? Knowing that I was calling from New Hampshire, he said, 'You can consult this document by coming down here and reading it in our office.' "

The Ruggleses also have never seen a written offer for their land. The developers promised to put some proposals in writing early this year and then failed to contact the couple until May, when they announced that there would be further delay, Joan Ruggles said. This fall they told the couple they would not put anything in writing until they knew what restrictions the commission would impose.

"I can't see where what they pay us should be related to what FERC is going to cost them, since our land is worth what it's worth," Joan Ruggles said.

Melville Ruggles noted the list of agencies the developers must deal with in the licensing process. "You'll see listed agencies having to do with wildlife protection, but not a single agency that has to do with human beings," he said.

Mr. JOHNSTON. Mr. President, this is a good amendment. It does require notice to those who may be affected by flooding from a dam. We support the amendment and urge adoption.

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

The amendment (No. 1776) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURENBERGER. Mr. President, as a cosponsor of S. 426, the Electric Consumers Protection Act, I am pleased that this legislation has

been brought to the floor and commend the distinguished chairman of the Energy Committee for his leadership.

I would also like to congratulate members of the Energy Committee for their fine work in clarifying the Federal Energy Regulatory Commission's licensing responsibilities under section 10 of the Federal Power Act.

I am particularly pleased with these changes as they relate to State river management programs. At the present time 28 States have initiated statewide river conservation programs, protecting 317 river segments and over 12,000 river miles. This represents a considerable investment on the part of the States in both time and money to keep some of their rivers flowing free.

While all State scenic river programs provide some degree of State-level protection against construction of dams, they have encountered numerous problems when trying to get the Federal Energy Regulatory Commission to consider their views when proposing to license a project located on river included in their river protection program. From the State's standpoint, FERC operates with the apparent authority to override State and local resource management if it deems the hydropower project to be in the national interest.

Mr. President, in amending section 10(a) of the Federal Power Act, to require FERC to consider "the extent to which the project is consistent with a comprehensive plan for improving, developing or conserving a waterway or waterways affected by the project or projects that is prepared * * * by the State in which the facility is or will be located," is it the committee's intent to assure States that when they raise a question as to whether a Federal hydro activity will be consistent with a comprehensive State plan, FERC must specifically consider and address that concern and respond in writing in order to give a State the assurance that its desires to limit hydro development on State protected rivers are seriously and adequately considered?

Mr. McCLURE. I appreciate the Senator from Minnesota's support. I am aware of the Senator's strong interest in, and desire to promote State river programs. The Senator is correct. This provision will create a statutory procedure under which the FERC is required to consider the extent to which a proposed project is consistent with a State's comprehensive river protection program and plan, as established by an act of the State legislature and developed, implemented and managed by an appropriate State agency. The FERC is directed to solicit and consider recommendations from the State in which the project is located.

Mr. DURENBERGER. I thank the distinguished chairman for this clarification.

Mr. MURKOWSKI. Would the distinguished chairman take a moment to respond to a question I have as to the possible impact that enactment of S. 426 would have on the Metlakatla Indian Community in southeastern Alaska?

Mr. McCLURE. I would be pleased to respond to the junior Senator from Alaska.

Mr. MURKOWSKI. Mr. President, as chairman of the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources, it was my privilege to preside over the hearings on S. 426, the Electric Consumers Protection Act of 1985. I am personally pleased, both as subcommittee chairman, and as a cosponsor of S. 426, that the legislative process has worked to bring this legislation before the full Senate. I compliment the efforts of the distinguished chairman and the senior Senator from Wyoming and the junior Senator from Louisiana.

It is my view that the provisions of S. 426 as reported by the committee and as amended today will not affect or alter in any way the decision of the Federal Energy Regulatory Commission that it is without authority to require the Metlakatla Indian Community to obtain a license for hydroelectric power development within the Annette Island Indian Reservation in Alaska.

Mr. McCLURE. The opinion of the gentleman from Alaska is correct. This legislation does not have any impact on the decision by the Federal Energy Regulatory Commission regarding the Metlakatla Indian Community and the Annette Island Indian Reservation.

AMENDMENT NO. 1777

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] proposes an amendment numbered 1777.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On pages 9-10, strike section 10 and insert in lieu thereof the following new section:

"SEC. 10. Section 3(17) of the Federal Power Act (16 U.S.C. 796(17)), as amended, is further amended—

(a) by adding the following new subsection (B):

"(B)(i) Notwithstanding subsection (A) of this section, no hydroelectric project shall be considered a small power production facility (other than for purposes of section 210(e) of the Public Utility Regulatory Policies Act) if such project impounds or diverts the water of a natural watercourse other than by means of an existing dam or diversion, unless such project is located at a Government dam.

(ii) For the purposes of this paragraph, the term "existing dam or diversion" means any dam or diversion that is part of a project for which a license has been issued on or before the date of enactment of this subsection, or which the Commission determines does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) except for the addition of flashboards (or similar adjustable devices).".

Mr. EVANS. Mr. President, I do not intend to pursue this amendment to its conclusion, but I did intend to offer it so it would be made part of the record.

The PURPA Act of 1978 has had some impacts which I do not believe were intended at that time. Those impacts in many cases have required many utilities to purchase power at unwarrantedly high rates. The act has spawned a number of new, small hydroelectric projects which have not, in every case, been to the benefit of either the locality in which they were located, to fish and wildlife resources on that particular river, nor the utility which was forced to purchase power at rates they found not terribly economic.

Mr. President, as I said, I do not intend to pursue this amendment now, but I would like to engage in a colloquy with the chairman of the committee, the Senator from Idaho.

I would ask if the 1978 PURPA Act was really intended at that time by Congress to spawn an explosion of new hydrodevelopment requiring the impoundment and diversions of natural watercourses. It was really intended at the time, as I understand it, primarily to provide incentives for hydrodevelopment at existing dams, although not necessarily exclusively.

Mr. McCLURE. If the Senator will yield, that is my understanding. I believe that is true, although certainly as the Senator has indicated, there was nothing in the legislation nor in the legislative history, nor is there anything in my memory, that would indicate we intended to limit it strictly to those existing dams or impoundments.

I could also perhaps constructively enlarge that to indicate also that there are some places in which there is no impoundment but the water may have been diverted into a pipe which, for a variety of reasons, would have some head of pressure on that water. That was also envisioned, I believe, at the time the original act was passed.

Mr. EVANS. Mr. President, does the Senator from Idaho also agree that in a number of instances, the result of this has been to require utilities to purchase power at rates which were

probably not in their best interests or not economic at the time?

Mr. McCLURE. The Senator again is correct. I think one of the problems that became obvious was that State regulatory commissions, looking at avoided cost, oftentimes put avoided cost at very high figures and at times did not attempt to limit the application at all. I think that particular aspect of the problem has diminished recently as State regulatory commissions have accepted and used authority which they were reluctant to accept and use, but they are applying it now.

Mr. EVANS. With that explanation, Mr. President, it seems to me that perhaps, after 7 years of this act, it does deserve a review to see how well it has worked, to see what aberrations, as addressed by this amendment, may have crept into the act. I ask the Senator from Idaho if it would be appropriate at some time in the near future to embark on a series of hearings on the PURPA Act and any possible changes to it.

Mr. McCLURE. If the Senator will yield, I do agree with the distinguished Senator that not only an oversight of the operations of the act but of its effects, with a view to possible legislative action if, indeed, those hearings should indicate the necessity for corrective action, is in order.

Mr. EVANS. I thank the chairman.

Mr. President, with that, I withdraw the amendment.

The amendment (No. 1777) was withdrawn.

Mr. EVANS. Mr. President, if I may address a question to the chairman.

Mr. McCLURE. Yes, Mr. President.

Mr. EVANS. I have a concern that the provisions regarding the economic impact tests in subsection 15(b)(2) are too vague and subject to a variety of conflicting interpretations. In particular, I am concerned about the inherent difficulties in the concept of developing a consensus view on what is "replacement power."

For example, applicants outside the area of the Pacific Northwest could assert that they face unrealistically high replacement costs while certain utilities in the Pacific Northwest face very low replacement costs due to the power provided by the Bonneville Power Administration. This could skew the balances artificially to the disadvantage of existing licensees in the Pacific Northwest.

Is it the chairman's understanding that the provisions of section 15(b) are not intended to encourage utilities located outside of the Pacific Northwest to bid for projects located in the region served by the Bonneville Power Administration?

Mr. McCLURE. Will the Senator yield?

Mr. EVANS. Yes, Mr. President.

Mr. McCLURE. The Senator is correct. If I may also take this opportunity to correct the statement that was made earlier, if I understood correctly. The distinguished Senator from Tennessee [Mr. GORE] in his comments—again if I heard correctly—had made some comment about this bill tending toward the possibility of favoring a utility service area that had a great number of consumers in contest with a utility that has a very low number of consumers within its service area, in the contest over an application for a license.

If I heard the distinguished Senator from Tennessee correctly, that statement was incorrect, because there is nothing in the bill—as a matter of fact, we went in the other direction to make certain in the language in the bill that we would not inadvertently have that kind of result. We took great care and pains to make certain that there was not an automatic preference for a utility that has a very high number of consumers as against a utility that might have a very low number of consumers.

I think that also addresses the question which the distinguished Senator from Washington has raised in this particular exchange. I agree with the Senator completely.

Mr. EVANS. I thank the Senator from Idaho. I do understand and would agree with him wholeheartedly in his interpretation of the proposed bill to the effect that it would not result in the conclusions that the Senator from Tennessee had perhaps feared.

Mr. President, I then ask in addition, I understand the difficulty in some cases of defining precisely what constitutes a region. But in the case of the Pacific Northwest, there is a well-defined region described in the Bonneville Project Act of 1937 and subsequent Federal legislation. I also understand that the purpose of such laws is to develop the water resources of the region in which the project is located as referenced in subsection 15(b)(1). of S. 426 as passed by the committee.

Mr. McCLURE. The Senator is correct. That is my understanding as well.

Mr. EVANS. I thank the Senator.

The PRESIDING OFFICER. What is the will of the Senate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMENDMENT NO. 1778

Mr. EVANS. Mr. President, I ask unanimous consent that further provisions under the quorum call be dispensed with.

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

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], proposes an amendment numbered 1778:

On page 4, line 18 before the period insert the following: "; and (c) if the applicant is an electric utility, its plans for energy conservation through energy efficiency programs".

Mr. EVANS. Mr. President, in my opening remarks today I said that this act is far more than an act to sort out the licensees, whether they be public or private, in terms of original or relicensing. It is in far greater respect a question of the wisest use of our water resources, an opportunity at each licensing and relicensing to make decisions and to modify previous decisions as they relate to wise use of our water resources. This amendment would add to the other considerations the committee in my view wisely has already included in the proposed act the consideration for energy efficiency or, in other words, conservation. This would apply only when the applicant is a utility, recognizing that it is exceedingly difficult, if not impossible, for a non-utility applicant to have energy efficiency or conservation programs in many cases.

I believe this is a very important addition to the act. It gives FERC a chance to consult with applicants, the utility applicants, to ensure that the most effective use of this increasingly rare water resource is being made. By making the most efficient use of that water resource, we can better accommodate the competing needs and requirements for water.

Mr. President, I urge the adoption of this amendment. I understand that it has been cleared on both sides.

Mr. McCLURE. Mr. President, it is my understanding that the placement of this language is now with relation to the comprehensive plan. It is my further understanding that it is not, therefore, an independent selection criterion, nor is it a term or condition of the license, but it is merged into an evaluation of the comprehensive plan.

With that understanding, I have no objection to the adoption of the amendment.

Mr. EVANS. The Senator from Idaho is correct. It is to include the consideration of energy conservation among the other factors that the Commission must consider.

Mr. JOHNSTON. Mr. President, with the same understanding of this measure that my colleague from Idaho has, we also approve this amendment.

The PRESIDING OFFICER. If there is no further debate on this amendment, the question is on agreeing to the amendment.

The amendment (No. 1778) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I think the distinguished Senator from California has an amendment, and I believe it is in order to consider it at this time.

I yield the floor.

AMENDMENT NO. 1779

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 1779.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, add the following new Section:

SEC. . ELECTION CONCERNING OTHER CONTESTED PROJECTS SUBJECT TO LITIGATION.

(a) APPLICATION OF SECTION.—This section applies to any relicensing proceeding initiated prior to October 1983 at the Federal Energy Regulatory Commission involving the following projects: Mokelumne (No. 137), California; Phoenix (No. 1061), California; Rock Creek/Cresta (No. 1962), California; Haas-King (No. 1988), California; Poole (No. 1388), California; and Rush Creek (No. 1389), California. The numbers in this subsection refer to Federal Energy Regulatory Commission project identification numbers for the existing licensee. This subsection shall also apply to any subsequent relicensing proceeding for any such project involving the same parties which results from the rejection, without prejudice, of an application in any of the proceedings specified in this subsection.

(b) ELECTION BY COMPETING APPLICATIONS.—In the case of each project named in subsection (a), a license applicant competing against an existing licensee must elect within 90 days after the enactment of the Act to either:

(1) withdraw the competing application and agree to be subject to the provisions of this section, or

(2) refuse to withdraw the application, in which case the relicensing proceeding for such project shall be continued and a new license issued solely in accordance with the Federal Power Act, as amended by this act.

(c) COMMISSION ORDER.—If an election is made, the Commission, after notice and opportunity for a hearing, shall issue an order requiring the existing licensee to compensate the competing applicant in an amount representing the reasonable costs plus interest (at a rate determined by the Federal Energy Regulatory Commission in accordance with its regulations governing refunds in proceedings involving electric rate schedules) incurred by the competing applicant, which are related to—

(1) the cost of preparing, filing and maintaining the license applications for the hydroelectric project through the date of enactment;

(2) the cost of seeking to apply, and preserve the application of, Section 7 of the Federal Power Act to the pending relicensing proceedings through the date of enactment;

(3) the cost of preparing, filing and maintaining an application for compensation pursuant to this section through the date of payment; and

(4) the incremental costs the competing applicants will incur or have incurred as a result of any delay in pursuing alternatives to securing hydroelectric power sought by the competing applicants in their license applications.

Mr. WILSON. Mr. President, the amendment I am offering today is intended to provide fair compensation to California cities involved in the hydroelectric relicensing proceedings currently pending before FERC. These cities relied in good faith on existing law in competing for these projects. Since the changes made by S. 426 would effectively guarantee renewal of the existing licensee's license, I believe it only fair that the existing licensee compensate the competing applicant for all of the costs they have incurred or will incur in connection with the relicensing process.

This amendment identifies five costs that should be reimbursed including:

(1) Costs associated with preparing, filing and maintaining the license applications for the hydroelectric project through the date of enactment;

(2) Costs associated with seeking to apply, and preserve the application of section 7 of the Federal Power Act to the pending relicensing proceedings through the date of enactment;

(3) Costs associated with preparing, filing and maintaining an application for compensation pursuant to this section through the date of payment;

(4) The incremental costs the public applicants will incur or have incurred as a result of any delay in pursuing alternatives to securing the hydroelectric power sought by the California cities in their license applications;

(5) Interest through the date of payment on the amounts specified in (1)–(3).

All of the costs are related to the seeking of the hydro licenses. All of the costs represent economic losses to the California cities resulting from the retroactive application of the changes contained in S. 426. It would be unfair and inequitable to force the affected California ratepayers to shoulder the economic burden created by the retroactive application of this bill.

Mr. President, I ask my distinguished colleague, the Senator, from Idaho [Mr. McCLURE], whether he agrees with me that the California cities should be fully reimbursed for all of the costs identified in my amendment.

Mr. McCLURE. Let me assure my distinguished colleague that I share his concern. The competing public applicants have spent substantial sums in good faith reliance on existing law. But because the changes made by the bill we are considering today are to apply retroactively, thereby diminishing significantly their chances of succeeding in these relicensing proceedings, it would clearly be inequitable not to provide for reimbursement of their costs. While I have not had sufficient opportunity to study specific language offered by my colleague, I do believe that the costs he has just described are reasonable and should be reimbursed, and I will support inclusion of a provision providing for reimbursement of those costs in the conference report.

I will state, further, that the provisions in the House bill that deal with this subject do make this matter fully conferenceable, and I hope we can arrive at an appropriate conclusion in the conference.

Mr. WILSON. I thank the Senator from Idaho.

I note that the provisions in the House bill not only make this conferenceable but also go beyond what is described in my amendment. I will say for the record that it is my intention and purpose to try to make the cities whole but not to give them a windfall.

I thank the Senator from Idaho, and I am much assured by his statement. With that assurance, I see no need to pursue this amendment, and I withdraw it at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. McCLURE. Mr. President, at this point, I believe we have disposed of every amendment or discussion, with the exception of three.

Senator HART has an amendment or a complete substitute which he desires to offer. Senator MELCHER and the managers of the bill have been discussing at some length the question of an amendment or amendments dealing with wheeling. I had made arrangements with the distinguished Senator from Montana [Mr. BAUCUS] for a colloquy which was to be entered into the RECORD this afternoon. I believe that those are all the remaining items.

I also understand that Senator MURKOWSKI and Senator EVANS are going to engage in a colloquy, which apparently will be satisfactory to them, and I believe it can be and will be resolved satisfactorily.

We are seeking any information from any source of the correctness or lack of accuracy of the statement that I have just made. I believe if that is accurate, that we will be able to propound a unanimous-consent agreement by which we would stop the con-

sideration of the bill at this time, return to it at the hour of 10 o'clock on next Tuesday for the consideration of amendment or amendments by the Senator from Montana, to turn to the amendment or substitute to be offered by the Senator from Colorado at the hour of 2 o'clock under a 1-hour time agreement to be equally divided and no other amendments to be in order, with final passage to follow the disposal of the Melcher amendments, if they are disposed of, and the Hart amendment.

That would also leave room for the Baucus colloquy and the colloquy with Senator MURKOWSKI because they would not have to be covered by a specific unanimous-consent agreement.

Pending the clearance of the unanimous-consent agreement and any other advice that we can get from any other source as to any other issue that might be pertinent to this legislation, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. McCLURE. Mr. President, I am about to propound a unanimous-consent request which I understand has been cleared on both sides of the aisle. I ask unanimous consent that during the remainder of the Senate's consideration of S. 426, the hydrorelicensing bill, the following amendments be the only amendments in order: a Hart substitute dealing with making Federal recapture of privately-licensed projection automatic, limited to 1 hour, to be equally divided in the usual form; an undetermined number of amendments to be offered by Senator MELCHER dealing with wheeling of power, with no time restraints for debate; the pending committee substitute; an undetermined number of amendments in the second degree to be offered by the Senator from Ohio [Mr. METZENBAUM] to the Melcher amendments, which must be germane to the first-degree amendments they propose to amend.

I also ask unanimous consent that at 10 a.m. on Tuesday, April 15, the Senate resume consideration of S. 426, and at that point the Senator from Montana [Mr. MELCHER] be recognized to offer his amendments on wheeling of power.

I further ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m. on Tuesday, in order for the weekly party caucuses to meet.

I further ask unanimous consent that when the Senate reconvenes at 2 p.m., the Senator from Colorado [Mr. HART] be recognized to offer his substitute under the time agreement mentioned above.

I further ask unanimous consent that at 3 p.m. on Tuesday, the Senate proceed to vote in relation to the Hart substitute, without any intervening debate or action and, if agreed to, it be considered original text.

I further ask unanimous consent that following the disposition of the Hart substitute, the Melcher amendments and any second-degree amendments offered by Senator METZENBAUM, the Senate proceed to vote on the committee substitute, as amended, without any intervening action or debate, and that no motions to recommit with instructions be in order, and that there be 5 minutes on any debatable motions, appeals, or points of order.

Finally, Mr. President, I ask unanimous consent that following disposition of the committee substitute, the bill be advanced to third reading and final passage of S. 426, as amended, occur without any intervening action or debate.

The PRESIDING OFFICER. Is there an objection?

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The distinguished Democratic leader.

Mr. BYRD. Mr. President, I reserve the right to object. May I ask the distinguished Senator who proposed the agreement, is it understood that the amendments which are being specified in the agreement go to the committee substitute and that the bill itself will not be open to amendment other than by the committee substitute, as amended, if amended?

Mr. McCLURE. That is my understanding.

Mr. BYRD. In regard to the 5 minutes on any points of order, it it understood that the Senator is making that request only in the case of points of order submitted to the Senate by the Chair for consideration and debate?

Mr. McCLURE. The Senator is correct.

Mr. BYRD. Mr. President, will the distinguished Senator suggest the absence of a quorum at the moment?

Mr. McCLURE. I would be very happy to. Without the ruling on the unanimous-consent request or without withdrawing it, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The text of the unanimous-consent agreement is as follows:

Ordered, That during the remainder of the Senate's consideration of S. 426, the hydro-relicensing bill, the following amendments be the only amendments in order to the substitute, and that amendments to the underlying bill not be in order:

Hart substitute dealing with making Federal recapture of privately licensed projection automatic, limited to 1 hour, to be equally divided and controlled in the usual form;

An undetermined number of amendments to be offerd by the Senator from Montana [Mr. MELCHER] dealing with wheeling of power, with no time restraints for debate;

The pending committee substitute;

An undetermined number of amendments in the second degree to be offered by the Senator from Ohio [Mr. METZENBAUM] to the Melcher amendments, which must be germane to the first degree amendments they propose to amend.

Ordered further, That at 10 a.m. on Tuesday, April 15, 1986, the Senate resume consideration of S. 426 and the Senator from Montana [Mr. MELCHER] be recognized to offer his amendments on wheeling of power.

Ordered further, That the Senate stand in recess between the hours of 12 noon and 2 p.m. on Tuesday, April 15, 1986.

Ordered further, That when the Senate reconvenes at 2 p.m. on Tuesday, April 15, 1986, the Senator from Colorado [Mr. HART] be recognized to offer his substitute, under the time agreement mentioned above.

Ordered further, That at 3 p.m. on Tuesday, April 15, 1986, the Senate proceed to vote in relation to the Hart substitute, without any intervening debate or action, and if it is agreed to, it be considered original text.

Ordered further, That following the disposition of the Hart substitute, the Melcher amendments, and any second degree amendments offered by Senator METZENBAUM, the Senate proceed to vote on the committee substitute, as amended, without any intervening action or debate.

Ordered further, That no motions to recommit with instructions be in order, and that there be 5 minutes debate equally divided on any debatable motions, appeals or points of order which are submitted to the Senate.

Ordered further, That following the disposition of the committee substitute, the bill be advanced to third reading, and final passage occur on S. 426, as amended, without any intervening action or debate.

Mr. McCLURE. Mr. President, I ask unanimous consent that S. 426 be set aside temporarily, pending its resumption under the unanimous-consent request just agreed to.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE CALENDAR

Mr. RUDMAN. Mr. President, I would inquire of the Democratic leader whether he is in a position to pass a number of calendar items. I will read which ones they are.

Calendar Order No. 580, S. 2054; Calendar Order No. 589, Senate Resolution 332; Calendar Order No. 598, Senate Resolution 352; Calendar Order No. 599, Senate Joint Resolution 281; Calendar Order No. 600, Senate Joint Resolution 284; Calendar Order No. 601, Senate Joint Resolution 300; Calendar Order No. 602, Senate Joint Resolution 303; Calendar Order No. 603, Senate Joint Resolution 306; Calendar Order No. 604, Senate Joint Resolution 307; Calendar Order No. 605, Senate Joint Resolution 309; Calendar Order No. 606, Senate Joint Resolution 315; Calendar Order No. 607, Senate Joint Resolution 188, and Calendar Order No. 608, Senate Joint Resolution 199.

Mr. BYRD. Mr. President, I am happy to respond to the distinguished acting majority leader. Those items that the Senator enumerated have been cleared on this side and we are ready to proceed.

Mr. RUDMAN. If that is so, Mr. President, I ask unanimous consent that the calendar items just identified be considered and passed en bloc and that all committee-reported amendments and preambles be considered and agreed to.

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

CONTRIBUTIONS AND DONATIONS FOR A SPACE SHUTTLE

The Senate proceeded to consider the bill (S. 2054) to provide that the National Aeronautics and Space Administration may accept gifts and donations for a space shuttle which may be named *Challenger II,* which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment:

On page 2, line 13, strike "shuttle", and insert the following: "shuttle or the Administrator does not, either pursuant to any provision of law or as a result of a determination by the Administrator, undertake and complete construction of such space shuttle—".

So as to make the bill read:

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2471 et seq.) is amended by adding at the end thereof the following new section:

"DONATIONS FOR SPACE SHUTTLE

"SEC. 208. (a) Notwithstanding the provisions of paragraph (4) of subsection (c) of section 203 of this Act or any other provision of law, the Administration is authorized to accept gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible, and expend such gifts and donations for the construction of a manned space shuttle. Such shuttle may be named Challenger II.

"(b) If the manned space shuttle program is discontinued before the completion of construction of such space shuttle or the Administrator does not, either pursuant to any provision of law or as a result of a determination by the Administrator, undertake and complete construction of such space shuttle—

"(1) the authority of the Administration to accept gifts or donations pursuant to subsection (a) shall be terminated; and

"(2) all such gifts or donations not expended, shall be treated as gifts and donations pursuant to paragraph (4) of subsection (c) of section 203 of this Act and may be expended by the Administrator for the activities of the Administration.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HONORING THE "CHALLENGER" SPACE SHUTTLE ASTRONAUTS

The Senate proceeded to consider the resolution (S. Res. 332) to honor the *Challenger* space shuttle astronauts, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments.

The amendments were agreed to.

Mr. ARMSTONG. Mr. President, the tragedy of the *Challenger* space shuttle disaster and the loss of our seven astronauts is still very much in the hearts and minds of Americans as well it should be.

We had become complacent. For most of us, the wonder of sending human beings into space had worn off, and we took it in stride every time shuttles were launched, carried out their missions and returned safely to Earth.

That complacency ended abruptly when the seven brave men and women of the *Challenger* space shuttle died in the pursuit of greater knowledge for the benefit of us all. Since that time, we have begun to understand the difficulty of sending man into space and the courage of the individuals who seek to be a part of the space program.

Recently, I introduced Senate Resolution 332 which urges the International Astronomical Union to name seven of the moons, satellites, or surface features of Uranus after the seven who died upon the *Challenger*—Michael Smith, Francis (Dick) Scobee, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe. As with many of the efforts to honor the *Challenger* astronauts, this one began with a suggestion from a private citizen, Bob Palmer, a prominent TV newscaster in Colorado. He saw this as a way to express national recognition of the seven astronauts who died on January 28, 1986, and for all those who dedicate their lives to space exploration.

This particular shuttle launch was even more unique in that a teacher, Christa McAuliffe, was to have taught the first school lesson from space. Instead, her death and that of the six other astronauts taught us a much more difficult lesson—that of the remarkable courage of those who travel into space, knowing they are risking their lives in the pursuit of greater knowledge. Such dedication should not be forgotten.

I am pleased that the Committee on Commerce, Science, and Transportation has favorably reported Senate Resolution 332 and that 33 of my colleagues here in the Senate have joined me in seeking to honor the seven *Challenger* astronauts. It is one way to express our national sense of regret and sorrow at the loss of these brave Americans and how deeply we respect their courage.

As President Reagan said, "The future does not belong to the faint-hearted. It belongs to the brave." Today, we seek to show, in one small way, our sense of humility toward those who fearlessly sought to conquer new horizons in space. Their sacrifice serves as a lesson to us all.

Mr. BAUCUS. Mr. President, I rise today in support of the resolution by the Senator from Colorado, Senate Resolution 332, to honor the *Challenger* space shuttle astronauts.

On January 28, 1986, our entire Nation was brought together by a tragedy that still seems incomprehensible more than 2 months later. The space shuttle *Challenger,* embarking on its 10th mission into the heavens, exploded—ending the lives of seven courageous astronauts.

We have not forgotten the shock and sadness that we all felt that day. We continue to grieve the loss of those seven lives. Our hearts go out to the families of the astronauts, who have suffered through a private event in a very public way.

Senate Resolution 332 memorializes the seven heroes whose lives were taken on that sad day by calling for the naming of the newly discovered moons of the planet Uranus, or features of the moons, for the seven men and women who died aboard the space shuttle *Challenger.*

This resolution is a fitting reminder of their courage and their quest to explore space for the benefit of all mankind.

Mr. President, as the author of a similar measure, Senate Resolution 318, and as a cosponsor of the Armstrong resolution, I hope that the Senate will approve passage of this resolution so that the names of the *Challenger* seven will live on, as their memory will live on in our hearts.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution (S. Res. 332), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, and the preamble, are as follows:

S. RES. 332

Whereas words cannot adequately express our deep sense of regret and sorrow to the families of those brave men and women who have lost their lives pursuing the exploration of space;

Whereas in the words of President Reagan, "The future does not belong to the faint-hearted. It belongs to the brave. The *Challenger* crew was pulling us into the future, and we will continue to follow them.";

Whereas space exploration holds limitless promise for greater knowledge and the advancement of all mankind;

Whereas without the courage of our space pioneers, our last great frontier would remain beyond our reach;

Whereas those who are fearlessly dedicated to space exploration should be considered no less than modern-day heroes;

Whereas in this time of sorrow for the astronauts who have perished we are conquering a new horizon in modern space exploration—the remarkable discovery of new celestial bodies orbiting the planet Uranus; and

Whereas we mourn the tragedy of today, we recognize that space exploration holds continued promise for the future: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) seven of the newly discovered celestial bodies orbiting the planet Uranus or other suitable features discovered by the *Voyager* spacecraft at Uranus should be named after those individuals who have lost their lives in the quest of space. They are the men and women who died aboard space shuttle *Challenger*, on January 28, 1986: Michael Smith, Francis (Dick) Scobee, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe; and

(2) the Senate recommends to the International Astronomical Union that the celestial bodies or other suitable features be so named.

COMMEMORATION OF BICENTENNIAL OF THE SENATE OF THE UNITED STATES

The Senate proceeded to consider the resolution (S. Res. 352) relating to the commemoration of the bicentennial of the Senate of the United States.

Mr. BYRD. Mr. President, I am pleased and proud to announce that the Senate Judiciary Committee, of which I am a member, has reported out S. Res. 352, which establishes the Commission on the Bicentennial of the United States Senate.

This commission was called for in the recommendations of the study group on the commemoration of the United States Senate bicentenary in 1982. And now it is close to becoming reality.

In my remarks on February 26, at the time I introduced S. Res. 352, I outlined the numerous and various projects both planned and already underway to celebrate the bicentenntial of the Senate. These projects include valuable and important publications, restoration projects, and commemoration ceremonies.

It is appropriate that we take such actions to recognize the creation of the American Government. Under the system of Government created by our Founding Fathers during the Constitutional Convention of 1787, and inaugurated in 1789, this Nation has grown from 13 badly divided and underdeveloped States into the premier world power, and the wealthiest and most influential nation in the world. And yet, our form of government remains remarkably close to the system of government devised by the framers of the Constitution in Philadelphia 200 years ago.

As I said when introducing the resolution to create the commission, the continuation of our National Government and the preservation of our rights and freedoms under that Government have served as an inspiration to the world. We cannot forget, or take for granted, those accomplishments. It is proper that we begin now to commemorate them with the thoughtful deliberation and dignity that are in keeping with the best traditions of the U.S. Senate.

The establishment of this commission will be a major force and factor in ensuring these goals. For, as the resolution states, the purpose of the commission will be:

To coordinate ceremonial events and related activities as appropriate * * * [and] oversee the development of projects and activities as outlined in the final report of the study group on the commemoration of the United States Senate bicentenary. It shall seek to coordinate Senate bicentennial activities with related organizations outside the Senate, including the Commission on the United States House of Representatives Bicentenary and the Commission on the Bicentennial of the United States Constitution.

I hope that the Senate will move swiftly to accept this report in order that we may begin planning for the celebration of this very significant event in the history of our Nation and the world.

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

The resolution (S. Res. 352) was agreed to

The preamble was agreed to.

The resolution, with the preamble, is as follows:

S. RES. 352

Whereas the Senate of the United States in the year 1989 will celebrate the two hundredth anniversary of its establishment under the Constitution;

Whereas the Senate's historical development has been inextricably bound to the development of our national heritage of individual liberty, representative government, and the attainment of equal and inalienable rights;

Whereas it is appropriate and desirable to provide for the observation and commemoration of this anniversary;

Whereas the Study Group on the Commemoration of the United States Senate Bicentennary in 1982 recommended a "coordinated program of publications, ceremonial events, conferences, and a film to inform the Nation on the role of the Senate" to be undertaken within the Office of the Secretary of the Senate by the Senate Historical Office and the Office of the Senate Curator; and

Whereas the Study Group further recommended that the Senate on the eve of the one hundredth Congress might "wish to establish a special bicentennial commission to coordinate specific activities of the bicentennial period 1987-1989": Now, therefore, be it

Resolved, That there is hereby established a Commission on the Bicentennial of the United States Senate (hereafter in this resolution referred to as the "Commission") to coordinate ceremonial events and related activities as appropriate.

SEC. 2. The Commission shall be composed of the following members:

(1) the President pro tempore of the Senate;

(b) the majority leader and minority leader of the Senate;

(c) two Members of the Senate to be appointed by the majority leader; and

(d) two Members of the Senate to be appointed by the minority leader.

SEC. 3. The majority leader shall designate one of the members of the Commission to serve as Chairman of the Commission, and the minority leader shall designate one of the members of the Commission to serve as Vice Chairman of the Commission. Four members of the Commission shall constitute a quorum for the transaction of business.

SEC. 4. Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

SEC. 5. The Commission shall oversee the development of projects and activities as outlined in the Final Report of the Study Group on the Commemoration of the United States Senate Bicentennary. It shall seek to coordinate Senate bicentennial activities with related organizations outside the Senate, including the Commission on the United States House of Representatives Bicentennary and the Commission on the Bicentennial of the United States Constitution.

SEC. 6. The Commission shall be staffed by the Senate Historical Office and the Office of Senate Curator, under the jurisdiction of the Secretary of the Senate, and with the assistance of the United States Senate Commission on Art and Antiquities.

SEC. 7. The routine administrative expenses of the Commission shall be paid from the Contingent Fund of the Senate, out of the account of Miscellaneous Items, upon vouchers approved by the Chairman of the Commission. For any fiscal year, not more than $100,000 shall be expended for such purposes.

SEC. 8. The Commission shall seek to assemble a private sector task force to explore ideas and funding from private sources for appropriate projects to commemorate the bicentennial.

SEC. 9. The Commission may submit periodic reports on its activities to the Senate and shall submit a final report at the time of its termination.

SEC. 10. The Commission shall cease to exist at the end of the one hundred and first Congress, unless otherwise provided by law or resolution.

SENIOR CENTER WEEK

The joint resolution (S.J. Res. 281) to designate the week of May 11 through May 17, 1986, as "Senior Center Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES 281

Whereas senior centers act as a catalyst for mobilizing the creativity, energy, vitality, and commitment of older Americans to help themselves and others in their communities;

Whereas, through their wide array of services, programs, and activities, senior centers empower older Americans to contribute to their own health and well-being and to the health and well-being of their fellow citizens of all ages;

Whereas senior centers foster a philosophy of independence, self-reliance, and community spirit, thereby representing another expression of American ingenuity, determination, self-help, and neighborliness;

Whereas the month of May has historically been proclaimed as Older Americans Month, as a time to recognize our rich treasury of older Americans; and

Whereas the national theme for Senior Center Week shall be "Senior Centers are Wellness Centers": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second week of May, May 11 through May 17, 1986, be designated as "Senior Center Week" calling upon the people of the United States to recognize the special contributions of senior centers and their participants, and the special efforts of senior center staff and volunteers who work every day to enhance the well-being of older persons in communities throughout the country.

BETTER HEARING AND SPEECH MONTH

The joint resolution (S.J. Res. 284) to designate the month of May 1986, as "Better Hearing and Speech Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 284

Whereas more than fifteen million Americans, of all ages experience some form of hearing impairment, ranging from mild hearing loss to profound deafness;

Whereas more than ten million Americans of all ages experience some form of speech or language impairment;

Whereas the deaf, hard of hearing, and speech or language impaired have made significant contributions to society in virtually every occupational category and profession;

Whereas those with communication disorders continue to encounter impediments and obstacles which limit their education and employment opportunities; and

Whereas the remaining barriers which prevent the communicatively handicapped from fulfilling their potential must be recognized and eliminated.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1986 is designated "Better Hearing and Speech Month" and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

RECOGNIZING AND HONORING THE 350 YEARS OF SERVICE OF THE NATIONAL GUARD

The joint resolution (S.J. Res. 300) to recognize and honor 350 years of service of the National Guard, was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 300

Whereas three hundred and fifty years ago, the first settlers organized militia units to defend their property and lives, establishing the tradition of the citizen-soldier in the United States;

Whereas citizen-soldiers evolved into the National Guard and have answered the call to duty in virtually every conflict in which the United States has been involved; and

Whereas the National Guard has always been ready to serve by saving lives and property when disaster has struck in peacetime: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes the National Guard for three hundred and fifty years of service, and honors the Army and Air National Guard for services rendered to communities, to States, and to our Nation.

FAIR HOUSING MONTH

The joint resolution (S.J. Res. 303) to designate April 1986 as "Fair Housing Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 303

Whereas the year 1986 marks the eighteenth anniversary of the passage of title VIII of the Civil Rights Act of 1968, commonly referred to as the "Fair Housing Act", declaring a national policy to provide fair housing throughout the United States;

Whereas the Federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin;

Whereas fairness is the foundation of our way of life and reflects the best of our traditional American values;

Whereas invidious discriminatory housing practices undermine the strength and vitality of America and the American people; and

Whereas in this eighteenth year since the passage of the Fair Housing Act, all Americans must work to continue to improve the Fair Housing Act by strengthening enforcement provisions, by extending the protections of the Act to all our citizens, by assuring there are no victims of discriminatory housing practices, and by making the ideal of fair housing a reality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April as "Fair Housing Month" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the month with appropriate ceremonies and activities.

NATIONAL ADOPTION WEEK

The joint resolution (S.J. Res. 306) to designate the week beginning November 23, 1986, as "National Adoption Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 306

Whereas the week of November 23 has been commemorated as "National Adoption Week" for the past ten years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 23 through November 29, 1986, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL CARPET AND FLOOR COVERING WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 307) to authorize and request the President to designate the week of April 18, 1986, through April 27, 1986, as "National Carpet and Floor Covering Week."

Mr. MATTINGLY. Mr. President, a rapidly changing global economic environment is forcing U.S. producers to increasingly compete against unfairly subsidized or dumped foreign goods and foreign trade barriers that discriminate against U.S. exports. As Congress considers responses to the current international trade climate, it is appropriate to recognize a sector of a beleaguered U.S. industry that has met today's challenges and has managed to maintain its competitive position. I am referring to that portion of the U.S. textile industry devoted to the manufacture of carpet and other floorcovering. The carpet and floor covering industry fully realizes the value, indeed the necessity, of technological innovation and improved efficiency. American-made carpets, rugs, and floorcoverings are able to compete successfully on the merits of their product thanks to state-of-the-art production and aggressive marketing and promotional strategies. I applaud the efforts and success of this industry and urge my colleagues to support Senate Joint Resolution 307 to designate the week of April 18, 1986, through April 27, 1986, as "National Carpet and Floor Covering Week."

The joint resolution (S.J. Res. 307) was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 307

Whereas since its founding more than two hundred years ago, this Nation has promoted the concept of prosperity through a free enterprise system;

Whereas American business has traditionally prospered and flourished through fair pursuit of free enterprise, but finds itself now beset by increased unfair competition from overseas;

Whereas American carpet and floorcovering producers represent one of the last remaining areas of strength for the United States textile industry;

Whereas in the spirit of marketing and promotion that has helped make the United States the world's premier industrial power, an unprecedented national promotional effort is to be made in conjunction with "National Carpet and Floorcovering Week," April 18 through April 27, 1986;

Whereas this annual event has become known as the United States largest carpet and floorcovering event showcasing the enormous variety and excellent quality of goods offered by American fiber producers, mills, distributors, and retailers;

Whereas these efforts have been specifically designed to bring to the consumers' attention the vast array of American floorcovering products on the market and to heighten public awareness as to the design and fashion uses of American floorcoverings; and

Whereas it is only with resourcefulness, determination, and perseverance similar to that shown by the American carpet and floorcovering producers that United States industry can continue to meet the demands and needs of the world's consumers in what are increasingly competitive national and international marketplaces: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating April 18, 1986, through April 27, 1986, as "National Carpet and Floorcovering Week," and calling upon the people of the United States to observe that week with appropriate programs and activities.

NATIONAL INTELLIGENCE COMMUNITY WEEK

The joint resolution (S.J. Res. 309) to designate the week of June 1, 1986, through June 7, 1986, as "National Intelligence Community Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 309

Whereas the work of the men and women of the intelligence community is essential to the national security of the United States and to the cause of freedom and democracy throughout the world;

Whereas the dedication of the men and women of the intelligence community to the service of their country in difficult and dangerous circumstances abroad, and in arduous intellectually challenging analytical assignments at home, is deserving of special recognition by the Senate and House of Representatives of the United States;

Whereas efforts should be made to foster an understanding and appreciation on the part of the American people that intelligence is the first line of national defense and that an effective intelligence capability is vital to the safety and well being of the United States; and

Whereas it is particularly appropriate to recognize the continuing contribution of our intelligence officers during the week of the anniversary of the birth of Nathan Hale, an early patriot, hero, and practitioner of American intelligence, who symbolizes the selfless dedication of our Nation's intelligence personnel: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the week beginning June 1, 1986, through June 7, 1986, is hereby designated as "National Intelligence Community Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize the week of June 1, 1986, through June 7, 1986, as "National Intelligence Community Week".

OLDER AMERICANS MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 315) designating May 1986, as "Older Americans Month."

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mrs. HAWKINS. Mr. President, today, I am joined in my sponsorship of Senate Joint Resolution 315 proclaiming May 1986, as "Older Americans Month" by over 30 of my colleagues. From as early as 1950, States have chosen May as the month to commemorate the contributions of our senior citizens through special local activities, programs, and ceremonies. In 1963, Older American's Month was nationally observed—and has been recognized since that time. Honoring our senior citizens, who give so much to our society, has become an important May tradition.

During Older Americans Month, we take time to consider all that older adults add to the richness of our individual lives and the life of our Nation. We must not forget the deeds and experiences of older Americans, many of whom have survived the Great Depression, defended our democratic society in times of war, and worked and sacrificed to shape our Nation's land and industry.

My home State of Florida has the largest number of senior citizens per capita in the Nation. Our climate is warm, opportunities abound, and Florida has become the "Venice" for a great number of this Nation's retiring and senior citizens. May I add that Florida has greatly benefited from the expertise and wisdom of senior citizens with a wide range of experiences and knowledge.

Last year Florida instituted a variety of innovative programs highlighting the contributions of our senior citizens. There were senior fairs offering everything from dancing, to fashion shows, to blood pressure and hearing testing. Senior citizens were encouraged to write and participate in theatrical performances. Quality-crafted quilts and other crafts from seniors were displayed in public buildings. And senior centers conducted marriage renewal celebrations for those celebrating their golden wedding anniversaries. Fast food chains offered bumper stickers and trayliners praising the elderly. And one poster portraying seniors in their exercise class stated, "Don't be a Senior Sit-i-zen."

Most people may not be aware that at age 100, Grandma Moses was still painting. That at 81, Benjamin Franklin effected the compromise that led to the adoption of the U.S. Constitution. That at 90 Pablo Picasso was producing drawings and engravings. And that at 89 Albert Schweitzer directed a hospital in Africa.

A little closer to home, our President Ronald Reagan is 73 years old. Supreme Court Justice William Brennan,

Jr., is 78, and runner Johnny Kelley, 76, has competed in 53 Boston marathons.

Mr. President, our Nation's senior citizens have so much to contribute to the future of this country. I hope and pray that throughout the month of May all of us will realize their significance as the purveyors of values, knowledge, and our culture.●

The joint resolution (S.J. Res. 315) was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 315

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1986 as "Older Americans Month" and calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

NATIONAL AIR TRAFFIC CONTROL DAY

The joint resolution (S.J. Res. 188) to designate July 6, 1986, as "National Air Traffic Control Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The joint resolution, and the preamble, as amended, are as follows:

S.J. RES. 188

Whereas July 6, 1986, marks the fiftieth anniversary of the establishment, by the United States Bureau of Air Commerce, of an airways traffic control system to assure adequate spacing between airplanes flying along established air routes and to prevent congestion at airports;

Whereas the volume of traffic using the United States Airspace System has increased one hundred eighty-fold from two hundred-ninety-four thousand five hundred twenty-eight en route flight movements in 1938, to fifty-three million three hundred twenty thousand nine hundred thirty-one total air route traffic movements in 1983;

Whereas the safety, efficiency, and technical sophistication of the United States National Airspace System is now unparalleled in the world, and the preeminence of the United States in pioneering the technology of air traffic control is universally recognized, and emulated, by other nations throughout the world;

Whereas this Nation's civil and military air traffic control personnel daily guide unprecedented volumes of traffic safely and efficiently through the National Airspace System; and

Whereas in order to increase public awareness of the excellence and preeminence of the United States National Airspace System, and because the people of the United States desire to express their gratitude and respect to the pioneers of the technology of air traffic control, and the air traffic control personnel—past and present—who have dedicated their lives and careers to development, safety, and efficiency of the National Airspace System: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 6, 1986, is designated as "National Air Traffic Control Day". The President is requested to issue a proclamation calling upon the people of the United States and upon interested associations and organizations to observe such a day with appropriate ceremonies and activities.

NATIONAL ELKS VETERANS REMEMBRANCE MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 199) to designate the month of November 1985 as "National Elks Veterans Remembrance Month," which had been reported from the Committee on the Judiciary, with an amendment:

On page 3, line 3, strike "1985", and insert "1986"

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The title was amended so as to read "Joint resolution to designate the month of November 1986 as 'National Elks Veterans Remembrance Month'."

The joint resolution, as amended, and the preamble, as amended, is as follows:

S.J. RES. 199

Whereas there are one million, six hundred and fifty thousand members of the Benevolent and Protective Order of Elks, assembled in fifty State groups;

Whereas the fraternal and benevolent society, founded in 1868, has demonstrated a strong commitment to the veterans of the Nation;

Whereas the pledge of the Elks National Service Commission first made in 1946, remains, "So long as there are veterans in our hospitals, the Benevolent and Protective Order of Elks will never forget them.";

Whereas the Elks and the Ladies Auxiliaries of the Elks provide many services and programs to hospitalized veterans;

Whereas the Elks National Service Commission provides volunteer services and assistance in all one hundred and seventy-two Veterans' Administration medical centers, and nursing homes and domiciliaries;

Whereas in addition to providing entertainment, occupational therapy assistance, and comfort to hospitalized veterans, the Elks have given financial support to hospital committees and have engaged in recruitment activities for the Armed Services;

Whereas the numerous contributions of the Benevolent and Protective Order of Elks on behalf of the veterans of the Nation deserve greater public recognition and awareness; and

Whereas recognition of the Elks by the Congress and President throught enactment of legislation declaring the month of November 1986 as "National Elks Veterans Remembrance Month", would serve to create greater public recognition and awareness of the contributions of the fraternal society, to express the appreciation of the Nation for the service of the Elks, to inspire more responsive care to veterans of the Nation, and to reinforce that duty to American veterans is the responsibility of all: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1986 is designated as "National Elks Veterans Remembrance Month", and the President is authorized and requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe such month with appropriate programs, ceremonies, and activities.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the various measures were passed or agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUDICIAL IMPROVEMENTS ACT

Mr. RUDMAN. Mr. President, I would inquire of the Democratic leader whether he is prepared to move to Calendar Order No. 572, H.R. 3570.

Mr. BYRD. Mr. President, the Calendar Order No. 572 has been cleared on this side. We are ready to proceed.

Mr. RUDMAN. I thank my friend.

Mr. President, I ask unanimous consent that the Senate turn to Calendar No. 572, H.R. 3570, to improve Federal Justices and Judges Survivors' Annuity Program.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3570) to amend title 28, United States Code, to reform and improve the Federal justices and judges survivors annuities program, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brack-

ets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 3570

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 "Judicial Improvements Act of 1985".

SEC. 2. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) BENEFIT REFORMS.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended by striking out "or (iii) the date upon which the Judicial Survivors' Annuities Reform Act becomes effective;" and inserting in lieu thereof "(iii) January 1, 1977; or (iv) January 1, 1986;".

(2) Subsections (b) and (d) are each amended by striking out "4.5 percent" each place it appears and inserting in lieu thereof "5 percent".

(3) Subsection (c) is amended to read as follows:

"(c)(1) There shall also be deposited to the credit of the Judicial Survivors' Annuities Fund, in accordance with such procedures as the Comptroller General of the United States may prescribe, amounts required to reduce to zero the unfunded liability of the Judicial Survivors' Annuities [Fund]. *Fund; Provided, That such amounts shall not exceed the equivalent of 9 percent of salary or retirement salary.* Such deposits shall, subject to appropriation Acts, be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the Judicial Survivors' Annuities Fund for any use required under this section.

"(2) For purposes of paragraph (1), the term 'unfunded liability' means the estimated excess, [determined by the Comptroller General on an annual basis,] *determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code,* of the present value of all benefits payable from the Judicial Survivors' Annuities Fund, over the sum of—

"(A) the present value of deductions to be withheld from the future basic pay of judicial officials; plus

"(B) the balance in the Fund as of the date the unfunded liability is determined.

In making any determination under this paragraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, United States Code, with respect to the judicial survivors' annuities plan established by this section.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

(3) Subsection (h) is amended—

(A) in paragraph (1)(B), by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) 10 percent of the average annual salary determined under subsection (1)(1) of this section; or

"(ii) 20 percent of such average annual salary, divided by the number of children;";

(B) in paragraph (1)(C) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) 20 percent of the average annual salary determined under subsection (l)(1) of this section; or

"(iii) 40 percent of such average annual salary amount, divided by the number of children;"; and

(C) in paragraph (2) by inserting immediately after "remarriage" the following: "before attaining age 55".

(4) Subsection (l) is amended—

(A) by striking out "1¼ percent" and inserting in lieu thereof "1.5 percent";

(B) in paragraph (2) by striking out the colon after "subsection" and inserting in lieu thereof a semicolon; and

(C) by striking out the proviso and inserting in lieu thereof the following: "except that such annuity shall not exceed an amount equal to [55] *50* percent of such average annual salary, nor be less than an amount equal to [30] *25* percent of such average annual salary. Any annuity determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section.".

[(5) Subsection (a) is amended—

[(A) in paragraph (1)(C) by inserting "or Deputy Director" immediately after "Director"; and

[(B) in paragraph (2)(C) by inserting "or Deputy Director" immediately after "Director".]

(b) BENEFICIARIES.—The benefits conferred by section 376 of title 28, United States Code, by reason of the amendments made by this section shall apply only to individuals who become eligible for annuities under such section on or after the effective date of this section, except that—

(1) such annuities shall be computed in accordance with the provisions of section 376 of title 28, United States Code, as amended by this section, notwithstanding contributions or deposits made in accordance with applicable law at lower rates; and

(2) no additional liability shall be created with respect to deposits made in accordance with applicable law before the effective date of this section, or after such effective date pursuant to an agreement entered into before such effective date.

(c) REVOCATION.—(1) Within 180 days after the effective date of this section, any judicial official who, before such effective date, made an election under section 376 of title 28, United States Code, to come within the purview of that section, shall be entitled to revoke that election. Such revocation shall constitute a complete withdrawal from the judicial survivors' annuities program provided for in such section 376. No such revocation shall be effective unless it is submitted in writing to the Director of the Administrative Office of the United States Courts, and until such writing is received by the Director. Upon receipt by the Director of such writing, any rights to survivorship benefits for the survivors of such judicial official shall terminate, and all amounts credited to the individual account of such judicial official under section 376(e), together with interest at 3 percent per annum, compounded on December 31 of each year to such date of revocation, shall be returned to that judicial official in a lump-sum payment.

(2) Any judicial official who makes a revocation under paragraph (1) of this subsection and who thereafter becomes eligible to make an election under section 376(b) of title 28, United States Code, may make such election only if such judicial official redeposits, to the credit of the Judicial Survivors' Annuities Fund, the full amount of the lump-sum payment made to such judicial official under paragraph (1) of this subsection, together with interest at 3 percent per annum, compounded on December 31 of each year from the date of such revocation until the date upon which that amount is so redeposited.

(3) Any judicial official who fails to revoke an election in accordance with paragraph (1) of this subsection shall be deemed to have irrevocably waived the right to make that revocation.

(d) ANNUITIES FOR FORMER SPOUSES.—

(1) Section 376 of title 28, United States Code, is amended in subsection (a)—

(A) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

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

"(6) 'former spouse' means a former spouse of a judicial official if the former spouse was married to such judicial official for at least 9 months.".

(2) Section 376 of title 28, United States Code, is amended by adding at the end the following new subsections:

"(s) A judicial official who has a former spouse may elect, under procedures prescribed by the Director of the Administrative Office of the United States Courts, to provide a survivor annuity for such former spouse under subsection (t). An election under this subsection shall be made at the time of retirement, or, if later, within 2 years after the date on which the marriage of the former spouse to the judicial official is dissolved. An election under this subsection—

"(1) shall not be effective to the extent that it—

"(A) conflicts with—

"(i) any court order or decree referred to in subsection (t)(1), which was issued before the date of such election, or

"(ii) any agreement referred to in such subsection which was entered into before such date; or

"(B) would cause the total of survivor annuities payable under subsections (h) and (t) based on the service of the judicial official to exceed 55 percent of the average annual salary (as such term is used in subsection (l)) of such official; and

"(2) shall not be effective, in the case of a judicial official who is then married, unless it is made with the spouse's written consent.

The Director of the Administrative Office of the United States Courts shall provide by regulation that paragraph (2) of this subsection may be waived if the judicial official establishes to the satisfaction of the Director that the spouse's whereabouts cannot be determined, or that, due to exceptional circumstances, requiring the judicial official to seek the spouse's consent would otherwise be inappropriate.

"(t)(1) Subject to paragraphs (2) through (4) of this subsection, a former spouse of a deceased judicial official is entitled to a survivor annuity under this section if and to the extent expressly provided for in an election under subsection (s), or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

"(2) The annuity payable to a former spouse under this subsection may not exceed the difference between—

"(A) the maximum amount that would be payable as an annuity to a widow or widower under subsection (l), determined without taking into account any reduction of such annuity caused by payment of an annuity to a former spouse; and

"(B) the amount of any annuity payable under this subsection to any other former spouse of the judicial official, based on an election previously made under subsection (s), or a court order previously issued.

"(3) The commencement and termination of an annuity payable under this subsection shall be governed by the terms of the applicable order, decree, agreement, or election, as the case may be, except that any such annuity—

"(A) shall not commence before—

"(i) the day after the judicial official dies, or

"(ii) the first day of the second month beginning after the date on which the Director of the Administrative Office of the United States Courts receives written notice of the order, decree, agreement, or election, as the case may be, together with such additional information or documentation as the Director may prescribe,

whichever is later, and

"(B) shall terminate no later than the last day of the month before the former spouse remarries before becoming 55 years of age or dies.

"(4) For purposes of this section, a modification in a decree, order, agreement, or election referred to in paragraph (1) of this subsection shall not be effective—

"(A) if such modification is made after the retirement of the judicial official concerned, and

"(B) to the extent that such modification involves an annuity under this subsection.".

(3)(A) Subsection (l) of section 376 of title 28, United States Code, (as amended by subsection (a)(4)(C) of this section) is amended by striking out the period at the end of the last sentence and by adding at the end the following: ", and by the amount of any annuity payable to a former spouse under subsection (t)."

(B) Subsection (n) of section 376 of such title is amended in the last sentence by inserting after "equity," the following: "except as provided in subsections (s) and (t),".

(C) Subsection (o) of section 376 of such title is amended in paragraphs (2) and (3) by inserting "or (t)" after "subsection (h)" each place it appears.

(4) Payments of retirement salary as defined in section 376(a)(2) of title 28, United States Code, which would otherwise be made to the judicial official upon whose service the retirement salary is based, shall be paid (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person. This paragraph shall apply only to payments made after the date of receipt by the Director of the Administrative Office of United States Courts of written notice of such decree, order, or agreement, and such additional information and documentation as the Director may prescribe. As used in this paragraph, "court" means any court of any State or the District of Columbia.

(e) CREDITABLE SERVICE.—Section 376(k)(1) of title 28 is amended by deleting the phrase "subsection (b) of".

[(e)] *(f)* EFFECTIVE DATE.—This section shall take effect on October 1, 1986.

SEC. 3. REMOVAL JURISDICTION.

(a) SECTION 1441 AMENDMENT.—Section 1441 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The court to which such civil action is removed is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to claims in civil actions commenced in State courts on or after the date of the enactment of this section.

[SEC. 4. TRAVEL EXPENSES OF JUSTICES AND JUDGES.

[(a) SECTION 456 AMENDMENT.—Section 456(a) of title 28, United States Code, is amended by striking out "for any continuous period" and all that follows through the end of the subsection and inserting in lieu thereof the following: "(1) all necessary transportation expenses; and (2) a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, United States Code, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States. In determining necessary expenses, the Director shall take into account the reasonable costs of transportation and subsistence generally incurred for travel to the geographic area involved.".

[(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1986.]

SEC. [5.] *4.* COLLECTION OF FEES FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

(a) SECTION 1914 AMENDMENT.—Section 1914 of title 28, United States Code, relating to district court fees, is amended by striking out subsection (d).

(b) AMENDMENTS TO DISTRICT OF COLUMBIA CODE.—

(1) Section 15-701(a) of the District of Columbia Code, relating to compensation taxed as costs, is amended by striking out "clerk of the United States District Court for the District of Columbia,".

(2) Section 15-702 of such code, relating to docket fees, is amended—

(A) by striking out "(a)" and all that follows through "(b)"; and

(B) by striking out the section heading and inserting in lieu thereof the following:

"§ 15-702. Attorney fees taxed as costs"

(3) Section 15-703 of such code, relating to deposit and security for costs, is amended—

(A) by striking out "(a)" and all that follows through "(b)" and inserting in lieu thereof "(a)";

(B) in the undesignated paragraph by inserting "(b)" immediately before "A nonresident"; and

(C) in the section heading by striking out "Deposit for costs; security" and inserting in lieu thereof "Security".

(4) Section 15-704 of such code, relating to advance payment of costs and fees, is amended—

(A) in subsection (a) by striking out "(a)" and by striking out "the clerk of the United States District Court for the District of Columbia and"; and

(B) by striking out subsection (b).

(5) Section 15-706 of such code, relating to clerk's fees in the United States District Court for the District of Columbia, is hereby repealed.

(6) Section 15-709(a) of such code, relating to fees and costs in Superior Court, is amended by striking out the second sentence.

(7) The table of contents for chapter 7 of title 15 of such code, relating to fees and costs, is amended—

(A) by striking out the item relating to section 15-702 and inserting in lieu thereof

"15-702. Attorney fees taxed as costs."; and

(B) by striking out "Deposit for costs; security" in the item relating to section 15-703 and inserting in lieu thereof "Security".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any civil action, suit, or proceeding instituted on or after the date of the enactment of this Act.

SEC. [6.] *5.* JUDICIAL REVIEW OF FEDERAL MARITIME COMMISSION AND MARITIME ADMINISTRATION ORDERS.

(a) SECTION 2342 AMENDMENT.—Section 2342(3) of title 28, United States Code, is amended to read as follows:

"(3) all rules, regulations, or final orders of—

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41 or 43 of the Shipping Act, 1916 (46 U.S.C. App. 839); and

"(B) the Federal Maritime Commission issued pursuant to—

"(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 822, 824, or 841a);

"(ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

"(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. App. 844, 845, 845a, or 845b);

"(iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

"(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d);".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any rule, regulation, or final order described in such amendment which is issued on or after the date of the enactment of this Act.

SEC. [7.] *6.* TECHNICAL AMENDMENTS.

(a) REDESIGNATION OF DUPLICATE SECTIONS.—

(1) TITLE 28 AMENDMENTS.—Chapter 85 of title 28, United States Code, is amended—

(A) in the table of sections by striking out

"1364. Senate Actions.

"1364. Construction of references to laws of the United States or Acts of Congress."

and inserting in lieu thereof the following:

"1365. Senate Actions.

"1366. Construction of references to laws of the United States or Acts of Congress.";

(B) by striking out the section heading

"§ 1364. Senate actions"

and inserting in lieu thereof the following:

"§ 1365. Senate actions"; and

(C) by striking out the section heading

"§ 1364. Construction of references to laws of the United States or Acts of Congress"

and inserting in lieu thereof the following:

"§ 1366. Construction of references to laws of the United States or Acts of Congress".

(2) CONFORMING AMENDMENT.—Section 705(a) of the Ethics in Government Act of 1978 (P.L. 95-521; 2 U.S.C. 288d(a)) is amended by striking out "1364" and substituting "1365".

(b) DELETION OF INCORRECT REFERENCES.—Paragraph (3) of section 620(b) of title 28, United States Code, is amended—

(1) by striking out "referees,"; and

(2) by substituting "magistrates" for "commissioners".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Mr. RUDMAN. I yield to the Democratic leader.

AMENDMENT NO. 1780

(Purpose: To provide full life insurance coverage for retired Federal judges)

Mr. BYRD. Mr. President, I send an amendment to the desk in behalf of Senator STENNIS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. STENNIS proposes an amendment numbered 1780.

Mr. BYRD. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following new section:

"SEC. . The Bankruptcy Amendments and Federal Judgeship Act of 1984 (98 Stat. 333) is amended as follows:

"(1) section 206 is revised to read as follows:

'SEC. 206. Sections 8706(a), 8714a(c)(1), 8714b(c)(1), and 8714c(c)(1) of title 5, United States Code, are amended to insert immediately after the first sentence in each of those sections a new sentence which reads as follows: 'Justices and judges of the United States described in section 8701(a)(5)(ii) and (iii) of this chapter are deemed to continue in active employment for purposes of this chapter, and

"(2) section 207 is revised to read as follows:

"SEC. 207. The amendments to chapter 87 of title 5, United States Code, made by section 206 of this Act shall apply in the case of any justice or judge who is retired under section 371(a) or 371(b) or 372(a) of title 28, United States Code. The amendments apply to those who retire on or after January 1, 1982.".

Mr. THURMOND. Mr. President, I have offered two amendments to H.R. 3570, the Judicial Improvements Act of 1985. One amendment, offered on behalf of Senator STENNIS, would allow fully retired Federal judges to continue to carry the full amount of their regular and optional life insurance, without diminution beginning at age 65. The premiums would be deducted from their salaries. This provision was part of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (P.L. 98-353); 98 Stat. 350), which was enacted into law on July 10, 1984. Several judges made career decisions based on the original amendment; however, the Office of Personnel Management later interpreted the language to have no effect at all.

It ruled that the amendment only clarified who an "employee" is for purposes of insurance coverage under title 5 of the United States Code. Consequently, the judges who retired after July 1984, in the expectation of carrying over their full insurance coverage, were thwarted. Subsequently, two lawsuits were filed, *Winner* v. *Cornelius*, C.A. No. 85-LW-1103 (USDC Colo., July 22, 1985), and *Moynahan* v. *United States*, C.A. No. 85-147 (USDC E.D.Ky., September 20, 1985). In both cases congressional intent was upheld. The Office of Personnel Management does not intend an appeal. This amendment will provide a legislative clarification of the intent of Congress in the 1984 amendment.

Only two retired judges are living today who are not covered by the amendment passed in 1984. This amendment, by making the effective date January 1, 1982, would allow both of these judges to take advantage of this option which currently is available to all of the other retired Federal judges.

The second amendment is purely technical. It lists the citations to the United States Code of rules, regulations or final orders of the Secretary of Transportation which are subject to judicial review in the U.S. Courts of Appeals.

Mr. President, I understand there is no objection to either of these amendments and I urge their adoption.

The PRESIDING OFFICER (Mr. GRAMM). The question is on agreeing to the amendment.

The amendment (No. 1780) was agreed to.

Mr. BYRD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1781

(Purpose: Technical provision)

Mr. RUDMAN. Mr. President, I send an amendment to the desk in behalf of Senator THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for Mr. THURMOND, proposes an amendment numbered 1781.

On page 16, line 2 delete "or" and insert in lieu thereof: "and".

On page 16, line 3, delete "(46 U.S.C. App. 839);" and insert in lieu thereof: "(46 U.S.C. App. 802, 803, 808, 835, 839 and 841(a));".

Mr. RUDMAN. Mr. President, if there is no further debate, I move the amendment.

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

The amendment (No. 1781) was agreed to.

Mr. RUDMAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. I ask unanimous consent that the committee amendment in the nature of a substitute, as amended, be agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. RUDMAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I ask my friend, the Democratic leader, if he is ready to move forward on a House message number on S. 1282.

Mr. BYRD. Mr. President, there is no objection.

HEALTH SERVICES AMENDMENTS ACT OF 1986

Mr. RUDMAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1282.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1282) entitled "An Act to revise and extend provisions of the Public Health Service Act relating to primary care", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE: REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Health Services Amendments Act of 1986".

(b) REFERENCE TO ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. MEDICALLY UNDERSERVED POPULATIONS.

Section 330(b) (42 U.S.C. 254c(b)) is amended—

(1) by striking out the second, third, fourth, and fifth sentences of paragraph (3); and

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

"(4) In carrying out paragraph (3), the Secretary shall by regulation prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(A) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

"(B) include infant mortality in an area or population group, other factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(5) The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(A) the chief executive officer of such State;

"(B) local officials in such State; and

"(C) the State organization, if any, which represents a majority of community health centers in such State.

"(6) The Secretary may designate a medically underserved population that does not meet the criteria established under paragraph (4) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.".

SEC. 3. MEMORANDUM OF AGREEMENT.

Section 330 (42 U.S.C. 254c) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new community health centers;

"(3) review and comment upon annual program plans and budgets of community health centers, including comments upon allocations of health care resources in the State;

"(4) assist community health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of community health centers; and

"(5) share information and data relevant to the operation of new and existing community health centers.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Paragraphs (1) and (2) of section 330(g) are amended to read as follows:

"(1) There are authorized to be appropriated for payments pursuant to grants under this section $400,000,000 for fiscal year 1987 and $400,000,000 for fiscal year 1988.

"(2) The Secretary may not in any fiscal year—

"(A) expend for grants to serve medically underserved populations designated under subsection (b)(6) an amount which exceeds 5 percent of the funds appropriated under this section for that fiscal year; and

"(B) expend for grants under subsection (d)(1)(C) an amount which exceeds 5 percent of the funds appropriated under this section for that fiscal year.".

SEC. 5. PRIMARY CARE BLOCK GRANTS.

Part C of title XIX (42 U.S.C. 300y—300y-11) is repealed.

SEC. 6. MIGRANT HEALTH CENTERS.

The first sentence of section 329(h)(1) (42 U.S.C. 254b(h)(1)) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$45,400,000 for fiscal year 1987 and $45,400,000 for fiscal year 1988".

SEC. 7. TECHNICAL AMENDMENT.

Section 329(d)(2) (42 U.S.C. 254(d)(2)) is amended by inserting before the semicolon "and the costs of repaying loans made by the Farmers Home Administration for buildings".

Amend the title so as to read: "An Act to amend the Public Health Service Act to revise and extend the programs of assistance for primary health care.".

Mr. HATCH. Mr. President, I am pleased to submit to the desk for immediate consideration S. 1282, the Health Service Amendments of 1986, a bill which will reauthorize Federal funding for community health centers and migrant health centers. This legislation sustains, as a categorical Federal health program, funding for health clinics which provide basic primary and preventive services for the most needy of our citizens.

The Senate approved this bill, without amendment on voice vote on July 19, 1985. The House called up the Senate bill on March 5 of this year, and made minor modifications—they lowered the authorization level to current authority, which wisely recognizes the importance of budgetary constraints, and eliminated a new primary care research grant authority. Although I would prefer the research authority be maintained, giving States who are interested an opportunity to better identify and provide for their primary health care needs, I believe it is now more prudent to accept the bill, as amended. The administration has clearly recognized the worth of these programs in that the President's proposed budget for 1987 maintains support for community health centers and migrant health centers. However, the administration would prefer that these programs be included as part of a new block grant, providing funds to States to operate these clinics. After lengthy discussions in 1984 and 1985, on the merits of creating a block grant related to this legislation, a strong consensus was developed in Congress that these programs, at least for the time being, are best operated by direct Federal funding. In fact, the House of Representatives just last month, defeated on a rollcall vote of 400 to 9 an amendment which would have created such a block grant.

Mr. President, these programs have been successful. They provide access to care for economically disadvantaged and minority populations. They inevitably save enormous cost to local, State and Federal Governments by nipping in the bud illnesses, which, if untreated may develop into serious and costly health problems. It is appropriate and necessary that we maintain these programs. However, this does not mean we should not conduct serious scrutiny of the effectiveness of these community and migrant health centers in each region of the country. In fact, in this legislation there is language requiring a memorandum of agreement between States and the health and human services agency which requires each State analyze their current needs for primary care services, and plan to meet those needs in an effective and timely manner. It is the intent of members of the Labor and Human Resources Committee in the Senate and our colleagues in the House of Representatives that States work toward assuming more responsibility for these important basic health services. They also need to carefully evaluate just what constitutes a medically underserved area, with particular consideration given to the increasing number of health providers. The criteria used to define an underserved area may need to be changed considerably as we enter a more competitive and entrepreneurial era in health care. The bottomline is we must identify those most in need of care and unable to obtain it and make sure that intent of Congress is met by providing basic primary and preventive health services to these individuals.

I would also like to bring to the attention of my colleagues a particular problem which has surfaced in my State of Utah but which is hardly unique, and that is a problem with providing sufficient funds for remote rural clinics. The director of the Utah State Department of Health, Dr. Suzanne Dandoy informed me in March that three, small rural community health centers were in jeopardy of being closed because of a change in policy proposed by the bureau of health care delivery and assistance. While I am not in favor of maintaining the status quo, and ongoing Federal support for all existing programs, this proposal could cut off basic health services to people living in very remote regions of our country. Dr. Dandoy requested that I seek legislative changes in our bill to ensure support for these rural clinics; however, after talking with representatives of

the administration I believe these clinics can be sustained with a modification in the proposed policy. I ask to have in the RECORD a copy of a letter I received recently from Dr. Ed Martin, Acting Deputy Administrator of the Health Resources and Services Administration. This explains their intention to assure there will be no reduction in the proportion of funds available for small, rural clinics.

The letter follows:

HEALTH RESOURCES AND SERVICES ADMINISTRATION,
Rockville, MD, March 27, 1986.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Your staff requested that the Public Health Service provide you with some written assurance that the concerns expressed by Dr. Dandoy in her letter of March 19 would be addressed by the Bureau of Health Care Delivery and Assistance (BHCDA).

By way of background, let me say that all Community Health Centers (CHC) grantees are being reviewed in the areas of governance, clinical systems and financial/administrative structure. These reviews are intended to ensure that centers meet all statutory and regulatory requirements prior to receiving grant funding. In addition, in view of funding constraints, the Public Health Service (PHS) has established priorities for funding.

All CHCs must be governed by a community board with center users comprising a majority of members. The board must fulfill all functions and responsibilities specified in legislation and regulations. Centers which meet these requirements through a coapplicant arrangement, where the community board is not the recipient of the grant, are a lower priority for funding then those whose board receives the grant directly.

Regarding clinical systems, a CHC must provide to the residents of its catchment area the statutorily required primary care services, available and accessible promptly, as appropriate, and in a manner which will insure continuity. In addition, a CHC must provide sufficient staff, qualified by training and experience, to carry out its activities. In implementing these requirements, the PHS gives priority to systems of care that have appropriate physician coverage, including appropriate after-hours coverage and hospital arrangements.

In the financial/administrative area, CHCs must maximize nongrant revenues and utilize, to the greatest extent possible, other Federal, State and local, and private resources.

The three small rural CHCs in Utah cited by Dr. Dandoy have not been marked for defunding. They have been identified, however, along with a significant number of other projects throughout the country, for an indepth review. This review is for the purpose of determining whether the current delivery system is the most appropriate and efficient model to meet the needs of that particular community. It may be possible for example, to strengthen a CHC's clinical system through shared services or consortia arrangements with other CHCs and private providers. In this context, we are looking at the uniqueness of "frontier" areas. This process began in early 1985 with the establishment of a frontier medicine task force comprised of Federal, State and project personnel from the western region of the country.

We expect to complete a draft policy paper, addressing frontier health issues, by early April. We will circulate this policy paper to a broad spectrum of interested people for input including: State Health Agencies; State Primary Care Associations; National Rural Health Care Associations; and National Association of Community Health Centers. We expect to issue a final document by the end of April which would establish the basis for reviewing frontier sites in terms of Federal grant support (CHC) or manpower support (National Health Service Corps). This document will assure no reduction in the proportion of available grant support for projects falling under this definition.

It remains our intent to maintain the current rural/urban split in appropriated funds. You may be interested to know that expenditures in rural areas increased by 11.1 percent from Fiscal Year 1984 to Fiscal Year 1985 while total appropriation increased by 8.2 percent.

I have assured Dr. Sundwall that any proposed decisions at the regional office level which might be viewed as adversely affecting frontier projects in Utah, will be carefully reviewed by me personally prior to any proposed adverse action. Should you have questions or continued concerns about our approach to the unique circumstances of "Frontier" projects, I will be pleased to respond further to them.

Sincerely yours,
EDWARD D. MARTIN, M.D.,
Assistant Surgeon General,
Acting Deputy Administrator.

Mr. President I encourage all of my colleagues to join with me in approving this bill immediately. I have assurances from the administration that this bill will be signed into law, maintaining the authority for these important clinics.

REAUTHORIZATION OF THE COMMUNITY HEALTH CENTERS AND MIGRANT HEALTH CENTERS PROGRAM

Mr. KENNEDY. Mr. President, I rise in support of the reauthorization of the Community Health Centers and Migrant Health Centers Programs, and urge the Senate to adopt the bill already passed by the House.

This legislation before us today will help ensure the continued development and vitality of community-based health centers. Community health centers have provided essential health services to those most in need for more than 20 years. Study after study has shown that community health centers provide high-quality, cost-effective care to those who would otherwise lack access to essential health services.

Last year alone, community health centers were the primary source of health care services to more than 5 million Americans. Because community health centers are such attractive and effective providers of primary care services, the Federal grant dollars provided leverage services valued at more than twice as much as the direct Federal grants, including funding by Medicare, Medicaid, State programs, private insurance, and patient fees.

The need for community health centers is greater today than ever before. The number of Americans without health insurance has increased 48 percent since 1977, from 25 million people to 37 million. The number of the poor and near poor without Medicaid coverage has increased from 37 percent to more than 50 percent during the same period. Community health centers obviously cannot fill all these gaps, but they are a key resource in providing care to the poor and the underserved at a time when other institutions in our society are doing less and less to meet these important needs.

In addition to reauthorizing the Community Health Centers Program, this legislation includes several important improvements. It encourages expanded activities by State governments in primary health care by establishing a new program of grants to the States for planning and development of primary care services. At the same time, the legislation includes several provisions designed to encourage even more effective coordination of State and Federal primary care activities.

Just as the community health centers have provided essential health services to the poor and underserved in urban and rural areas throughout the country, migrant health centers have provided health services to one of the most deprived groups in our society—migrant farmworkers. For this group in particular, the services of health centers have often literally meant the difference between life and death.

I am disturbed by the authorization levels of $400 million included in this bill for fiscal year 1987 and fiscal year 1988. This is substantially below the Senate level and only slightly above the fiscal year 1986 appropriations. In view of the growing crisis in access to health care, I believe additional increases in the Community Health Centers Program are warranted.

Despite my concern over these authorization levels, I am supporting this bill because I have been informed that the House bill will be signed by the President. Higher authorization levels might not pass the House and might not be signed if passed. Because this program is so essential, its maintenance should be our highest priority. Nevertheless, I believe serious consideration should be given to raising the authorization levels next year.

As the Community Health Centers Program enters its third decade, we, in the Congress, can express our satisfaction with their accomplishments and our recognition of the continued need for a Federal commitment to health care for the poor and underserved by prompt passage of this legislation.

Mr. RUDMAN. I move to concur in the House amendment.

The motion was agreed to.

Mr. RUDMAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. RUDMAN. Mr. President, I inquire of the Democratic leader whether he is prepared to move forward on a resolution offered on behalf of the Senator from Florida [Mrs. HAWKINS].

Mr. BYRD. As I understand it, this is a concurrent resolution authorizing the rotunda of the United States Capitol to be used for a ceremony commemorating the days of remembrance of victims of the Holocaust?

Mr. RUDMAN. The Democratic leader is correct.

Mr. BYRD. Mr. President, there is no objection.

Mr. RUDMAN. Mr. President, I then send the concurrent resolution to the desk.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 126) authorizing the rotunda of the United States Capitol to be used on May 6, 1986, for a ceremony commemorating the days of remembrance of victims of the Holocaust.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

● Mrs. HAWKINS. Mr. President, as a member of the U.S. Holocaust Memorial Council, I am pleased to sponsor this resolution authorizing the use of the Rotunda for the council's annual commemoration ceremony. Senators PELL, KASTEN, LAUTENBERG, MATTINGLY, and I invite our colleagues to attend what will prove to be a moving ceremony commemorating the victims of the Holocaust. The ceremony will occur at noon on May 6, 1986, as part of a weeklong observance of the Days of Remembrance of the Victims of the Holocaust.

Mr. President, it is important that we never forget the lessons of the Holocaust. I commend the entire Holocaust Memorial Council organization, and particularly chairman of the Council Elie Wiesel, for their constant vigilance. Their constant effort and hard work will ensure that we never forget the bitter lessons of the Holocaust. Again, I commend the entire Holocaust Memorial Council for the hard work they have done in preparing for the ceremony on May 6, and urge my colleagues to attend. Also, I would like to thank Senators MATHIAS and FORD for allowing the expeditious handling of this matter, along with the distinguished majority leader.●

Mr. RUDMAN. Mr. President, I move adoption of the concurrent resolution.

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

The concurrent resolution was agreed to. The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 126

Whereas, pursuant to the Act entitled "An Act to establish the United States Holocaust Memorial Council" and approved October 7, 1980 (94 Stat. 1547), the United States Holocaust Memorial Council is directed to provide for appropriate ways for the Nation to commemorate the days of remembrance of victims of the Holocaust, as an annual, national, civic commemoration of the Holocaust, and to encourage and sponsor appropriate observances of such days of remembrance throughout the United States;

Whereas, pursuant to such Act, the United States Holocaust Memorial Council has designated May 4 through May 11, 1986, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony be held at noon on May 6, 1986, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on May 6, 1986, from 10 o'clock ante meridiem until 3 o'clock post meridiem for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

PREDATORY TIDE AID CREDITS

Mr. RUDMAN. Mr. President, I ask the distinguished Democratic leader whether or not he is now prepared to move to a concurrent resolution offered in behalf of the Senator from Pennsylvania (Mr. HEINZ).

Mr. BYRD. Mr. President, I am prepared. It is my understanding the resolution relates to predatory tide aid credits.

Mr. RUDMAN. The Democratic leader is correct.

Mr. BYRD. There is no objection.

Mr. RUDMAN. I then send the concurrent resolution to the desk on behalf of the Senator from Pennsylvania (Mr. HEINZ) and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 127) relating to predatory tide aid credits.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HEINZ. Mr. President, this resolution expresses support for efforts by the Secretary of the Treasury to negotiate an end to foreign predatory export credits that are costing the U.S. exports and jobs. Several weeks ago, the Banking Committee reported a bill, S. 2246, that will establish a $300 million war chest facility, allowing Treasury and the Export-Import Bank to match mixed credit offers by other countries and to initiate mixed credits. The purpose of the war chest will be to eliminate the competitive advantage now enjoyed by other countries offering mixed credits and thus bring these countries to the negotiating table. If U.S. efforts are to be successful, it is essential to move this legislation through Congress as quickly as possible.

Next week the Treasury Secretary will attend a meeting of the OECD Ministers at which the mixed credit issue will be a major negotiating item. Given the requirements of the legislative calendar, it is unlikely that the war chest can be enacted into law prior to next week's negotiations. Nevertheless, it is imperative that Congress send Treasury negotiators off with the strongest possible statement of support. We want other countries to realize that our patience is not infinite when foreign government credit subsidies are putting Americans out of work.

So far the United States has invested considerable time in the hope that the mixed credit negotiations would successfully end the use of mixed credits for predatory commercial purposes. Instead of resolving the problem, however, the negotiations and the pledge of more negotiations have been used by the French and others to put off resolving the problem. We have been misled by repeated promises from countries using mixed credits that they will soon curtail their use of mixed credits—just as soon as they win a few more multibillion dollar projects at the expense of U.S. exporters. The time has come to let other countries

know that we are serious about ending mixed credits by refusing to let these countries benefit from such predatory financing.

While everyone favors a situation in which U.S. exporters can compete internationally based on quality, price, and service, without any need for export credit subsidies, this is not the type of world market United States exporters face. Not only do other countries' mixed credit offers cost the United States jobs and exports; they also cost us control of our own economy. As foreign governments take export markets away from U.S. producers, our economic structure and level of exports will ultimately come to reflect the export subsidy strategies of other governments, not the industrial structure our free market system would have generated.

We must address this challenge to free markets in world trade by eliminating or neutralizing foreign mixed credit subsidies. While eliminating mixed credits through negotiation is our goal, we must show that we will counter foreign mixed credits so that other countries will gain no competitive advantage. That may be the only way to convince other governments to take mixed credit negotiations seriously. This resolution makes it clear to the rest of the world that the U.S. Congress is watching very closely this next phase of negotiations. I am sure, however, that the Congress will be ready and willing to defend U.S. markets with additional steps if successful negotiations are not concluded.

Mr. GARN. Mr. President, today I join Senator HEINZ in introducing a resolution supporting the Treasury Department's efforts to negotiate an end to foreign predatory mixed credits.

The predatory use of mixed credits has been the subject of U.S.-led negotiations in the OECD export credit arena for several years. I applaud the administration's persistence in continuing to negotiate with other countries to eliminate this market distortion. I appreciate the need for one more attempt to convince other governments that mixed credits are costly and that they are ultimately harmful to the countries receiving the mixed credits because they distort their economic decisions.

But just as it is foolish to disarm before peace talks are concluded it would be foolish for the United States to disarm its export credit system prior to reaching an acceptable mixed credit agreement. This resolution provides our negotiators with congressional backing to convince other governments that we are serious about eliminating mixed credits.

Other countries may be tired of our reminders that mixed credits are an unsatisfactory way to do business internationally. But we are tired of lost U.S. exports and reduced U.S. economic growth, while our negotiators are being given the run-around in Paris.

I believe countries blocking mixed credit negotiations recognize that they are in an untenable position. All nations understand that mixed credit subsidies distort the international trading system. At a time when governments around the world must focus on reducing their expenditures and increasing economic efficiency mixed credit subsidies just do not make sense.

I am optimistic that our OECD counterparts now realize the risks they are taking by continuing to offer mixed credits. I think we can realistically expect negotiating progress, as other countries recognize that mixed credits are expensive. I am hopeful that we can soon enact the mixed credit war chest bill, so that our competitors can be denied any benefits from their mixed credit offers. In the meantime, there should be no mistake about where the Congress stands on the need to eliminate predatory commercial mixed credits on a comprehensive basis.

Mr. RUDMAN. Mr. President, I move adoption of the concurrent resolution.

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

The concurrent resolution was agreed to. The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 127

Whereas tied aid and partially untied aid credits with low levels of concessionality are used by several governments as a predatory method of financing exports and result in market-distorting effects;

Whereas these distortions have caused the United States to lose export sales, with resulting losses in economic growth and development;

Whereas the Congress is preparing legislation intended to support the efforts of the Secretary of the Treasury to negotiate a comprehensive arrangement restricting the use of tied and partially untied aid credits for commercial purposes; and

Whereas these negotiating efforts of the Secretary of the Treasury are fully supported by the Congress of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a successful conclusion of an arrangement to regulate tied aid credits, so that their use for predatory commercial purposes is ended, would eliminate the need for the Congress to enact a special tied aid credit program;

(2) the Secretary of the Treasury should use the full resources of his office to promote such a successful conclusion to the negotiations; and

(3) the President should make the use of predatory tied aid credits a major topic of discussion at the Tokyo Summit.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY

Mr. RUDMAN. Mr. President, I ask the Democratic leader if he is now prepared to move forward on a rather unusual procedure. It is entitled "Injunction of Secrecy."

Mr. BYRD. No objection.

Mr. RUDMAN. I will read it because it is not really as ominous as it sounds.

As in executive session,

I ask unanimous consent that the injunction of secrecy be removed from two ILO conventions transmitted to the Senate today by the President of the United States:

ILO Convention No. 144 Concerning Tripartite Consultations to Promote the Implementation of International Labor Standards (Treaty Document 99-20), and ILO Convention No. 147 Concerning Minimum Standards in Merchant Ships (Treaty Document 99-21).

I also ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 144) Concerning Tripartite Consultations to Promote the Implementation of International Labor Standards, adopted by the International Labor Conference at Geneva on June 21, 1976. I transmit also for the Senate's information a certified copy of the recommendation (No. 152) on the same subject, adopted by the International Labor Conference on that same date, which amplifies some of the Convention's provisions. No action is called for on the recommendations.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed.

I support fully the principle of tripartite consultations among government, employers, and workers on matters relating to the International Labor Organization. This principle is fundamental to the existing structure of both the ILO and of the consulta-

tive mechanisms that have been established within the United States with respect to ILO matters. Ratification of Convention No. 144 therefore would require no change in the way the United States has organized to deal with the ILO.

Because the United States is party to so few ILO conventions, we are vulnerable to criticism when we seek to take others to task for failing to adhere to instruments we ourselves have not ratified. Ratification of Convention No. 144 would reduce this vulnerability. I therefore recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 144.

RONALD REAGAN.

THE WHITE HOUSE, *April 10, 1986.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification of the Convention (No. 147) Concerning Minimum Standards in Merchant Ships, adopted by the 62nd session of the International Labor Conference, at Geneva, on October 13, 1976, I transmit herewith a certified copy of that Convention. I transmit also for the Senate's information a certified copy of the recommendation (No. 155) concerning the improvement of standards in merchant ships, adopted by the International Labor Conference at the same time as the Convention. No action is called for on the recommendation.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed. The Department's report also contains the texts of five proposed understandings. It is proposed that these understandings be included in the United States instrument of ratification, should the Senate give its advice and consent.

Adoption of the Convention and the recommendation was the culmination of a long negotiating process in which the United States participated actively and vigorously supported the drafting of a comprehensive and effective instrument to achieve minimum standards in merchant ships. I believe that the United States ratification of this Convention is in the national interest and in the interest of the world community as a whole, and I, therefore, recommend that the Senate give its advice and consent to ratification, subject to the understandings mentioned above.

RONALD REAGAN.

THE WHITE HOUSE, *April 10, 1986.*

EXECUTIVE SESSION

Mr. RUDMAN. Mr. President, I then inquire of the minority leader if he is in a position to confirm any of the following nominations on the Executive Calendar:

Under the Army, Calendar Nos. 736, 737, and 738; under the Marine Corps, Calendar Nos. 739 and 740; Calendar No. 741, J. Roger Mentz; Calendar No. 743, Marian Blank Horn; Calendar No. 744, Ralph D. Morgan; Calendar No. 745, John R. Kendall; Calendar No. 746, Emery R. Jordan; Calendar No. 747, K. William O'Connor; Calendar No. 748, Donald W. Peterson; Calendar No. 749, H. Allen Holmes; Calendar No. 750, Otto J. Reich; Calendar No. 751, Ronald S. Lauder; Calendar No. 752, Henry F. Schickling; Calendar No. 753, Carlos Salman; and all nominations placed on the Secretary's desk, with the exception of the nomination under "Foreign Service" of Edwin G. Corr.

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. RUDMAN. I thank the distinguished Democratic leader.

Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations identified, and that they be considered en bloc and confirmed en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code section 1370:

To be lieutenant general

Lt. Gen. David K. Doyle, [redacted] age 54, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thurman D. Rodgers, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Nathaniel R. Thompson, Jr., [redacted] age 58, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry Doctor, Jr., [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370;

To be lieutenant general

Lt. Gen. Robert L. Moore, [redacted] age 55, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Lawrence F. Skibbie, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Peter G. Burbules, [redacted] U.S. Army.

IN THE MARINE CORPS

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John K. Davis, [redacted] U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Thomas R. Morgan, [redacted] U.S. Marine Corps.

DEPARTMENT OF THE TREASURY

J. Roger Mentz, of New Jersey, to be an Assistant Secretary of the Treasury, vice Ronald Alan Pearlman, resigned.

THE JUDICIARY

Marian Blank Horn, of Maryland, to be a judge of the U.S. Claims Court for a term of 15 years.

DEPARTMENT OF JUSTICE

Ralph D. Morgan, of Indiana, to be U.S. Marshal for the southern district of Indiana for the term of 4 years, reappointment.

John R. Kendall, of Michigan, to be U.S. Marshal for the western district of Michigan for the term of 4 years, reappointment.

Emery R. Jordan, of Maine, to be U.S. Marshal for the district of Maine for the term of 4 years, reappointment.

K. William O'Connor, of Virginia, to be U.S. attorney for the district of Guam and concurrently U.S. attorney for the district of the Northern Mariana Islands for the term of 4 years.

DEPARTMENT OF COMMERCE

Donald W. Peterson, of Missouri, to be Deputy Commissioner of Patents and Trademarks.

DEPARTMENT OF STATE

H. Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, class of Career Minister, to be an Assistant Secretary of State, new position.

Otto J. Reich, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

Ronald S. Lauder, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Henry F. Schickling, of Pennsylvania, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988, reappointment.

Carlos Salman, of Florida, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988, reappointment.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Nina K. Rhoton, and ending Janet C. Flournoy, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Air Force nominations beginning Janet C. Flournoy, and ending Charles A. Culver, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Air Force nominations beginning Warrren O. Abraham, and ending Laura M. Zukowski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Air Force nominations beginning Thomas E. Applegate, and ending Christopher M. Zahn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1986.

Army nominations beginning Melvin Abercrombie, and ending Douglas B. Tesdahl, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 14, 1986.

Army nominations beginning Charles R. Savely, and ending Robert Russell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 27, 1986.

Marine Corps nominations beginning Michael T. Barry, and ending Paul C. Schreck, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 14, 1986.

Navy nominations beginning Michael S. Anisowicz, and ending Gale J. Wolff, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Navy nominations beginning Timothy Higgins, and ending David D. Buckley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1986.

Navy nominations beginning Jeffery J. Iovine, and ending Barry L. Hunter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1986.

Navy nominations beginning Kathryn K. Murray, and ending John F. Wilker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 26, 1986.

(By Request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

J. ROGER MENTZ

● Mr. BRADLEY. Mr. President, I am very pleased that the Senate has confirmed the nomination of Roger Mentz to serve as Assistant Secretary of the Treasury for Tax Policy.

The office for which Roger has been nominated is one of the most important positions in Government. It is an office that must be filled by someone whose educational and professional achievements leave no doubt as to their understanding of the Tax Code. But mastering of the technical details is not enough. The Assistance Secretary must also display sound judgment and a keen sense of the larger policy issues involved in the writing of our tax laws. Finally, he or she needs an ample store of patience and good humor just to survive the fractiousness that seems an inevitable component of the tax legislative process.

Perhaps at no other time has so much responsibility fallen on the Assistant Secretary's shoulders. We have undertaken a historic endeavor in trying to reform our unfair, inefficient, unduly complicated tax system. We will need all the help we can get.

Weighty as this responsibility is, Roger Mentz is well qualified for the office. He has distinguished himself intellectually and professionally in the tax field. More important, I believe he will bring to the Department of the Treasury the technical expertise and mature judgment we need. Most important, I am confident he will fulfill the Assistant Secretary's traditional role as an advocate for sound tax policy.●

RONALD S. LAUDER

Mr. MOYNIHAN. Mr. President, I rise today to express my wholehearted support for the confirmation of Mr. Ronald S. Lauder as Ambassador to Austria. During his past 3 years of service as Deputy Assistant Secretary of Defense for European and NATO Policy, Mr. Lauder distinguished himself through his contributions to allied security. He played a leading role in negotiating defense cooperation and basing agreements with a number of NATO members. He also orchestrated a series of NATO initiatives to upgrade the alliance's conventional capabilities and air defenses.

Together with his successes in other high-level negotiations, and his longstanding familiarity with European issues, Mr. Lauder is eminently qualified to become Ambassador to Austria. Mr. President, the Senate has never faced an easier task in offering its advice and consent. Confirming Ronald Lauder as Ambassador to Austria will ensure that the United States continues to benefit from his expertise and patriotism.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. RUDMAN. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ORDER OF PROCEDURE

Mr. RUDMAN. I advise the Democratic leader that I have been advised that there may be one other item that may be ready to clear. We are waiting for a call on that. So, for a very short period of time, unless the Democratic leader wishes to proceed with other business, I was going to propose to suggest the absence of a quorum.

I ask the leader that question.

Mr. BYRD. All right.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RULES CHANGE

Mr. RUDMAN. Mr. President, Senate Resolution 45 adopted under a unanimous-consent agreement on January 30, 1975, governs the referral of impoundment legislation in the Senate. Under this order, all special messages from the President pursuant to title X of the Congressional Budget and Impoundment Control Act and all bills and resolutions introduced with respect to such messages are referred concurrently to the Appropriations Committee, the Budget Committee, and to the appropriate authorizing committee. Section 1011 of the Impoundment Control Act provides that deferral disapprovals take the form of a simple resolution of one House. This is no longer a proper course of action, given the Supreme Court decision in INS versus Chadha that the one-House legislative veto is unconstitutional. Deferral disapprovals must now take the form of a bill or joint resolution.

Given this, I ask unanimous consent that the second paragraph of the standing order governing the referral of matters dealing with rescissions and deferrals be revised, as of January 21, 1986, to allow the re-referral of bills and joint resolutions disapproving deferrals to the same committees now having jurisdiction over title X impoundment resolutions.

The second paragraph of Senate Resolution 45, adopted under a unanimous-consent agreement on January 30, 1975, is revised to read as follows:

2. That bills, resolutions, and joint resolutions introduced with respect to rescissions and deferrals shall be referred to the Appropriations Committee, the Budget Commit-

tee, and pending implementation of section 410 of the Congressional Budget Impoundment Control Act and subject to section 401(d), to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2) (A) and (B). The Budget Committee and such other committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such messages, bills, resolutions, or joint resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescission mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.

I ask the Chair to consider that unanimous-consent request.

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

Mr. RUDMAN. Mr. President, I had hoped there was one other item that we might be able to clear, but evidently we are not able to do that.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

ANNUAL REPORT ON ACTIVITIES OF U.S. GOVERNMENT AGENCIES IN THE FIELDS OF SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with Title V of the Foreign Relations Authorization Act for Fiscal Year 1979 (Public Law 95-426), I am transmitting the Administration's Annual Report on the international activities of U.S. government agencies in the fields of science and technology for Fiscal Year 1985. The report was prepared by the Department of State in cooperation with other relevant agencies, consistent with the intent of the legislation.

During 1985, science and technology played a prominent role in our diplomacy. The United States is increasingly seen as the world leader in this field. National leaders and the general public see science and technology as a key to the solution of a wide variety of national and international problems. Such views are neither narrowly partisan nor without foundation. Indeed, it is significant to note that regardless of political ideologies or stage of development, many countries are not only anxious to engage in government-to-government cooperation with us, but also genuinely appreciative of cooperative scientific programs.

International science and technology cooperation, for the United States, takes place primarily in the private sector and outside the purview of government-to-government agreements. This cooperation can take the form of scholarly exchanges or research funded by private business and corporations. The Executive branch funds research where long lead time, large amounts of resources, and difficulty of capturing results make such efforts appropriate for government activities. It also funds research in essential areas not covered by the private sector, such as national defense and major parts of the space program. The international components of federally funded programs in the domestic agencies provide opportunities for unique collaboration or cost-sharing to extend the limited resources available. All are supportive of our domestic programs and priorities.

The international science and technology activities of agencies should demonstrate comparable technical merit, and return for the resources expended, to activities that take place within the United States. In this way, the United States is assured that the resources committed provide solid, technical returns. It is also the best way of ensuring that international cooperation is positive and more likely to produce foreign policy benefits. Experience has shown that international science and technology cooperation, where it is proposed primarily for foreign policy reasons, and with little inherent scientific or technical benefit, is not productive and does not sustain support in the agencies and the Congress. Foreign policy benefits are best assured if international activities are soundly grounded in technical benefits for the missions and programs of the agencies that fund them.

Programs in science and technology have become an increasingly valuable tool in the conduct of our relations with both developed and developing nations and, during 1985, they continued to play a meaningful role in the diplomacy of the United States. Through our cooperation with developed nations, we benefit from intellectual collaboration with other highly trained scientists and technical experts, and cost-sharing of expensive experimental facilities in advanced scientific areas. Our partners also gain from the collaboration and access to new technologies that have the potential to fuel economic growth. In 1985, our cooperation with developing nations also emphasized the contributions of science and technology to economic growth; however, the technologies emphasized were those appropriate to solving the problems of developing societies. We believe that bilateral arrangements with developing countries are one of the most effective ways of obtaining foreign policy benefit for the United States.

Major focuses for our cooperative programs in 1985, particularly with developed countries, were in areas of high mutual scientific interest. The space program is one such example. In addition to international participation in the space shuttle programs, 1985 also saw the signing of a Memorandum of Understanding on the Space Station Project with Canada, Japan, and the European Space Agency, establishing a basis for cooperation over the next 2 years. As we enter the 21st century, we should note that U.S. leadership in space is fostered by international cooperation which has enhanced the standing of the United States in the world community.

Among the developing nations, our major, high visibility programs continue to be in the People's Republic of China and India. Our maturing science and technology cooperation with China, a cornerstone in our expanding relationship, is now in its eighth year and is our largest government-to-government program. Not a part of our foreign assistance program, science and technology cooperation is based upon mutual benefit as are our other international exchanges. The Chinese have also added additional activities more attuned to their own interests on a reimbursable basis. We credit the doors opened by our successful science and technology program with contributing positively to the recent reforms made by the Chinese.

Our science and technology program with India functions on two levels—one is the continuation of our long-term cooperation in many fields, the other is the more focused Presidential Initiative, which because of its success was extended for an additional 3 years in 1985.

Our bilateral science and technology relationship with the Soviet Union saw some positive movement during 1985. At the Geneva summit meeting, we and the Soviets issued a joint statement encouraging further U.S.-Soviet collaboration in science and technology. In addition, we began a careful evaluation of how science and technology can and should be used to improve bilateral relations with the Soviets.

Our international science and technology activities continued as an integral and important part of our foreign policy during 1985 in many forms and on many levels as described in detail in the report I am transmitting. We have looked for ways to pool resources for high-cost projects. We have emphasized collaboration as the means for finding solutions to problems that are international in scope. Our efforts sought to assist the developing countries in their quest for a better life and

to strengthen our alliances. Finally, our international science efforts underscored our commitment to maintaining the United States as a world leader in scientific and technological excellence for peaceful purposes and for the benefit of mankind.

RONALD REAGAN.

THE WHITE HOUSE, *April 11, 1986.*

REPORT ON ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 131

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 360D of the Public Health Service Act, I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act during calendar year 1985.

The report recommends that Section 360D of the Public Health Service Act that requires the completion of this annual report be repealed. The Senate, in passing S. 992, the "Congressional Reports Elimination Act of 1985," included a provision repealing this requirement. All of the information found in this report is available to Congress on a more immediate basis through Congressional committee oversight and budget hearings and the FDA Annual Report. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

RONALD REAGAN.

THE WHITE HOUSE, *April 11, 1986.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2909. A communication from the acting chairman of the Farm Credit Administration, transmitting, pursuant to law, the annual report of the Farm Credit Administration under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2910. A communication from the chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Federal Open Market Committee of the Federal Reserve System under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2911. A communication from the Director of the Bureau of Labor Statistics, Department of Justice, transmitting, pursuant to law, the annual report of the Bureau under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2912. A communication from the Acting Director of the Selective Service System, transmitting, pursuant to law, the annual report of the System under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2913. A communication from the Freedom of Information Act Director of the Federal Home Loan Mortgage Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2914. A communication from the Director of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's annual report on the Employment of Minorities, Women, and Handicapped Individuals in the Federal Government for fiscal year 1983; to the Committee on Labor and Human Resources.

EC-2915. A communication from the Secretary of Education, transmitting a draft of proposed legislation to amend the Rehabilitation Act of 1973 and the Helen Keller National Center Act to reauthorize activities through fiscal year 1991, to authorize development of transition services and supported employment assistance to disabled individuals, and for other purposes; to the Committee on Labor and Human Resources.

EC-2916. A communication from the chairman of the board of the Student Loan Marketing Association, transmitting, pursuant to law, the annual report of the Commission for calendar year 1985; to the Committee on Labor and Human Resources.

EC-2917. A communication from the Secretary of Education, transmitting a draft of proposed legislation to extend and amend the Higher Education Act of 1965, to establish a financial assistance program emphasizing student self-help, to improve access to postsecondary education for the neediest students, to preserve the educational choices of the neediest students, and make loan repayment more manageable, to enhance the equity and effectiveness of Federal programs in support of higher education, to improve debt collection activities and default recoveries, to reduce collection costs and program abuse, to increase institutional flexibility and simplify higher education programs, and for other purposes; to the Committee on Labor and Human Resources.

EC-2918. A communication from the Secretary of Education, transmitting, pursuant to law, the 1986-87 Guaranteed Student Loan Family Contribution Schedule; to the Committee on Labor and Human Resources.

EC-2919. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Financial Audit of David R. Ramage, Inc., Financial Statements—August 31, 1984 and 1983; to the Committee on Rules and Administration.

EC-2920. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the financial audit of Thomas J. Lankford, Inc., financial statements, September 30, 1984 and 1983; to the Committee on Rules and Administration.

EC-2921. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a report on cases granted equitable relief during calendar year 1985; to the Committee on Veterans' Affairs.

EC-2922. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend the authority of the Veterans' Administration to provide contract care to U.S. veterans in the Veterans Memorial Medical Center, and to provide grants to States for State veterans homes, and for other purposes; to the Committee on Veterans' Affairs.

EC-2923. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend programs under the Head Start Act, and for other purposes; to the Committee on Labor and Human Resources.

EC-2924. A communication from the chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the annual report of the Council for fiscal year 1985; to the Committee on Energy and Natural Resources.

EC-2925. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the experience of the Department in implementing the Freedom of Choice Waiver Provisions of the Social Security Act; to the Committee on Finance.

EC-2926. A communication from the Acting Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on NASA's plan to report to the General Services Administration certain excess real property; to the Committee on Governmental Affairs.

EC-2927. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—College Housing Program—Loan Discount; to the Committee on Labor and Human Resources.

EC-2928. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on compliance by States with personnel standards for radiologic technicians for 1985; to the Committee on Labor and Human Resources.

EC-2929. A communication from the Presiding Officer, Advisory Council on Education Statistics, Department of Education, transmitting, pursuant to law, the annual report of the Council for fiscal year 1985; to the Committee on Labor and Human Resources.

EC-2930. A communication from the Acting Comptroller of the United States, transmitting, pursuant to law, a report on the status of certain budget authority; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, and the Committee on Commerce, Science, and Transportation.

EC-2931. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the President's third special message for fiscal year 1986; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Labor and Human Resources.

EC-2932. A communication from the Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, selected acquisition reports and selected acquisition summary tables for the quarter ended December 31, 1985; to the Committee on Armed Services.

EC-2933. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Departments of the Army, Navy, and Air Force proposed letter of offer to Saudia Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2934. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Export Administration Amendments Act of 1985 to authorize appropriations to carry out the provisions of title II of such act for fiscal years 1987 and 1988, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-2935. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to terminate the U.S. Travel and Tourism Administration, to repeal the International Travel Act of 1961, as amended, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-2936. A communication from the Acting General Counsel of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations for activities under the Disaster Relief Act of 1974, as amended; to the Committee on Environment and Public Works.

EC-2937. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for 2 years; to the Committee on Environment and Public Works.

EC-2938. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Toxic Substances Control Act, as amended, for 2 years; to the Committee on Environment and Public Works.

EC-2939. A communication from the Deputy Assistant Secretary of Defense (Administration) transmitting, pursuant to law, a report on a new Privacy Act System of records; to the Committee on Governmental Affairs.

EC-2940. A communication from the Deputy Assistant Secretary of Defense (Administration) transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2941. A communication from the chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during calendar year 1985; to the Committee on Governmental Affairs.

EC-2942. A communication from the Deputy Assistant Secretary of Defense (Administration) transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2943. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report with the respect to actions taken to recruit and train Indians to qualify for positions which are subject to preference under Indian preference laws; to the Select Committee on Indian Affairs.

EC-2944. A communication from the Freedom of Information/Privacy Officer of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2945. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference of the United States, held in Washington, DC March 6 and 7 and September 17 and 18, 1985, and the annual report of the Director of the Administrative Office of the U.S. courts for fiscal year 1985; to the Committee on the Judiciary.

EC-2946. A communication from the President of the American Academy and Institute of Arts and Letters, transmitting, pursuant to law, the annual report on the activities of the Academy for calendar year 1985; to the Committee on the Judiciary.

EC-2947. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to renew authority to contract for the detection and treatment of drug-dependent offenders, and for other purposes; to the Committee on the Judiciary.

EC-2948. A communication from the Assistant Attorney General (Office of Justice Programs) transmitting, pursuant to law, the first annual report of the Assistant Attorney General for Justice Programs, covering fiscal year 1985; to the Committee on the Judiciary.

EC-2949. A communication from the Secretary of Education, transmitting a draft of proposed legislation to authorize the establishment of an endowment fund at Galludet College and the National Technical Institute for the Deaf, and for other purposes; to the Committee on Labor and Human Resources.

MESSAGES FROM THE HOUSE

At 1:54 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 49. An act to protect firearms owners' constitutional rights, civil liberties, and rights to privacy.

ENROLLED JOINT RESOLUTION SIGNED

At 4:02 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 261. Joint resolution to designate the week of April 14, 1986, through April 20, 1986, as "National Mathematics Awareness Week."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHILES (for himself, Mr. DURENBERGER, Mr. BENTSEN, Mr. BAUCUS, and Mr. ROCKEFELLER):

S. 2288. A bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under one year of age; to the Committee on Finance.

By Mr. McCLURE (by request):

S. 2289. A bill to enhance effective administration of certain Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD (for himself and Mr. BUMPERS):

S. 2290. A bill to amend the Communications Act of 1934 to prohibit the encoding of satellite-transmitted television programming until decoding devices are fully available at reasonable prices; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 2291. A bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 2292. A bill to amend the Food Security Act of 1985 to require the Secretary of Agriculture to take certain actions to reduce the adverse effect of the milk production termination program on red meat producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR (by request):

S. 2293. A bill to authorize appropriations for the African Development Foundation; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RUDMAN (for Mrs. HAWKINS (for herself, Mr. PELL, Mr. KASTEN, Mr. LAUTENBERG, and Mr. MATTINGLY)):

S. Con. Res. 126. Concurrent resolution authorizing the rotunda of the United States Capitol to be used on May 6, 1986, for a ceremony commemorating the days of remembrance of victims of the Holocaust; considered and agreed to.

By Mr. RUDMAN (for Mr. HEINZ (for himself and Mr. GARN)):

S. Con. Res. 127. Concurrent resolution relating to predatory tied aid credits; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES (for himself, Mr. DURENBERGER, Mr. BENTSEN, Mr. BAUCUS, and Mr. ROCKEFELLER):

S. 2288. A bill to amend title XIX of Social Security Act to permit States the option of providing prenatal, delivery, and post partum care to low-income pregnant women and of providing medical assistance to low-income infants under 1 year of age; to the Committee on Finance.

71-059 O-87-47 (Pt. 5)

INFANT MORTALITY PREVENTION ACT

● Mr. CHILES. Mr. President, I am today introducing the Infant Mortality Prevention Act of 1986 a [IMPACT 86]. The bill seeks to alleviate one of the more tragic problems this Nation faces: infant mortality.

In this Nation, where we take pride in our standard of living, medical care and technological advances, nearly 10 white babies, close to 20 black babies, and nearly 17 other nonwhite babies die before their first birthday for every 1,000 who are born. Overall, we have an infant mortality rate that is higher than Asian nations like Japan and Singapore, Western European countries like Norway or Great Britain, as well as Canada and Australia.

We are making some progress. The United States improved its infant survival rate from 17th in the world in 1983 to 16th in 1984. But I am not satisfied.

When you look behind the averages, when you look at the specifics of the survival rates for black babies versus whites, and a baby's chance for survival in the Southeast versus the rest of the Nation, we see not only do we have a long way to go, we are actually losing ground in the battle against infant mortality on some fronts:

In 1983 the incidence of low birthweight increased for both blacks and whites, and the annual rate of improvement would have to be about 300 percent to meet the Surgeon General's goal of reducing low birthweight to only 5 per 100 live births.

The gap between black and white rates of infant mortality is getting wider. In 1983 this difference was the widest in 40 years.

The percentage of women getting no prenatal care, or delayed care in the third trimester, is increasing. Our rate of progress to achieve the Surgeon General's goal of 90 percent of women getting care in the first trimester would have to be 650 percent per year until 1990.

Death rates are rising for infants who survive the first month of life. These deaths are most closely associated with preventable factors due to poverty. And yet in 1983 we had the worst situation we have had in 20 years in postneonatal deaths, and provisional data indicates these deaths are projected to rise again in 1984.

Finally, our rate of decline in infant mortality has slowed to about 3 percent per year between 1981 and 1983.

For over a year now, I have been looking at the issue of infant mortality. I have visited prenatal care centers and neonatal intensive care units all over the State of Florida. I have held hearings in Miami, Pensacola, and Washington.

The chief thing I have learned from physicians, nurse midwives, public health officials, and most importantly, young mothers, is that early and effective prenatal care makes a difference. In human terms, I have seen the babies who benefited from good maternal health care, counseling, and nutrition, whether they were born in the migrant stream, the Liberty City section of Miami, or to a middle-income teenager.

I have also seen the joy on a young mother's face as she held her first healthy baby after eight miscarriages and stillbirths. And I have seen the tragedy of young parents and their children who did not have access to such care and suffered preventable handicapping conditions.

The bill I am introducing today could bring this essential health care to thousands of low-income pregnant women. It would provide for a new Medicaid categorically needy program to permit States, at their option, to extend Medicaid coverage for preventive prenatal, delivery and postpartum medical services to low-income women during pregnancy and for 60 days after delivery, and to their infants up to 1 year of age.

My goal is to provide this essential preventive health care to all pregnant women with family incomes up to the full Federal poverty level. The bill would achieve that goal within the third year after enactment.

Pregnant women with family incomes below 65 percent of the Federal poverty level—$5,750 maximum countable income for a three-person family—would be eligible for this new maternity benefit converage in the first year of operation. The bill provides for an eligibility ceiling of 80 percent of the poverty level in fiscal year 1989.

Mr. President, I would have liked to start out with coverage for all pregnant women and small children up to the full Federal poverty level right away. This is what we need to do, and this is the best way, I am convinced, to lower infant mortality rates and keep our commitment to a national goal of healthy mothers and healthy babies.

I am convinced that in the long range such an initial expenditure on preventive health care will result in significant overall Federal and State Medicaid savings. But there will be startup costs, and as yet we do not have good cost estimates for coverage for this full population. We set aside a target amount of approximately $100 million a year in additional Medicaid spending in the budget resolution reported by the Senate Budget Committee for a new infant mortality initiative.

This is a realistic goal, something that we can achieve this year. My commitment is to doing the most we can right away—not putting off this important initiative until we feel we've got our tremendous budget deficits under control.

It is my hope that as the authorizing committees of Congress and the Congressional Budget Office spend more time with the possibilities of such an initiative, we will find that we can start out with an eligibility level much higher than 65 percent of the Federal poverty level. This is one area in which I wouldn't mind seeing this bill substantially changed before it comes to the Senate floor for final action.

I also want to see any final legislation in this area providing the maximum incentive for States to choose to exercise the option for expanded Medicaid coverage for pregnant women and infants.

One of the most important elements of this bill is that States would have the option of providing this new benefit without increasing their AFDC standards of need or payment levels. For the first time, we would be giving States the flexibility to target their resources to provide preventive health care to a specific, high risk population group.

As currently drafted, however, the bill would require a State to maintain its AFDC payment levels in place as of the date of enactment of this new legislation if it chooses to exercise the new Medicaid option.

To avoid a costly new administrative process, States also would be able to use their current AFDC income and eligibility determination process to decide eligibility for the new Medicaid benefit. There are two specific exceptions to current AFDC eligibility determination rules, however.

First, the bill provides that the guidelines used to determine maximum allowable assets and resources other than cash income should be those now used in Medicaid medically needy programs. In general, current law provides for the more liberal of the AFDC or SSI resource standards to be used to determine eligibility in Medicaid medically needy programs, and this same precedent would be applied to the new optional coverage.

Second, to prevent a situation in which a pregnant woman would lose her Medicaid coverage in the middle of her pregnancy because of a slight increase in income, as could happen with AFDC earned income disregard provisions and other tests, a minimum benefit period would be established to ensure coverage through the entire period of the pregnancy.

Mr. President, I'd like to point out that this new program we are proposing is actually a very limited benefit. But because it is so precisely targeted to a very high risk population, low-income pregnant women and their infants up to age 1, it can have tremendous impact.

In economic terms, we are talking about an investment averaging about $600 for routine prenatal check ups and counseling, versus neonatal intensive care that can cost as much at

$120,000 to $200,000 for an extended period. These costs do not even include the expense of handicapped education, vocational rehabilitation, or welfare for lifelong handicapping conditions.

In human terms, it's the least we can do for our children.●

● Mr. BENTSEN. Mr. President, I am pleased to join my colleagues from Florida and Minnesota as an original cosponsor of the Infant Mortality Prevention Act [IMPACT] of 1986.

The purpose of this legislation is to offer States the option of extending prenatal, delivery and postpartum care to women whose incomes fall below the poverty level, but who fail to qualify for coverage under current law because they exceed the State's income eligibility threshold. In addition, States would be allowed to extend health care to infants of less than 1 year of age.

The genesis of S. 2288 was the final report prepared by the Southern Governors' Task Force on Infant Mortality, under the chairmanship of South Carolina's Gov. Richard Riley. Recognizing that the incidence of infant mortality is highest in the southern region of the country, Governor Riley, members of the task force, and an able group of professional staff members developed a number of specific legislative recommendations designed to expand the tools available to elected officials concerned about reducing the number of infant deaths in their States.

The National Academy of Sciences Institute of Medicine study on low birthweight has shown that significant cost savings can be achieved by providing low cost prenatal, delivery and postpartum care to young mothers. In fact, IOM estimates a cost-benefit ratio of $3.38 saved in the first year of a child's life for $1 spent in prenatal care. Yet, in the United States, most especially in the southern region, we have been slow to recognize that an early investment in the health of the mother pays dividends for the long term well-being of mother, child, and the community at large. As a consequence, the price we have paid, in dollars and lost human potential, has been far too high.

To be more specific, 10 of the 11 States with the most severe infant mortality rates are in the South. In the southern region, it is estimated that 1 of every 15 mothers is likely to have a child with a discernible mental or physical handicap. While the national average is 6.8 percent, 7.6 percent of all babies born in the Southern States are low in birthweight. And, as most of my colleagues are already aware, low birthweight is closely associated with a statistically significant increase in the incidence of lifelong handicapping conditions, such as learning disabilities, autism, cerebral palsy, epilepsy, chronic lung problems and mental retardation.

In an effort to comply with the funding limitations placed on this initiative in the budget resolution, the bill calls for a gradual increase in the income threshold, providing coverage for women who fall below 65 percent of the Federal poverty level in the first year, below 80 percent in the second year, and below 100 percent in the third year. In the event that Congressional Budget Office estimates of the cost to implement this legislation permit acceleration of the proposed timetable, I hope that members of the Finance Committee will be prepared to adjust this particular provision to afford States the opportunity to expand coverage to the entire target population as quickly as possible.

For those who may be concerned about disengaging eligibility for health services under Medicaid from the payment of aid to families with dependent children [AFDC], let me stress that the legislative language was carefully drafted to ensure that benefit payments are not reduced in order to finance State participation in the IMPACT option.

In sum, Mr. President, enactment of S. 2288 will allow States to improve access to health care for an especially vulnerable population. These changes in the Medicaid statute are especially important for the southern tier of States, where the need for services is greatest.

To quote Governor Riley:

> We in the South must develop our full potential if we are to achieve the hopes and plans we share for our future. One of the most critical opportunities we can offer our people is a good start.

Let us join together in support of that goal by relaxing Federal restrictions that inhibit the ability of States and communities to structure their health services according to local priorities. S. 2288 is a good beginning.●

By Mr. McCLURE (by request):

S. 2289. A bill to enhance effective administration of certain Federal lands and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL LANDS ADMINISTRATION ACT

● Mr. McCLURE. Mr. President, I send to the desk legislation recommended in an Executive communication transmitted by the Secretaries of the Interior and Agriculture and referred to the Committee on Energy and Natural Resources. The legislation would provide for the interchange of lands between the two Departments involving an estimated 25 million acres. I ask unanimous consent that copies of the legislation, and the section-by-section analysis letter of transmittal which accompanied it be printed in the RECORD at the conclusion on my remarks.

I have long been a supporter of the concept of interchange. I believe that it will improve both the management of Federal lands and the ability of State, local, and private interests to work with Federal land managers. Having said that, however, I do have several reservations about this particular proposal. I am not certain that it is the best approach to accomplish an effective interchange.

I would note at the outset that any proposal to exchange lands will inevitably produce expressions of concern from individuals who are apprehensive as to the potential effects of the exchange. Will the new land manager be as responsive to problems? Will new planning requirements be implemented? Will my livelihood be affected? These are legitimate concerns, and I am pleased with the efforts which both the Bureau of Land Management and the Forest Service undertook to explain the proposal to affected localities. Eighty-five public meetings were held and there have been significant changes made as a result of those and other meetings and discussions. I think both agencies should be commended for that effort. If they have not resolved all the problems at least they have tried to do so.

One of the very real concerns is how the consolidation of functions will affect the various offices which the two agencies now have. The legislative impact statement which the agencies prepared goes into considerable detail, and we will need to carefully consider their conclusions.

For example, the proposal assumes a net reduction of 34 staff positions in the Burley office in Cassia County, ID, with an "induced change in local employment" of 16 positions. The analysis indicates that this proposal would "compound an unemployment rate already above the national average" of 7.7 percent in Burley. The analysis further states:

> A mitigating factor is that employees have stated that they would commute to Twin Falls rather than move out of Burley if their positions were eliminated. They would therefore continue to spend some portion of their salaries in Burley and contribute to Burley's tax base.

I am not satsfied with that, and I have obtained a commitment from the Director of the Bureau of Land Management that the Burley office will not be closed. I intend to examine closely each of the potential or planned consolidations to ensure that all communities are adequately protected. In addition to Burley's 7.7 percent unemployment, unemployment is estimated for other affected Idaho communities at 12.4 percent for Cottonwood and 13.3 percent for Salmon. While the proposal assumes far less of an impact in those communities than it did in Burley, nevertheless I intend to examine those impacts very careful-

ly before any proposal is reported from the committee.

As I stated at the outset, I support the concept of the interchange. From the standpoint of the State of Idaho, I intend to look very closely at the specific lands subject to interchange and continue my discussions with people in the State to determine whether this is the best proposal or whether it could be improved. I expect that my colleagues will be having similar discussions with respect to the acreage involved in their States, and I anticipate that they will also have suggestions to improve this proposal.

Beyond the question of the acreage, I have several concerns which I plan to explore as this proposal moves through the legislative process. I have some concern over the transfer to the Forest Service of responsibility for 204 million acres of subsurface estate and the amendments to the Multiple-Use Sustaind-Yield Act and other statutes which are required to implement that decision. It may be that this is a good idea and we should reverse the decision made in the Reorganization Plan No. 3 of 1946 to transfer such responsibility from the Department of Agriculture to the Department of the Interior. This proposal may provide for better land management and a more integrated planning process. It may not. I intend to examine this issue closely.

I also intend to carefully review the various transfers of legislative authority from one agency to another that are proposed in this legislation, especially where the authorities do not run just with the lands being transferred, but are extended to all lands under the jurisdiction of the Department receiving the new authority. I understand and fully appreciate the concern that the lands being transferred should continue to be managed in the same manner as they were prior to the transfer. Accomplishing that may entail the exercise by one agency of certain statutory authorities normally reserved to another. That objective does not mean, however, that this proposal should be an excuse for agencies to extend such authorities to other lands nor to modify current law.

This does not mean that some of these ideas may not be beneficial. Extending the authority of the Small Tracts Act to all lands under the administration of the Department of the Interior rather than just to the lands transferred from the Department of Agriculture may be a good idea, but then again it might not. Providing the Department of Agriculture with certain authorities under the Desert Land Entry Act, the Carey Act, the Recreation and Public Purposes Act, Federal Land Policy and Management Act, and other statutes may be a good idea for the transferred lands, and it may improve management. But then again it might not.

Part of the rationale for the interchange is to provide more uniform land management by consolidating stewardship within one agency in any given area. While the Color of Title Act is extended throughout the Forest System, the other statutes would continue to apply only to the transferred lands. We will need to be certain that we have not interchanged one management problem—multiple agencies—for another—different management by a single agency on intermingled lands. The hearing process should provide the committee and my colleagues with ample opportunity to explore these issues.

Some areas I do intend to focus on are the provisions dealing with wilderness review, how these areas are incorporated into the planning process of the new agency, and the provision on water rights. Both agencies have made an effort to be absolutely neutral, but the remaining areas where we will need to be extremely careful especially in light of the ability of courts to read what we think is clear language in new and novel ways.

When the Bureau of Land Management and the Forest Service submitted their first interchange proposal last year, there was great concern in Western States that there would not be an opportunity for the public and affected groups to have a chance to air their views before the legislation was enacted. If my recent discussions with the people of Idaho are a barometer, that concern still exists.

So let me give this assurance to my colleagues and those affected groups. No legislation will be sent to the full Senate for consideration until there has been a full and complete opportunity for public comment and review. There will be hearings in Washington, and I'm sure there will also be several field hearings in affected States as well. Given the kind of effect which this legislation would have on land management in the West, full public participation and comment is not only desirable, it is essential.

I intend to spend at least one hearing on the issue of water rights. While the language is designed, as the section-by-section analysis states, to be absolutely neutral and neither create nor relinquish any rights of Federal, State, or private parties, I think that the Congress needs to be completely satisfied that the language will accomplish that result. I know that both Departments intend that result and I can assure my colleagues that before any legislation is reported by the committee to the Senate, we will also be satisfied.

Mr. President, I am pleased to introduce this legislation and I hope that all Members will give it very careful consideration. It offers the possibility of significantly improving the Federal stewardship of our lands with some commensurate budget savings. Whatever flaws are found in the legislation will I hope be fully explored and remedied as the legislation is considered. I certainly hope that our discussions can be focused on the concept of interchange and what is necessary to accomplish that interchange. There is an implicit danger in the extensions of authority that some may seek to undertake a comprehensive review of the management authorities of both agencies. I hope we will resist that temptation.

I believe that the concept of the interchange is good for Idaho, and I think that once my colleagues have examined this legislation, they too will conclude it is a good one for their States.

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

S. 2289

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 Lands Administration Act of 1986."

TITLE I—PURPOSES, DEFINITIONS AND MAPS

PURPOSES

SEC. 101. The purposes of this Act are to—

(a) improve service to the public in the administration of certain federally owned lands;

(b) increase efficiency in the management of federally owned natural resources and increase cost effectiveness by consolidating land jurisdiction and administration in the agency with the predominant presence in an area; and

(c) consolidate the management of the surface and subsurface resources in the agency responsible for the surface.

SEC. 102. Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in or amended by this Act, as used in this Act—

(a) the term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture;

(b) the acronym "FLPMA" means the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2743, 43 U.S.C. 1701, et seq.);

(c) the terms "land" and "lands" includes surface, subsurface, water, minerals, and interests therein;

(d) the term "public lands" has the same meaning as defined in section 103(e) of FLPMA (43 U.S.C. 1702(e));

(e) the term "newly established public lands" means lands or interests in lands which were formerly in the National Forest System and by this Act become public lands;

(f) the term "National Forest System" has the same meaning as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (88 Stat. 480, 16 U.S.C. 1609(a));

(g) the term "newly established national forest lands" means lands or interests in lands which were formerly public lands and by this Act become national forest lands and a part of the National Forest System;

(h) the term "withdrawal" has the same meaning as defined in section 103(j) of FLPMA (90 Stat. 2746, 43 U.S.C. 1702(j));

(i) the term "person" includes an individual, partnership, coporation, association, public or private organization, Indian Tribe or State or political subdivision thereof;

(j) the term "date of transfer" means the date of the beginning of the first pay period of the Bureau of Land Management and Forest Service following one hundred and eighty (180) days after the date of enactment of this Act; and

(k) the term "O&C Lands" means the Oregon and California Railroad and Coos Bay Wagon Road Grant lands which are subject to the Act of August 28, 1937 (50 Stat. 874, as amended), and the Act of May 24, 1939 (53 Stat. 753).

SEC. 103. Incorporated by reference into this Act are a series of maps entitled "Interagency Land Transfers—February 1986" (hereafter "maps") which delineate the areas of lands for which adminstration is transferred by this Act. The maps shall be on file and available for public inspection in the offices of the Chief, Forest Service, Department of Agriculture, and the Director, Bureau of Land Management, Department of the Interior. Changes may be made to the maps to correct technical errors.

TITLE II—TRANSFER OF LANDS TO THE FOREST SERVICE

SEC. 201. Effective on the date of transfer, jurisdiction over public lands designated on the maps for management by the Forest Service is transferred to the Secretary of Agriculture, and the lands are withheld and reserved as national forests and shall be administered in accordance with this Act and the laws, rules and regulations applicable to the national forests.

MODIFICATIONS OF NATIONAL FOREST SYSTEM UNIT BOUNDARIES

SEC. 202. (a) The Secretary of Agriculture is authorized to establish, extend or otherwise modify the boundaries of units of the National Forest System in order to facilitate planning, management or administration. Any boundary modifications shall become effective ninety days following publication of notice of such modifications in the Federal Register and notification of the appropriate committees of Congress. Exercise of this authority shall not affect valid existing rights.

(b) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of newly established national forest lands, and the boundaries of National Forest System lands as they may be modified pursuant to subsection (a) of this section or section 403 of this Act shall be treated as if they were boundaries in existence as of January 1, 1965.

NATIONAL FOREST PLANNING

SEC. 203. Until such time as plans are specifically developed for newly established national forest lands in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended; 16 U.S.C. 1601), such lands shall continue to be managed in accordance with plans in effect on the date of transfer. Newly established national forest lands shall be managed under land management plans developed pursuant to section 6(f)(5) of the aforementioned Act when appropriate plans are revised. If no plans are in effect on the date of transfer, the lands shall be managed in a manner consistent with other National Forest System lands in the vicinity until a plan is developed under applicable provisions of law. Nothing in this or any other Act shall require the amendment or revision of the plans governing newly established national forest lands or of the plans relating to national forest affected by the addition or deletion of lands transferred by this Act.

WILDERNESS REVIEW

SEC. 204. (a) For roadless areas of newly established national forest lands, the Secretary of Agriculture shall:

(1) adopt all recommendations of the Secretary of the Interior with regard to wilderness suitability of lands reviewed for wilderness by the Bureau of Land Management prior to the date of transfer pursuant to sections 202 and 603 of FLPMA; and

(2) undertake or complete wilderness consideration utilizing the wilderness review standards applicable to other national forest lands for wilderness study areas for which there are no recommendations of the Secretary of the Interior in effect on the date of transfer.

(b) Subject to valid existing rights, any roadless areas of newly established national forests lands which were in wilderness study areas identified by the Secretary of the Interior pursuant to section 603 of FLPMA shall be managed by the Secretary of Agriculture in accordance with the provisions of section 603(c) of FLPMA until either (1) Congress designates the areas as wildernes, or (2) Congress releases the areas from wilderness consideration.

(c) Subject to valid existing rights, any roadless areas of newly established national forest lands recommended for wilderness by the Secretary of the Interior pursuant to section 202 of FLPMA or any roadless area identified for wilderness study under section 202 of FLPMA and recommended for wilderness by the Secretary of Agriculture pursuant to subsection (a)(2) of this section shall be managed in a manner so as to maintain their presently existing wilderness characteristics and potential for inclusion in the National Wilderness Preservation System until the areas are designated as wilderness or released from wilderness consideration: *Provided*, That the Secretary of Agriculture may authorize the continuation of types of existing uses insofar as such uses would not disqualify the area for designation as wilderness.

(d) Any roadless areas of newly established national forest lands which have been considered but not recommended for wilderness pursuant to section 202 of FLPMA or subsection (a)(2) of this section, except as provided in subsection (b) of this section, shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans hereafter required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, and the Secretary of Agriculture shall not be required to manage the land to preserve wilderness values or to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised.

(e) A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

LAND ENTRY PROVISIONS

SEC. 205. The following Acts pertaining to entry and disposal of the public lands are amended as follows:

(a) the Act of March 3, 1877 (19 Stat. 377, as amended; 43 U.S.C. 321), pertaining to desert land entries, is amended as follows:

(1) in section 1, delete in the first sentence the words "Secretary of the Interior of" and insert in lieu thereof the words "appropriate Secretary for";

(2) in section 3, delete the period at the end of the sentence and insert a colon and the following proviso: "*Provided*, That the Secretary of the Interior shall exercise the authorities under this Act with respect to public lands, and the Secretary of Agriculture shall exercise the authorities with respect to newly established national forest lands designated pursuant to the Federal Lands Administration Act of 1986: *Provided however*, That the Secretary of the Interior shall issue all patents to such desert lands on his own initiative with respect to public lands or at the request of the Secretary of Agriculture with respect to newly established national forest lands."

(b) Section 4 of the Act of August 18, 1894 (28 Stat. 422, as amended; 43 U.S.C. 641) pertaining to grants of desert lands to States for reclamation, commonly known as the Carey Act, is further amended by adding the following unnumbered paragraph at the end therof:

"Newly established national forest lands designated by the Federal Lands Administration Act of 1986 shall remain available to the States for the purposes set forth in this Act: *Provided*, That the Secretary of Agriculture shall exercise the authorities of this Act with respect to grants of desert lands to States on such forest lands: *Provided further*, That patents shall be issued only by Secretary of the Interior at the request of the Secretary of Agriculture."

(c) The Act of February 28, 1891, which amended Revised Statutes § 2276 (26 Stat. 796, as amended; U.S.C. 852), pertaining to indemnity selections by the States, is amended as follows:

(1) in the first sentence of section 2(a), insert after the words "unsurveyed public lands" a comma followed by the words "or from newly established national forest lands designated pursuant to the Federal Lands Administration Act of 1986,"; and

(2) insert at the end of subsection 2(a) the following new numbered paragraph:

"(6) With regard to lands which are designated as newly established national forest lands pursuant to the Federal Lands Administration Act of 1986, the Secretary of Agriculture shall administer the provisions of this Act except that patents shall be issued only by the Secretary of the Interior at the request of the Secretary of Agriculture."

(d) The Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741, as amended; 43 U.S.C. 869) is amended by adding a new section 7 at the end thereof:

SEC. 7. Notwithstanding the provisions of section 1 of this Act, the Secretary of Agriculture shall exercise the authorities granted herein to the Secretary of the Interior to dispose of newly established national forest lands designated pursuant to the Federal Lands Administration Act of 1986, except that patents shall be issued only by the Secretary of the Interior at the request of the Secretary of Agriculture."

(e) The Act of December 22, 1928 (45 Stat. 1069, as amended; 43 U.S.C. 1068), commonly referred to as the Color of Title Act, is amended as follows:

(1) delete the words "of the Interior" wherever used;

(2) delete the words "public land" wherever used and substitute in lieu thereof the words "Federal land";

(3) in section 1, delete the word "issue" the first time used and substitute in lieu thereof the words "cause to be issued by the Secretary of the Interior"; and

(4) add a new section 4 as follows:

"SEC. 4. For the purposes of this Act, (a) the word "Secretary" shall mean the Secretary of the Interior where public lands are involved, and the Secretary of Agriculture where National Forest System lands are involved, and (b) the words "Federal land" shall mean lands which are public lands as defined by section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)), and lands which are part of the National Forest System as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1609(a))."

(f) Notwithstanding any provision of this Act, nothing herein shall be deemed to affect the powers and responsibilities of the Secretary of the Interior pursuant to the Grand Ronde Restoration Act (97 Stat. 1064) except that Federal real property in Oregon to be transferred for the benefit of the tribe pursuant to any reservation plan may be from newly established national forest lands in addition to other available public lands which were otherwise eligible for transfer prior to the date of transfer.

LAND SALES

SEC. 206. Areas of newly established national forest lands identified by the Secretary of the Interior on or before the date of transfer as suitable for sale under the provisions of section 203 of FLPMA or identified as suitable for sale after the date of transfer through land management planning may be sold by the Secretary of Agriculture in accordance with the procedures of said section 203: *Provided*, That patents shall be issued only by the Secretary of the Interior at the request of the Secretary of Agriculture.

AMENDMENTS TO FLPMA

SEC. 207. (a) Section 103(g) of FLPMA is amended to add a new sentence at the end thereof: "For purposes of sections 204, 209, and 211 the term 'Secretary' shall mean the Secretary of the Interior where public lands are involved, and the Secretary of Agriculture where National Forest System lands are involved."

(b) Section 204 of FLPMA is amended by adding a new subsection at the end thereof:

"(m) Upon request of the Secretary of Agriculture where National Forest System lands are involved, and with the concurrence of any other affected agency, the Secretary of the Interior shall make, modify or revoke any withdrawal transferring lands from one Federal agency to another: *Provided*, That nothing herein shall affect the authorities of the Secretary of Agriculture with respect to interchanges of lands with the Secretary of a military department pursuant to the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, b)."

TITLE III—TRANSFER OF LANDS TO THE BUREAU OF LAND MANAGEMENT

SEC. 301. Effective on the date of transfer, jurisdiction over National Forest System lands within areas indicated on the maps for management by the Bureau of Land Management is transferred to the Secretary of the Interior to be administered in accordance with this Act and the laws, rules and regulations applicable to the public lands, except that the areas are withdrawn from any sale or disposal under the public land laws or other authority unless such law or authority otherwise applied to the areas prior to the date of transfer.

SEC. 302. (a) All contiguous areas of newly established public lands of 10,000 acres or more which had a specific name indentification prior to enactment of this Act are hereby designated as conservation areas. Such lands shall remain unavailable for disposal under the public land laws, unless otherwise provided in this Act. The Secretary of the Interior shall assign an appropriate definitive name to each such conservation area which will recognize the location of the conservation area or its specific significance or characteristics, and may modify or adjust their boundaries.

(b) Section 522(e)(2)(B) of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445; 30 U.S.C. 1272(e)(2)B)) is amended by deleting the words after the "*And provided further*," and inserting in lieu of such deletions the words: "That no surface coal mining operations may be permitted on public lands which were formerly within the boundaries of the Custer National Forest as such boundaries existed on August 3, 1977."

(c) Title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 522, as amended; 7 U.S.C. 1010-1012), is further amended as follows:

(1) in section 31, after the word "Secretary" insert the phrase "and the Secretary of the Interior for lands acquired under this Act and transferred to the Department of the Interior for administration as public lands";

(2) in section 32, after the phrase "Secretary is authorized" insert the phrase "and the Secretary of the Interior for lands acquired under this Act and transferred to the Department of the Interior for administration as public lands is authorized pursuant to subsection (b), (c), (d), and (f) of this section";

(3) in subsections 32 (c), (d), and (f) wherever the words "Secretary" or "Secretary of Agriculture" appear, insert the phrase "or the Secretary of the Interior as to lands such Secretary administers pursuant to this Act"; and

(4) in subsection 32(e), add a new unnumbered paragraph at the end thereof to read: "The provisions of this subsection shall not be exercised by the Secretary of the Interior."

(5) In section 33, delete the words "calendar year" and insert in lieu thereof the words "fiscal year", and after the word "Secretary" insert the phrase "or the Secretary of the Interior as to lands said Secretary administers pursuant to this Act".

LAND MANAGEMENT PLANS

SEC. 303. (a) Until such time as plans are specifically developed for newly established public lands in accordance with FLPMA, such lands shall continue to be managed under plans in effect on the date of transfer. If no plans are in effect on the date of transfer, the lands shall be managed in accordance with applicable existing regulations of the Secretary of the Interior or with other procedures adopted by the Secretary of the Interior for this purpose until a plan is developed under applicable provisions of law.

(b) Nothing in this Act shall be deemed to require amendment or revision of the plans in effect on the date of enactment of this Act governing newly established public lands.

WILDERNESS REVIEW

SEC. 304. (a) For roadless areas of newly established public lands, the Secretary of the Interior shall:

(1) adopt all recommendations for wilderness or additional study with regard to lands reviewed by the Secretary of Agriculture pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended; and

(2) complete wilderness consideration for inventoried roadless areas which have not been released from consideration through the process prescribed by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended; 16 U.S.C. 1601) or by an Act of Congress, and for which there were no recommendations by the Secretary of Agriculture in effect on the date of transfer. After review utilizing the procedures specified in section 3(d) of the Wilderness Act of 1964 (16 U.S.C. 1132(d)), those areas found suitable for wilderness designation under the criteria of section 2(c) of that Act (16 U.S.C. 1131(c)) shall be protected for their wilderness characteristics until Congress acts on recommendations for wilderness designation.

(b) Subject to valid existing rights, any roadless areas of newly established public land recommended by the Secretary of Agriculture for wilderness, or remaining areas required by Act of Congress to be studied for wilderness pending congressional designation or release, shall be managed by the Secretary of the Interior in accordance with the provisions of section 603(c) of FLPMA, or other specific statutory direction.

(c) Lands not recommended for wilderness or additional study as a result of the process prescribed by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, the process prescribed in subsection (a)(2) of this section, or that have been released by Act of Congress for any specified period shall be deemed to have been adequately considered for their suitability for inclusion in the National Wilderness Preservation System and the Secretary of the Interior shall not be required to review such lands for their wilderness characteristics and suitability except as required in the planning process developed pursuant to section 202 of FLPMA, or in accordance with the requirements of any law that released said lands from wilderness consideration.

(d) A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

SMALL TRACTS

SEC. 305. The Act of January 12, 1983 (96 Stat. 2535; 16 U.S.C. 521c-521i) is amended as follows:

(a) in section 1, delete the period and insert in lieu thereof a comma followed by "where National Forest System lands are involved, or the Secretary of the Interior of the United States where public lands are involved.";

(b) in the first sentence of section 2, clause (1), delete the words "National Forest System lands" and insert in lieu thereof the words "Federal lands under his jurisdiction";

(c) in the second sentence of section 2, delete the words "National Forest System" and insert in lieu thereof the words "Federal lands", and delete the words "lands within the System" and insert in lieu thereof the words "Federal lands";

(d) in the third sentence of section 2, insert after the word "Secretary" the words "of Agriculture"; and

(e) in section 3, delete the words "National Forest System" and insert in lieu thereof the words "Federal lands".

SEC. 306. The Secretary of the Interior may require the purchasers of timber from the public lands to make deposits of money in connection with the payments for the timber, to cover the costs to the United States of any or all of the following activities: (1) disposing of brush and other debris resulting from cutting operations; (2) planting (including the production or purchase of young trees); (3) sowing with tree seeds (including the collection or purchase of such seeds); (4) cutting, destroying, or otherwise removing undersirable trees or other growth on the public lands cut over by the purchaser, in order to improve the future stand of timber; or (5) protecting and improving the future productivity of the renewable resources of the lands on sale areas, including the sale area improvement operation, maintenance and construction, reforestation and wildlife habitat management. Such deposits shall be covered into a separate fund in the Treasury. There is authorized to be appropriated from such fund, to remain available until expended, such sums as may be necessary to cover the costs of the activities specified in this section.

TITLE IV—GENERAL PROVISIONS

PUBLIC NOTICE

SEC. 401. (a) The Secretaries shall publish notice in the Federal Register when the transfer of the lands pursuant to sections 201 and 301 of this Act has been appropriately noted in the official land status records maintained in the appropriate offices of the Bureau of Land Management.

(b) The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to correct errors in the notations on the land status records made in accordance with subsection (a) of this section. Such corrections shall be published in the Federal Register and shall have the same force and effect as if enacted in this Act.

NATIONAL SYSTEMS

SEC. 402. Notwithstanding any other provision of law, components of the National Wilderness Preservation System, National Wild and Scenic Rivers System, and the National Trails System shall continue to be administered under the laws applicable to those areas except that such areas shall be administered by the Secretary to whom administration of the lands has been transferred by this Act.

INTERAGENCY TRANSFER AUTHORITY

SEC. 403. The Secretary of Agriculture with respect to National Forest System lands and the Secretary of the Interior with respect to the public lands are authorized to transfer jurisdiction over contiguous areas of land not exceeding 2,500 acres in size, without reimbursement or transfer or funds, whenever they determine that such transfer will facilitate land management. Such transfer shall be effective 90 days after publication of notification in the Federal Register with an opportunity for public comment, and notification of the appropriate committees of Congress. Upon transfer, lands shall be managed by the Forest Service or Bureau of Land Management, as appropriate, and shall be subject to this Act and the laws, rules and regulations administered by the Secretary to whom jurisdiction has been transferred. A change of jurisdiction under this provision shall not affect valid existing rights or authorizations.

EXISTING RIGHTS AND AUTHORIZATIONS

SEC. 404. (a) Nothing in this Act shall affect valid existing rights under any authority of law as of the date of enactment of this Act.

(b) Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued: *Provided*, That such laws and regulations will be exercised by the Secretary to whom jurisdiction over affected lands has been transferred. However, renewals and extensions shall be subject to the laws and regulations pertaining to the agency which has jurisdiction of the land at the time of renewal or extension. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying the renewal or reissuance of any such authorization.

WATER RIGHTS

SEC. 405. With regard to lands transferred by or under authority of this Act, any existing water rights of the United States under State or Federal law which the United States had or may be determined to have had by purchase, reservation, or otherwise prior to the date of enactment of this Act shall not be expanded or diminished: *Provided*, That the designation and withdrawal of newly established national forest lands under authority of this Act shall not create any additional reserved water rights in the United States as to those lands: *Provided further*, That nothing in this Act shall otherwise affect the right of the United States or of any person to acquire or dispose of water or water rights under applicable law.

WITHDRAWALS

SEC. 406. Except as specifically provided for in this Act, nothing herein shall affect any withdrawal in effect as of the date of transfer.

CLAIMS

SEC. 407. Nothing in this Act shall affect any claim by or against the United States, nor shall this Act create any right, claim, remedy or cause of action which did not exist prior to enactment of this Act.

DISBURSEMENT OF RECEIPTS

SEC. 408. (a) After the date of transfer, all monies from newly established national forest lands or newly established public lands shall be credited to the appropriate accounts in the Treasury of the United States applicable to the status of such lands after the effective date of transfer.

(b) For lands transferred pursuant to this Act, all monies received prior to the date of transfer shall be distributed by the collecting agency in accordance with the laws relating to those lands at the time of collection.

(c) Section 10 of the act of June 28, 1934, amended (48 Stat. 1273, 43 U.S.C. 315i) is amended to delete in subsection (a) "12½ per centum" and to insert in its place "25 per centum", and to delete in subsection (b) "50 per centum" and to insert in its place "25 per centum".

(d) Section 3 of the Act of July 31, 1947, as amended (61 Stat. 681, 30 U.S.C. 603) is further amended to delete the period at the end of the paragraph and to add the following "and except that moneys received from the sale of timber on the public lands shall be distributed 25 per centum to the State in which the timber producing such moneys received is situated, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the timber producing such moneys received is situated: *Provided*, That if the timber is situated in more than one State or county, the distributive share to each from the proceeds shall be proportional to its area compared to the total area entitled to share in the moneys received, and 75 per centum to the special fund in the Treasury known as the 'reclamation fund'."

ADMINISTRATIVE APPEALS

SEC. 409. (a) Any formal administrative appeal, adjudication or review pending on the date of transfer shall be completed by the agency in which it is pending: *Provided*, That the Secretary to whom jurisdiction over the lands involved is transferred by this Act may exercise final administrative review.

(b) To provide for uniform application of the mining and mineral leasing laws or to promote efficiency in the administration of such laws, the Secretaries shall establish joint mechanisms and procedures for adminstrative adjudications or reviews upon such terms and conditions as the Secretaries may prescribe through regulations or interdepartmental agreements.

REGULATIONS

SEC. 410. (a) The Secretary charged with administration of a tract of land transferred by this Act may, by publication of notice in the Federal Register, adopt in whole or part any regulation of either the Secretary of Agriculture or Secretary of the Interior applicable to such transferred land that was in effect as of the date of transfer without complying with the provisions of the Administrative Procedure Act (5 U.S.C. 533) or other requirements for the issuance of new regulations. any adoption of regulations pursuant to this section shall not be deemed a major federal action significantly affecting the quality of the human environment for purposes of compliance with the National Environmental Policy Act (42 U.S.C. 4321).

(b) The Secretaries are authorized to promulgate such joint or separate regulations as either or both deem necessary or desirable to implement the provisions of this Act.

SEC. 411. Nothing in this Act shall affect the existing authorities of the Secretary of the Interior to maintain and administer the official land title records of the United States.

TITLE V—MINERAL RESOURCES

SEC. 501. The Congress declares that it is the policy of the United States that coordinated management by the Secretary of Agriculture of the renewable and the nonrenewable resources of lands within the National Forest System will benefit the public and promote the optimum combination of resource uses. In addition, Congress finds that certain efficiencies and improved public services will result from the Secretary of Agriculture managing such federally owned subsurface resources in areas where the Secretary has been given management responsibility by this Act.

SEC. 502. The Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215, as amended; 16 U.S.C. 528-531) is amended as follows:

(a) in section 1, insert after the comma following the word "timber", the word "minerals,".

(b) in section 2, delete the first sentence and substitute in lieu thereof, "The Secretary of Agriculture is authorized and direct-

ed to develop and administer for multiple uses the renewable and nonrenewable resources of the National Forest System and, with regard to renewable resources, for sustained yield of the several products and services obtained therefrom."

(c) in section 4, subsection (a), delete the word "surface" and substitute in lieu thereof the words "and nonrenewable".

SEC. 503. For purposes of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, the nonrenewable resources shall be given equal consideration with the renewable resources in compliance with the requirements of sections 3, 4, 6, and 8 of that Act.

SEC. 504. For any mining claim located on National Forest System lands pursuant to the mining laws of the United States, the Secretary of Agriculture is authorized to evaluate such claim and initiate and prosecute an appropriate administrative contest or other actions to obtain a determination regarding the validity of such claim. Only the Secretary of the Interior shall issue any patents for valid mining claims wherever located.

SEC. 505. For all National Forest System lands, there is hereby transferred to and vested in the Secretary of Agriculture all authorities heretofore exercised by the Secretary of the Interior contained in those statutes and all acts heretofore and hereafter enacted which are amendatory or supplementary thereto which authorize the leasing and administration of Federal leasable minerals, including:

(a) the Act of February 25, 1920, as amended (41 Stat. 437; 30 U.S.C. 181), commonly known as the Mineral Lands Leasing Act of 1920;

(b) the Act of February 7, 1927 (44 Stat. 1057; 30 U.S.C. 281-287);

(c) the Act of April 17, 1926 (44 Stat. 301; 30 U.S.C. 271-276);

(d) the Mineral Leasing Act for Acquired Lands (61 Stat. 913; 30 U.S.C. 351-359);

(e) section 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) which transferred functions of the Secretary of Agriculture relative to the leasing or other disposal of minerals to the Secretary of the Interior, and as supplemented by section 3 of the Act of June 28, 1952 (66 Stat. 285);

(f) section 3 of the Act of September 1, 1949 (30 U.S.C. 192c) which authorized the issuance of mineral leases or permits for the exploration, development and utilization of minerals, other than those covered by the Mineral Leasing Act of Acquired Lands, in certain lands added to the Shasta National Forest by the Act of March 19, 1948 (62 Stat. 83);

(g) the Act of June 30, 1950 (16 U.S.C. 508(b)) which authorized leasing of the hardrock minerals on national forest lands in Minnesota;

(h) the Act approved June 8, 1926 (44 Stat. 710; 30 U.S.C. 291-293).

(i) the Act of June 28, 1944 (58 Stat. 483-485);

(j) the Act of March 3, 1933 (47 Stat. 1487);

(k) the Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 1001-1025);

(l) acts where the Congress authorized mineral leasing, including the leasing of nonleasable minerals in the manner prescribed by section 10 of the Act of August 4, 1939 (43 U.S.C. 387) in the following national recreation areas:

(1) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area, the Act of November 8, 1965 16 U.S.C. 460q-5);

(2) Ross Lake and Lake Chelan National Recreation Areas, the Act of October 2, 1968 (16 U.S.C. 90c-1(b));

(m) the Act of May 21, 1930 (30 U.S.C. 301-306) pertaining to oil and gas deposits underlying certain rights of way;

(n) subsections 522(b) and (e)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(b), (e)(2)); and

(o) the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, et seq.).

SEC. 506 Subsection (c)(2) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) is further amended as follows:

(a) Delete the first sentence of said subsection 28(c)(2) and insert in lieu thereof, "Where the surface of Federal lands involved is administered by the Secretary of Agriculture and by a Federal agency other than an agency of the Department of the Interior, then the Secretary of Agriculture is authorized after consultation with the agencies involved, to grant or renew rights of way or permits through the Federal lands involved. In all other cases where the surface of the Federal lands involved is administered by the Secretary of the Interior and another agency, then the Secretary of the Interior is authorized, after consultation with the agencies involved, to grant or renew rights of way or permits through the Federal lands involved."

(b) In the second sentence of said subsection 28(c)(2), insert the word "appropriate" before the word "Secretary."

SEC. 507. The Act of June 11, 1960 (74 Stat. 205) is amended by deleting subsections 2(a) and 2(c).

TITLE VI—TRANSFER OF O&C LANDS

SEC. 601. Incorporated by reference into this Act is a map entitled "Forest Service-Bureau of Land Management Transfer of Oregon and California Grant Lands (February, 1986)" which is on file and available for public inspection in the offices of the Chief, Forest Service, and the Director, Bureau of Land Management, and such regional or field offices as the Chief or Director may designate: *Provided*, That changes may be made to the map to correct technical errors.

SEC. 602. Effective of the date of transfer, jurisdiction over O&C Lands which are designated on the map referenced in section 601 for transfer to the Forest Service is transferred and the lands shall be administered by the Secretary of Agriculture in accordance with the laws, rules and regulations pertaining to national forests.

SEC. 603. Effective on the date of transfer, jurisdiction over national forest lands which are designated on the map referenced in section 601 for transfer to the Bureau of Land Management is transferred and the lands shall be administered by the Secretary of the Interior as O&C Lands in accordance with the Act of August 28, 1937, as amended (50 Stat. 874), and the Act of May 24, 1939 (53 Stat. 753).

SEC. 604. The provisions of this Title IV of this Act shall apply to lands transferred by Title VI of this Act with the exception of sections 403 and 408 which shall not apply.

TITLE VII—SEVERABILITY

SEC. 701. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

SECTION-BY-SECTION ANALYSIS

The enacting clause states that the bill may be cited as the "Federal Lands Administration Act of 1986."

TITLE I

Title I sets forth the purposes of the legislation, defines terms, and provides for maps depicting the Federal lands and interests in lands described by the bill and the areas of jurisdiction of the Forest Service, Department of Agriculture (USDA), and the Bureau of Land Management, Department of the Interior (USDI).

Section 101 states that the purposes of the legislation are, with regard to the Federal lands and interests in lands affected by the legislation, to: (a) improve service to the public, (b) increase efficiency and cost effectiveness in the management of federally owned natural resources, and (3) consolidate the management of surface and subsurface resources in the agency responsible for the surface.

Section 102 defines certain terms used in the bill. Of particular significance to the legislation are the terms "newly established public lands," meaning lands formerly in the National Forest System (as that term is defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976) which would become public lands, and "newly established national forest lands," meaning public lands (as that term is defined in the Federal Land Policy and Management Act of 1976 (FLPMA)), which would become national forest lands and a part of the National Forest System; "land or lands," which include surface, subsurface, water, minerals, and interests therein; and "date of transfer," meaning the date on which jurisdiction over the lands would be transferred between the agencies, specified as the beginning of the first pay period for the Bureau of Land Management and the Forest Service following 180 days after the date of enactment.

Section 103 would incorporate by reference into the legislation a series of maps, which would include a nationwide map supported by individual State maps, and which delineate the geographic areas of responsibility for the management of the surface and subsurface resources by the Forest Service and Bureau of Land Management and identifies those lands which would be transferred by the legislation. This action further requires that these maps be available for public inspection in the Washington, D.C., offices of the Forest Service, USDA, and the Bureau of Land Management, USDI.

TITLE II

Title II sets forth those provisions applicable to those public lands to be transferred to the Forest Service, USDA.

Section 201 provides that the jurisdiction over public lands identified on the maps referred to in section 103 for management by the Forest Service would be transferred to the Secretary of Agriculture effective on the date of transfer. The public lands so transferred (newly established national forest lands) would be withheld and reserved as national forests and administered in accordance with the Federal Lands Administration Act of 1986 and the laws, rules, and regulations applicable to the national forests. The reservation and withholding of these public lands as national forest lands would not create additional water rights by virtue of the withholding (see section 405).

Section 202 authorizes the Secretary of Agriculture to establish, extend, or otherwise modify the existing boundaries of units of the National Forest System to facilitate the planning, management, or administra-

tion of these units. Any boundary establishment, extension, or modification would become effective 90 days after publication of a notice in the Federal Register announcing such modification and notification of appropriate committees of Congress. This provision would permit the Secretary to accommodate the inclusion of the newly established national forest lands into existing units whose boundaries have been established by law or Secretary's regulation but which could not otherwise be modified except by law. Any modification of a unit boundary would not affect valid existing rights. This section also provides that the boundaries of the newly established national forest lands or of the national forests as they may be modified under this section would be considered the boundaries in existence on January 1, 1965, for purposes of section 7 of the Land and Water Conservation Act of 1965. This would permit the provisions of that section of the 1965 Act, regarding land acquisition for recreational purposes, to apply.

Section 203 provides that until plans are specifically developed for the newly established national forest lands in accordance with the provisions of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (RPA), these lands would be managed according to the plans in existence on the date of transfer. If no plan is in existence (or if the plan is not final), these lands would be managed in a manner consistent with the management of other National Forest System lands in the vicinity until such time as the overall plan for that National Forest System unit is placed in effect. Thereafter, the planning for and management of these lands would be either on the basis of a separate planning unit or incorporated into the land management plans for the existing National Forest System unit, as those plans are reviewed and revised according to the requirements specified in section 6(f)(5) of RPA, as amended. That provision requires plans to be revised "from time to time" when conditions in the unit have changed significantly, but at least every 15 years. However, the addition or deletion of Federal lands transferred by the legislation would not of itself require the amendment or revision of plans relating to the affected national forests.

Section 204 of the bill would provide for review and management of roadless areas by the Secretary of Agriculture within newly established national forest lands. The section would assure that the Secretary of Agriculture incorporates existing recommendations, completes wilderness reviews, and manages these roadless lands in a manner that results in no significant change to existing recommendations of the Secretary of the Interior of the way these lands would have been reviewed or managed by the Secretary of the Interior under provisions of FLPMA. The following is a more detailed description of the provisions of section 204.

Subsection (a)(1) would require the Secretary of Agriculture to adopt all recommendations of the Secretary of the Interior with regard to newly established national forest lands reviewed for wilderness by the Bureau of Land Management prior to the date of transfer pursuant to sections 202 and 603 of FLPMA. The recommendations referred to in this section are either those to recommend an area be designated as wilderness or those to recommend an area not be designated as wilderness.

Subsection (a)(2) would require that the Secretary of Agriculture undertake a wilderness evaluation and review for newly established national forest roadless lands if one has not already been initiated by the Secretary of the Interior. If study of wilderness suitability is already underway for an area, but there are no recommendations of the Secretary of the Interior existing on the date of transfer, then the Secretary of Agriculture would complete that wilderness review. In either situation, the Secretary of Agriculture would use wilderness review standards applicable to other national forest lands, which are those being used in Forest planning under section 6 of RPA, as amended. This subsection would apply to lands considered under either section 202 or 603 of FLPMA.

Subsection (b) would assure that, subject to valid existing rights, any roadless areas of newly established national forest lands which were in wilderness study areas identified by the Secretary of the Interior pursuant to section 603 of FLPMA (Wilderness Study) would be managed by the Secretary of Agriculture in accordance with the provisions of section 603(c) of FLPMA until (1) Congress designates the area as wilderness, or (2) Congress releases the area from wildnerness consideration. This subsection applies to only those wilderness study areas identified pursuant to section 603 of FLPMA.

Section (c) would assure that, subject to valid existing rights, any roadless areas of newly established national forest land recommended for wilderness by the Secretary of the Interior pursuant to section 202 of FLPMA, or by the Secretary of Agriculture under studies made pursuant to section 202 of FLPMA and recommended for wilderness pursuant to section 204(a)(2) of this proposed legislation, shall be managed in a manner so as to maintain their presently existing wilderness characteristics and potential for inclusion in the National Wilderness Preservation System until the areas are designated as wilderness or released from wilderness consideration. The Secretary of Agriculture would be authorized to allow continuation of existing uses insofar as such types of uses would not disqualify the area from designation as wilderness.

Subsection (d) provides direction for review and management of roadless areas of newly established national forest lands which have been considered but not recommended for wilderness pursuant to section 202 of FLPMA or under section 204(b), except as provided in subsection (b) of this proposed legislation. The subsection states that these roadless areas shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans required for such lands by section 6 of RPA, as amended. It further provides that the Secretary of Agriculture shall not be required to manage the land to preserve wilderness values or to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised.

Subsection (e) provides that a recommendation of the President for designation of lands covered by this section would become effective only if provided for in an Act of Congress.

Section 205 provides for the application of certain public lands regarding land entry and disposal to the newly established national forest lands. The Secretary of Agriculture would be given those authorities now exercised by the Secretary of the Interior for the public lands. The issuance of patents under the land entry laws amended by this section and in section 206 would continue existing procedures whereby the Secretary of the Interior issues patents to those Federal lands derived from the public domain. Patents for lands under the administration of the Secretary of Agriculture would be issued only by the Secretary of the Interior at the request of that Secretary.

Subsection (a) would amend the Act of March 3, 1877 (the Desert Land Entry Act) to direct the Secretary of Agriculture to exercise the authorities contained in that Act with respect to the newly established national forest lands which qualify under the 1877 Act as desert lands. Qualified applicants would be able to obtain up to 320 acres of desert lands which would be newly established national forest lands from the Secretary of Agriculture upon meeting the requirements of the 1877 Act. Desert lands are defined by the 1877 Act as all lands exclusive of timber and mineral lands which will not, without irrigation, produce some agricultural crop. Patent to the land would be issued only by the Secretary of the Interior upon request by the Secretary of Agriculture.

Subsection (b) would add a new paragraph to section 4 of the Act of August 18, 1894 (the Carey Act), which pertains to grants of desert lands to the States, to provide that newly established national forest lands would remain available for grants to States by the Secretary of Agriculture for patenting by actual settlers who would irrigate the lands. Patent to the lands granted to the States would be issued only by the Secretary of the Interior upon request by the Secretary of Agriculture.

Subsection (c) would amend the Act of February 28, 1891, to provide that newly established national forest lands shall remain available for selection by and granting to the States when public domain lands in sections 16 and 36, granted to the States by other public land laws, have been patented to settlers. In amending the 1891 Act, this subsection would provide that applications by the States for newly established national forest lands would be made to the Secretary of Agriculture who would administer the provisions of the 1891 Act insofar as these lands are concerned. Patents to any lands selected by the States would be issued only by the Secretary of the Interior upon request by the Secretary of Agriculture.

Subsection (d) would add a new section 7 to the Recreation and Public Purposes Act of June 14, 1926, to direct the Secretary of Agriculture, insofar as newly established national forest lands are concerned, to exercise that Act's authorities pertaining to the disposal of public lands to a State, county, municipality, Federal agency, or a nonprofit corporation or association for recreational or public purposes. The Secretary of the Interior would issue the patents to such lands, upon the request of the Secretary of Agriculture.

Subsection (e) would amend the Act of December 22, 1928, the Color of Title Act, to broaden its provisions to encompass lands of the National Forest System (in its entirety; not limited to newly established national forest lands) and would authorize the Secretary of Agriculture to administer the provisions of this Act insofar as these lands are concerned. Thus, tracts of up to 160 acres of National Forest System land held in peaceful, adverse possession under claim or color of title by a claimant could be conveyed by the Secretary of Agriculture upon payment by the claimant of $1.25 per acre. Patent to

the land conveyed would be issued by the Secretary of the Interior.

Subsection (f) establishes that this legislation would not affect the authorities granted to the Secretary of the Interior by the Grand Ronde Restoration Act. Federal lands in the State of Oregon which are made available by that Act to the Confederated Tribes of the Grand Ronde for the purpose of establishing a tribal reservation would remain available. Thus, public lands identified by the tribe which would subsequently become newly established national forest lands by this legislation would be available for conveyance to the tribe.

Section 206 would extend the provisions, of section 203 of FLPMA, regarding the sale of public lands, to those public lands which would become newly established national forest lands by this legislation. Such lands could be sold by the Secretary of Agriculture. However, sales of newly established national forest lands would be limited to those which were identified as suitable for sale in plans prepared by the Bureau of Land Management under the provisions of section 203 of FLPMA or in plans prepared by the Forest Service pursuant to section 6 of RPA, as amended. The Secretary of the Interior would issue patents to the lands to be sold upon request of the Secretary of Agriculture.

Section 207(a) would amend section 103(g) of FLPMA, which defines the word "Secretary," to include the Secretary of Agriculture for the purposes of sections 204, 209, and 211 of FLPMA, insofar as the lands of the National Forest System are involved. By this action, the Secretary of Agriculture would exercise the authorities contained in these sections to withdraw lands (section 204), reserve and convey minerals (section 209), and convey to States and political subdivisions unsurveyed public lands (those lands omitted from the public land surveys) (section 209) on lands of the National Forest System. The authorities that would be granted by this section would be applicable to the entire National Forest System.

Section 207(b) would add a subsection to section 204 of FLPMA (Withdrawals) to clarify the authority that would be extended to the Secretary of Agriculture under subsection (a) regarding withdrawals of National Forest System land that involve the transfer of Federal land from one Federal agency to another. Upon request of the Secretary of Agriculture where National Forest System lands are involved, the Secretary of the Interior would make, modify or revoke any withdrawal transferring lands from one Federal agency to another. This provision would not affect the authority of the Secretary of Agriculture, contained in the Act of July 26, 1956, regarding interchanges (exchanges) of National Forest System lands with military departments of the Department of Defense.

TITLE III

Title III sets forth those provisions applicable to those national forest lands to be transferred to the Bureau of Land Management, USDI.

Section 301 provides that the jurisdiction over National Forest System lands identified on the maps referred to in section 103 for management by BLM would be transferred to the Secretary of the Interior effective on the date of transfer. These lands (newly established public lands) would be administered in accordance with the Federal Lands Administration Act of 1986 and the laws, rules, and regulations applicable to the public lands. However, the lands so transferred would be withdrawn from sale or disposal under the public land laws or other authority unless such sale or disposal authority applied to the lands prior to the date of transfer.

Section 302(a) would designate as conservation areas all contiguous areas of newly established public lands of 10,000 acres or more which had a specific name identification prior to enactment of this legislation. These areas would remain unavailable for disposal under the public land laws, except as may otherwise be provided by this legislation. This section would also authorize the Secretary of the Interior to assign an appropriate definitive name to each conservation area designated that would recognize its location, or specific significance or characteristics, and to modify or adjust its boundaries.

Subsection (b) of section 302 would extend the prohibition on surface coal mining on the Custer National Forest set forth in section 522(e)(2)(B) of the Surface Mining Control and Reclamation Act of 1977 to those newly established public lands.

Subsection (c) would amend Title III of the Bankhead-Jones Farm Tenant Act of 1937 to extend the authorities of that Title regarding the retirement of submarginal land (with the exception of section 32(e) concerning the establishment of an aquaculture program) to the Secretary of the Interior for lands acquired by the Federal Government under the provisions of the 1937 Act and subsequently transferred to the Department of the Interior either as a result of this legislation or other earlier actions under the authority of the 1937 Act. Thus, the Secretary of the Interior would have authority to protect, improve, develop, administer, and construct improvements; to sell, exchange, lease, or otherwise dispose of for public purposes; to make dedications or grants for any public purpose; and to regulate use and occupancy of all Title III lands that that Secretary administers under the 1937 Act. This would apply to all Title III lands transferred to the Secretary of the Interior by the Secretary of Agriculture. Provisions of the 1937 Act regarding the distribution of 25 percent of the net revenues from the use of the lands to the counties in which these lands are located would be applicable as well to the Secretary of the Interior. This receipt-sharing authority (section 33) would be amended to require payment to counties of 25 per cent of receipts on a fiscal year rather than a calendar year basis, making it comparable to other USDA and USDI receipt-sharing authorities.

Section 303 provides that newly established public lands would be managed under land management plans in effect on the date of transfer until plans are specifically developed for these newly established public lands in accordance with FLPMA. If no plan is in effect on the date of transfer for the public land unit to which the newly established public lands become a part (or if a plan has not been made final), then the lands would be managed under applicable Department of the Interior regulations or other procedures adopted by the Secretary of the Interior until a plan is developed under applicable law. However, the legislation would not, of itself, require amendment or revision of plans for public lands that are in effect on the date of enactment.

Section 304 of the bill provides for review and management by the Secretary of the Interior of roadless areas within newly established public lands. The section would assure that the Secretary of the Interior incorporates existing recommendations, completes wilderness review, and manages these roadless lands in a manner that result in no significant change to existing recommendations of the Secretary of Agriculture or the way these lands would have been reviewed or managed by the Secretary of Agriculture under provisions of section 6 of RPA, as amended. A more detailed description of the provisions of section 304 follows.

Subsection (a)(1) would require the Secretary of the Interior to adopt all recommendations for wilderness or additional study with regard to lands reviewed by the Secretary of Agriculture pursuant to section 6 of RPA, as amended. The recommendations referred to in this section are either those to recommend an area be designated as wilderness or those to recommend an area not be designated as wilderness.

Subsection (a)(2) would require the Secretary of the Interior to complete wilderness consideration for inventoried roadless areas which have not been released from consideration through the process prescribed by section 6 of RPA or by an Act of Congress, and for which there are no recommendations of the Secretary of Agriculture in effect on the date of transfer. The review would utilize the procedures specified in section 3(d) of the Wilderness Act of 1964. Those areas found suitable for wilderness designation under the criteria of section 2(c) of the Wilderness Act would be protected for their wilderness characteristics until Congress acts on recommendations for wilderness designation.

Subsection (b) would assure that, subject to valid existing rights, any roadless areas of newly established public land recommended by the Secretary of Agriculture for wilderness, or remaining areas required by Act of Congress to be studied pending congressional designation or release, shall be managed by the Secretary of the Interior in accordance with the provisions of section 603(c) of FLPMA, or other specific statutory direction.

Subsection (c) provides direction for lands not recommended for wilderness or additional study as a result of the process prescribed by section 6 of RPA, as amended, or as a result of the review required by subsection (a)(2), or that have been released by Act of Congress for any specified period. The section states that roadless areas shall be deemed to have been adequately considered for their suitability for inclusion in the National Wilderness Preservation System, and the Secretary of the Interior would not be required to review such lands for their wilderness characteristics and suitability except as required in the planning process developed pursuant to section 202 of FLPMA, or in accordance with the requirements of any law that released said lands from wilderness consideration.

Subsection (d) provides that a recommendation of the President for designation of lands covered by this section would become effective only if provided for in an Act of Congress.

Section 305 would amend the Act of January 12, 1983 (commonly known as the "Small Tracts Act"), to broaden its provisions to include all public land administered by the Secretary of the Interior through the Bureau of Land Management. Currently, this Act authorizes the Secretary of Agriculture to sell, exchange or interchange, under specified conditions, tracts of National Forest System which are: (1) parcels of 40 acres or less interspersed with or adjacent to lands which have been transferred out of

Federal ownership under the mining laws (mineral fractions); (2) parcels of 10 acres or less encroached upon by improvements occupied or used by persons who in good faith relied upon an erroneous survey, title search, or land description; or (3) road rights-of-way, reserved or acquired, which are no longer needed by the United States.

Section 306 would authorize the Secretary of the Interior to require purchasers of timber from the public lands to deposit into a separate fund in the Treasury amounts in addition to payments for the timber. This fund would be used to cover the costs of activities incurred by the Department of the Interior to dispose of brush and debris resulting from the timber harvest, prepare the harvested site for reforestation, plant trees or sow seeds, improve remaining stands of timber, and insure the continued productivity of the area. Amounts in the fund would be subject to annual appropriations in such sums as may be necessary; funds appropriated would remain available until expended. This provision would provide to the Department of the Interior an authority similar to authorities applicable to National Forest System lands contained in the Act of August 11, 1916, and the Act of June 9, 1930 (Knutsen-Vandenburg Act).

TITLE IV

Title IV sets forth those general provisions involving the transfer of jurisdiction of the lands which would be common to both Departments.

Section 401 provides that the Secretary of the Interior and the Secretary of Agriculture shall publish a notice in the Federal Register when the transfer of lands between the two Departments authorized by the legislation has been recorded in the official land status records maintained in the field offices of the Bureau of Land Management. This would maintain the existing procedures that place with BLM the responsibility for recording all changes in status to those Federal lands that evolved from the public domain. Forest Service would continue to notify BLM of land status changes on those National Forest Systems lands that were formerly a part of the public domain. This section would also authorize the Secretary of the Interior, after consultation with the Secretary of Agriculture, to correct errors in the recordation of the land transfers and to require publication of a notice in the Federal Register documenting such corrections.

Section 402 provides that this legislation would not affect the administration of components of the National Wilderness Preservation System, National Wild and Scenic Rivers System, and the National System of Trails. These areas would continue to be administered under the laws applicable to these Systems except that they would be administered by the Secretary to whom administration of the lands has been transferred.

Section 403 authorizes the Secretary of Agriculture, with respect to National Forest System lands, and the Secretary of the Interior, with respect to the public lands, to transfer jurisdiction of contiguous areas of land under their respective administration of up to 2,500 acres when they determine that a transfer to the other Secretary will facilitate land management. A transfer of jurisdiction would be made without transfer or reimbursement of funds and would become effective 90 days after notification of the appropriate committees of Congress and publication in the Federal Register. Any lands so transferred would be subject to all the laws, rules, and regulations applicable to the Federal lands to which they become a part, but the change in jurisdiciton would not affect valid existing rights or authorizations. This provision would permit consolidation and adjustments of boundary for units of public and National Forest System lands to insure efficient management after the overall interchange of jurisdiction has occurred.

Section 404 deals with the disposition of rights and authorizations that exist on the lands before the transfer of jurisdiction. Subsection (a) provides that valid rights existing at the time of enactment would not be affected by this legislation.

Subsection (b) provides that authorizations to use lands that would be transferred by this legislation, such as permits and contracts, and which were issued prior to the date of transfer would remain subject to the laws and regulations under which they were issued, but the administration of these authorizations would be exercised by the Secretary to whom the lands so affected had been transferred. However, any renewals or extensions of the authorizations would be subject to laws, rules, and regulations of the Secretary that receives jurisdiction of the lands. The transfer of jurisdiction would not in itself be a basis for denying the renewal or reissue of any authorization.

Section 405 prescribes the effect of the legislation on water rights. It would provide that any water right which the United States has on the date of enactment as a result of purchase, reservation, or otherwise would not be expanded or diminished by enactment of the legislation. Specifically, water rights which already exist on the date of enactment would not be affected as a result of the administration of the land being transferred from one agency to another. In particular, there will be no additional water rights reserved to the United States. As of the date of enactment, newly established public lands would have a reserved water right as of the date of the initial reservation of those former national forest lands from the public domain. (These reservations were generally made between 1897 and 1905.) In addition, there may be other water rights which the United States acquired under State law. None of these water rights would be divested of the United States as a result of the national forest lands being transferred to BLM and becoming newly established public lands. Newly established national forest lands would have whatever water rights the United States may have acquired under applicable law. Upon designation and withdrawal of newly established national forest lands, the existing water rights would still accrue to those lands but there would not be any additional reserved water rights created by virtue of the transfer—whatever water rights the United States had before the enactment of the legislation would be retained and would not be either expanded or diminished.

The legislation would not affect in any way the existing State laws pertaining to the appropriation of water rights. The legislation would not affect the Supreme Court's holding in United States v. New Mexico, 438 U.S. 696 (1978), pertaining to limitations on water rights reserved for national forest purposes. Further, it would not affect the right of the United States or of any person to acquire or dispose of water or water rights under applicable law.

Section 406 would specify that the legislation would not affect any withdrawal of lands covered by the legislation that would be in effect on the date of transfer, except as specifically provided for in the legislation.

Section 407 provides that the legislation would not affect any claim by or against the United States nor would it create any right, claim, remedy, or cause of action which did not exist prior to enactment of the legislation.

Section 408 would provide for the disbursement of receipts which derive from newly established public and national forest lands. Subsection (a) would provide that after the date of transfer, receipts derived from activities on newly established national forest lands or newly established public lands would be credited to accounts in the Treasury of the United States that are applicable to those lands. Subsection (b) would require that receipts collected prior to the date of transfer would be distributed by the agency to whom the lands are transferred in accordance with the laws applicable to those lands at the time of collection. This would mean, for example, that receipts collected from national forest lands (which would become newly established public lands) would be held in the National Forest Fund (established under the Act of March 4, 1907) and 25 percent of those amounts would be distributed to the States and counties under the Act of May 23, 1908, and the Act of March 1, 1911. Likewise, amounts collected from activities on those public lands which would become newly established national forest lands would be held in the Treasury account applicable to those lands and would be distributed to the counties where those lands are located under receipt-sharing authorities applicable to BLM.

Subsections (c) and (d) would amend those authorities pertaining to distribution of receipts derived from the public lands to States and counties to increase to 25 percent the amount of receipts shared. The Act of June 28, 1934 (Taylor Grazing Act) would be amended to raise from 12½ percent to 25 percent the amount of receipts shared with the States under that Act and which are derived from grazing fees within a grazing district. A reduction from 50 percent to 25 percent would be made in the amount of receipts derived shared with the States derived from grazing fees outside of grazing districts. The Act of July 31, 1947, which in part requires payment to States of 4 percent of receipts from the sale of "materials," which encompasses certain vegetative materials, including timber and common variety minerals, on the public lands would be amended to require payment of 25 percent of such receipts which are derived from the sale of timber only.

Section 409 would establish the procedures for handling administrative appeals existing on the date of transfer and affecting the lands transferred. Subsection (a) would provide that any formal appeals and adjudication or review of appeals that are pending on the date of transfer would be completed by the agency in which they are pending even though the lands may have been subsequently transferred under the provisions of the legislation. However, the Secretary administering the transferred lands could exercise final administrative review.

Subsection (b) would be directed specifically to appeals procedures regarding the mining and mineral leasing laws as would be affected by Title V of the legislation. It would authorize the two Secretaries to establish joint mechanisms and procedures through regulations or interdepartmental

agreements for administrative adjudications or reviews of appeals arising from application of the mining and mineral leasing laws.

Section 410 provides for the development of regulations to implement the legislation. Subsection (a) would authorize either Secretary, after publishing a notice in the Federal Register, to adopt in whole or part any regulation of the other Secretary that was in effect on the date of transfer and applicable to the land transferred, without complying with the provisions of the Administrative Procedure Act or other requirements for the issuance of new regulations. The adoption of regulations under this subsection would not be deemed a major Federal action for purposes of compliance with the National Environmental Policy Act. Subsection (b) authorizes the Secretaries to promulgate joint or separate regulations as either or both deem necessary to implement the provisions of the legislation.

Section 411 would provide that this legislation would not affect the existing authorities of the Secretary of the Interior to maintain and administer the official land title records of the United States.

TITLE V

Title V would transfer to the Secretary of Agriculture all authorities, currently vested solely in the Secretary of the Interior, to manage the nonrenewable resources owned by the Federal Government underlying National Forest System lands, other Federal lands, and private lands that are within the geographic area of responsibility of the Forest Service as depicted on the maps provided for in section 103.

Section 501 would set forth a congressional declaration that it is the policy of the United States that coordinated management by the Secretary of Agriculture of the nonrenewable and the renewable resources of National Forest System lands will benefit the public and promote the optimum combination of resource uses. The section also declares a finding of Congress that efficiency and improved public service would result from the Secretary of Agriculture managing the federally owned subsurface resources underlying other Federal lands or where there are federally owned resources underlying non-Federal lands in areas where the Secretary of Agriculture would be given the responsibility for management by the legislation.

Section 502 would amend the Multiple-Use Sustained-Yield Act of 1960 to make that Act's provisions consistent with section 501; namely, to add minerals to the list of resources for which the national forests are established and are to be administered, and, further, to refer to both renewable and nonrenewable resources in connection with the National Forest System.

Subsection 503 would supplement the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, to require that nonrenewable resources be given equal consideration with the renewable resources in the preparation of the Renewable Resources Assessment, Program, National Forest System planning, and the Statement of Policy required by sections 3, 4, 6 and 8, respectively, of the 1974 Act.

Section 504 would authorize the Secretary of Agriculture, for any mining claim located on National Forest System lands pursuant to the mining laws, to evaluate such claim and initiate and prosecute an appropriate administrative contest or other action to determine the validity of the claim. This authority, however, would not affect the authority of the Secretary of the Interior to issue patents for valid mining claims wherever located.

Section 505 would transfer to and vest in the Secretary of Agriculture all authorities that have heretofore been exercised by the Secretary of the Interior with regard to National Forest System lands and which are contained in acts authorizing the leasing of federally owned minerals, including acts passed before and after the enactment of this legislation which are amendatory or supplementary to the Federal mineral leasing laws. These acts include the following:

(1) the Mineral Lands Leasing Act of 1920:

(2) the Act of February 7, 1927, concerning the leasing of deposits of chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium;

(3) the Act of April 17, 1926, concerning the leasing of deposits of sulphur in the States of Louisiana and New Mexico;

(4) the Mineral Leasing Act for Acquired Lands, enacted on August 7, 1947;

(5) section 402 of Reorganization Plan Number 3 of 1946 regarding the transfer of functions from the Secretary of Agriculture to the Secretary of the Interior relative to the leasing or other disposal of minerals, as supplemented by section 3 of the Act of June 28, 1952;

(6) section 3 of the Act of September 1, 1949, concerning the leasing of minerals on certain lands of the Shasta National Forest in California;

(7) the Act of June 30, 1950, concerning the prospecting, development and utilization of hardrock mineral resources on the national forests in Minnesota;

(8) the act of June 8, 1926, concerning the leasing of certain gold, silver, or quicksilver deposits in confirmed private land grants;

(9) the Act of June 28, 1944, regarding the purchase by the Secretary of the Interior of land and mineral deposits from the Choctaw-Chickasaw Nation of Indians;

(10) the Act of March 3, 1933, concerning the selection of public lands by the State of California for State park purposes subject to the reservation of minerals by the United States and the right to lease such minerals;

(11) the Geothermal Steam Act of 1970, as amended;

(12) acts where Congress authorized mineral leasing, including the leasing of nonleasable minerals, in the following National Recreation Areas:

(a) section 6 of the Act of November 8, 1965, concerning the Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area;

(b) title IV, Section 402 of the Act of October 2, 1968, concerning the Ross Lake and Lake Chelan National Recreation Areas;

(13) the Act of May 21, 1930, concerning the leasing of oil and gas desposits underlying railroad and other rights-of-way;

(14) subsectiosn 522(b) and (e)(2) of the Surface Mining Control and Reclamation Act of 1977 concerning surface coal mining; and

(15) the Federal Oil and Gas Royalty Management Act of 1982, insofar as authorities delegated to the Bureau of Land Management are concerned.

Section 506 would amend section 28(c)(2) of the Mineral Leasing Act of 1920, regarding the issuance of rights-of-ways for pipelines, to clarify the responsibilities of the respective Secretaries in instances where a pipeline right-of-way may involve lands administered by two or more Federal agencies.

Section 507 would amend the Act of June 11, 1960, to delete sections 2(a) and (c) of that Act that require the Secretary of Agriculture to obtain the advice and approval of the Secretary of the Interior in national forest land exchange actions involving the disposal of minerals, or to otherwise dispose of minerals on such lands.

TITLE VI

Title VI transfers certain lands in Oregon now under the juridiction of the Secretary of the Interior or the Secretary of Agriculture and administered by BLM or FS to the jurisdiction of the other Secretary.

Section 601 incorporates by reference into the legislation a map entitled "Forest Service-Bureau of Land Management Transfer of O & C Lands," dated February 1986.

Section 602 would transfer approximately 24,000 acres of Oregon and California Grant Lands designated on the maps referred to in section 601 from the jurisdiction of the Department of the Interior to the Department of Agriculture, effective on the date of transfer. These lands would be administered under the laws, rules, and regulations pertaining to the national forests.

Section 603 would transfer approximately 15,000 acres under the jurisdiction of the Secretary of Agriculture and administered by the Forest Service under the Act of June 24, 1954 (which pertains to O & C lands), and approximately 12,000 acres of National Forest System lands, as designated on the maps referred to in section 601, to the Secretary of the Interior to be administered as Oregon and California Grant lands under the provisions of the Act of August 28, 1937 and the Act of May 24, 1939. This action would also be effective on the date of transfer.

Section 604 would make the provisions of Title IV, with the exception of section 403 (Interagency Transfer Authority) and section 408 (Disbursement of Receipts) applicable to the lands transferred by Title VI.

TITLE VII

Title VII, Section 701 would provide that if any provision of this legislation or the application thereof is held invalid, the remainder of the legislation would not be affected.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, February 14, 1986.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith for the consideration of Congress is a legislative proposal to interchange management of certain Federal lands under the jurisdiction of the Bureau of Land Management (BLM), Department of the Interior, and the Forest Service (FS), Department of Agriculture.

The Departments of Agriculture and the Interior strongly urge introduction, prompt consideration, and enactment of the draft bill.

Our legislative proposal, entitled the "Federal Lands Administration Act of 1986," results from several years of discussion, analysis, and review by the two Departments of a concept, called interchange, in which Federal lands, including the subsurface estate, administered by BLM and FS would be transferred. The concept was announced on January 30, 1985. The proposal would involve about 24 to 25 million acres of public and National Forest System lands, and federally owned interests in land, throughout the United States, although the majority of the lands and interests affected are in the West. The purposes of the interchange of jurisdiction of these lands, as set forth in the legislation, are to: (1) improve

service to the public, (2) increase efficiency and cost-effectiveness of natural resource management by consolidating land jurisdiction, and (3) consolidate the management of the surface and subsurface resources in the agency responsible for the surface.

In developing the proposal, we followed these assumptions:

(1) either agency has the potential to manage any of the lands and their resources, regardless of classification or designation;

(2) intensity of land management would remain the same regardless of jurisdiction;

(3) there would be minimal change in on-the-ground management, regardless of which agency had management responsibilities;

(4) offices would remain in the communities in which either FS or BLM are now located, although consolidation of offices would take place;

(5) neither "acre-for-acre" nor "value-for-value" considerations would be criteria for judging interchange proposals;

(6) existing land use planning would continue as scheduled and current land use plans would be followed until updated through normal revision schedules of the receiving agencies; and

(7) impact on agency personnel would be minimized.

Our goal in developing the legislation has been simplicity, including only those provisions needed to accomplish the purposes of the interchange program. We have not attempted major change in the basic laws applicable to National Forest System or public lands.

The legislation is presented in seven titles. A summary of the draft bill follows; a more complete description of its contents is in the enclosed section-by-section analysis along with material showing this proposal's effect on existing law.

Title I of the draft bill sets forth the purposes of the legislation and defines terms. Title II transfers approximately 15 million acres of public lands to the Secretary of Agriculture for administration by the Forest Service. These lands are termed "newly established national forest lands." Title III transfers approximately 10 million acres of National Forest System lands to the Secretary of the Interior for administration by the Bureau of Land Management. These lands are termed "new established public lands." The transfer of lands that would be accomplished by Title II and III would be based on maps, including a national map and a series of State maps, that delineate the areas of federally owned land for which administration would be transferred by this legislation. Each of these Title list requirements that would be applicable to the transferred lands, such as land management planning and wilderness review. Also, certain laws now applicable to the public lands or to the National Forest System lands are amended or supplemented to apply to those lands which would become new established public or national forest lands. Title IV contains those general provisions applicable to both types of interchanged lands. Included here is language giving direction to both agencies on such matters as existing rights and authorizations, claims, and disbursement of receipts. Concerning the personnel effects of interchange, current law provides extensive protections for employees who might be affected by the interchange. Under subchapter VI of chapter 53 of Title 5, U.S. Code, for example, any employee downgraded as a result of the proposal would be entitled to grade and pay retention. In addition, 5 (U.S.C. 8336(d) authorizes the Office of Personnel Management (OPB) to provide early retirement authority for any agency facing a major reduction or reorganization. In an exchange of letters with the Departments of Agriculture and the Interior, OPM has indicated its willingness to act expeditiously on any request from the Departments for such authority resulting from enactment of this proposal. OPM also stated it would work with the Departments in developing early retirement requests which would meet statutory requirements.

Title V transfers the responsibility for management of the federally owned mineral resources underlying National Forest System, other Federal, and private lands in the areas where the Secretary of Agriculture would have management responsibility, as delineated on the maps showing each agency's area of responsibility. The transfer is made by a declaration of policy, and amendments to the Multiple-Use Sustained-Yield Act of 1960 and several mining laws to reflect the new responsibilities of the Secretaries. The authority that would be provided by this Title would not be limited to newly established national forest lands.

Title VI transfers about 24,000 acres of Oregon and California Grant (O & C) lands from the Secretary of the Interior to the Secretary of Agriculture to be administered as national forest lands, and transfers about 27,000 acres of land administered by the Secretary of Agriculture to the Secretary of the Interior to be administered as O & C lands. All of these lands are located in western Oregon and are delineated on maps. Title VII provides for severability if any provision of the legislation is held invalid.

The legislative proposal has been drafted to cause the minimum disruption to the agencies' programs and would, to the maximum extent possible, maintain the status quo regarding land and resource management and use. It would accomplish the important public purposes we have set forth. Improved service to the public would be achieved by enabling the users of these lands to obtain grazing, right-of-way, and recreation permits or mineral authorizations from one instead of two Federal offices. Efficiency of natural resource management would be improved by merging organizational units within the same geographic area, thus reducing personnel needs and duplication of offices, overhead, travel, and administrative functions. More efficient maintenance of recreation sites, roads, and communication networks; long-term efficiencies in land use planning; and data collection and utilization of resource expertise would also result. These efficiencies would lead to reduction in costs. We estimate that the annual savings to the agencies following implementation would be $14 to $15 million. The public would also save money and time dealing with one office and one set of permits and regulations instead of two.

We would like to emphasize that public consultation has been a cornerstone in the development of the interchange proposal. Following the announcement of the interchange proposal in January 1985, we sought the advice of State and local governments, Federal land users, and interested organizations on the location of the boundaries of each agency's area of jurisdiction and on development of State-by-State guides to implement the proposal. Some 85 public meetings, 600 recorded consultations, and numerous individual sessions were held, including several with Members of Congress. The State implementation guides, outlining the basic details of the program, and a revised map of the areas of jurisdiction were made available to the public on June 7, 1985, for a 30-day formal comment period. During that period, 30 formal public hearings were held throughout the Nation. About 2,350 responses were received during the hearings and comment period. These comments were analyzed and have been used in the preparation of the final interchange proposal and draft legislation. A summary of the public responses was prepared, and a copy has been provided to each affected Member of Congress. Generally, respondents supported the goals/purposes of the interchange proposal, but objected to specific elements, particularly on how it would affect a local or site-specific area. All public responses have been retained and are available for review.

A brief supplemental statement that presents background information and a history of this proposal is enclosed.

A legislative environmental impact statement has been prepared in accordance with the National Environmental Policy Act of 1969 and implementing regulations (40 CFR 1506.8) and procedures. This statement is being transmitted to Congress under separate cover. The decision to prepare the statement is in response to comments received during the comment period that the proposal was a "major Federal action" having significant resource, administrative, social, and economic impacts.

A copy of the national map delineating the areas of federally owned lands to be managed by the Bureau of Land Management and Forest Service is enclosed. The full series of maps referred to in the draft legislation will be provided to the appropriate Committees along with more detailed National and individual State summaries of the overall proposal.

This legislative proposal has also been sent to the Speaker of the House.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal and that its enactment would be in accord with the President's program.

Sincerely,

JOHN R. BLOCK.
DONALD PAUL HODEL.

SUPPLEMENTAL STATEMENT—DEPARTMENT OF AGRICULTURE/DEPARTMENT OF THE INTERIOR LEGISLATIVE PROPOSAL, "THE FEDERAL LANDS ADMINISTRATION ACT OF 1986"

HISTORY AND BACKGROUND ON PUBLIC AND NATIONAL FOREST SYSTEM LANDS

The Federal Government administers about one-third of the land area of the United States. The Bureau of Land Management [BLM] and the Forest Service [FS] have the responsibility for managing the majority of these lands. In the 48 contiguous States, each agency manages about half of the approximately 343 million acres of Federal lands. In addition, the BLM manages the federally owned mineral resources underlying a large area of public and private land.

The present pattern of landownership and management in the United States is the product of many separate and often unrelated actions. Except for Texas, Hawaii, and the original 13 colonies, most of the lands in the United States were once owned by the Federal Government. The United States acquired these lands as public domain through purchase, treaties, and wars. Na-

tional policy during most of the nineteenth century promoted settlement and development of the West by disposing of more than one billion acres of the public domain to private individuals and organizations. Land sales, homesteading, land grants to railroad companies, mineral patenting and agricultural settlements were some of the many means of disposal of the public domain. In addition, when States were created, they received blocks of public domain land as grants to support public education and land-grant colleges.

While enacting legislation to dispose of the public domain, Congress also provided authority to the President to withdrew certain of these lands for specific purposes, including parks, forests, Indian, and military reservations. Beginning in the 1890's several Presidents withdraw land for Forest Reserves (now designated as National Forests). Collectively, these actions affecting the public domain resulted in widely fragmented land patterns and the intermingling of the remaining public lands, especially those national forest lands reserved from the public domain now administered by the FS and the remaining public domain lands administered by the BLM. In many instances, similar land areas administered by FS and BLM share the same land management problems and resources values. The two agencies often work with the same people on similar issues concerning use of Federal lands. Both agencies often have offices in the same communities. This situation causes undue complication for the public and unnecessary administrative costs.

HISTORY OF USDI/USDA PROPOSAL

Proposals to transfer lands between the two agencies to overcome the inefficiencies of intermingled lands have been made several times in the last 40 years. Some land transfers were made, but each agency still manages many areas of land that could be managed more effectively by the other. The most recent effort, in response to Presidential direction, led to the establishment of a specific jurisdictional transfer program in 1980. This program resulted from a plan presented by the Secretaries of the Interior and Agriculture entitled "Coordination of Natural Resources Programs of the Departments of Interior and Agriculture." The program called for identifying public lands where the transfer of jurisdiction between BLM and FS had potential for increasing efficiency and cost-effectiveness of Federal land management and benefits to the public. Two recent major outside studies reinforced the need to move ahead on these proposals: (1) the President's Private Sector Survey on Cost Control (J. Peter Grace Commission), and (2) the General Accounting Office's 1984 report entitled "Program To Transfer Land Between Bureau of Land Management and Forest Service Has Been Stalled." Since 1980, the two agencies have been developing the information necessary to develop the proposal.

The statutory authorities that govern the management of public and National Forest System lands are similar. Both agencies manage the majority of the lands and resources under their jurisdiction on the basis of multiple-use and sustained yield. The agencies must, by law, insure the long-term productivity of the land and of the quality of the environment are protected. Management is guided by land management plans developed by each agency to provide coordinated management of all resource values. Certain lands, such as wilderness and wild and scenic rivers, have specific congressionally mandated management direction that restricts use of these lands to their designated purpose.

While surface management of both agencies is essentially the same, subsurface minerals management responsibilities for National Forest System land reserved from the public domain lie primarily with the BLM. The Bureau issues all mineral patents under the mining laws and all mineral leases under the mineral leasing laws. The Forest Service performs certain prelease and postlease analyses and evaluations of National Forest System lands. For acquired National Forest System land, the Secretary must consent to any mineral leasing. Under the proposal, the Forest Service would have responsibility for management of subsurface resources within its area of jurisdiction.●

By Mr. FORD (for himself and Mr. BUMPERS):

S. 2290. A bill to amend the Communications Act of 1934 to prohibit the encoding of satellite-transmitted television until decoding devices are fully available at reasonable prices; to the Committee on Commerce, Science, and Transportation.

RURAL SATELLITE DISH OWNERS PROTECTION ACT

● Mr. FORD. Mr. President, I am pleased to join with Senator BUMPERS in introducing the Rural Satellite Dish Owners Protection Act. This bill is similar to H.R. 3989 introduced by Representative MAC SWEENEY on December 18, 1985. I have received thousands of letters from Kentuckians endorsing H.R. 3989 and I am pleased to offer this legislation as a solution to the current scrambling crisis.

There are many parts of Kentucky that have never received good television coverage. It is hard to understand what it is like to have limited television channels when most citizens have the choice of at least three network affiliates. The terrain of some areas in Kentucky has long kept citizens from enjoying broadcasting diversity. At least half of the State will never be wired for cable because of the distance and low-population density; it is just not economically feasible. The development of the backyard satellite dish has been a remarkable development for many rural Kentucky citizens; for the first time they have a choice as to what to watch. I am amazed when traveling in the State at the number of backyard satellite dishes I have seen. It is estimated that there are now over 30,000 dishes in Kentucky and a large majority of dish owners are beyond the reach of cable or even normal television broadcasts.

Satellite dishes have been the technological phenomena of the 1980's. With the invention of the satellite dish, rural citizens can enjoy the same diversity as urban citizens which has long been a goal of the Federal Communications Commission's policy. The sales figures for video cassette recorders and home satellite dishes prove that Americans want, and are willing to pay for, program diversity. Since the passage of the Cable Communications Policy Act of 1984—Public Law 98-549—I have never seen such confusion on an issue. Noncommercial interception of satellite programming was declared legal by the act provided that the satellite signal is not scrambled. Since HBO scrambled last January, many of the previous cable programmers have announced they will also scramble this year.

A vast number of satellite dish owners in Kentucky, who have contacted me, want basic guarantees to protect their investment in their backyard satellite dish. Most owners have paid at least $2,000 for their dish and are frightened that their investment would end up as a birdbath. I believe it is time for the Senate to take a look at the scrambling issue. My constituents do not seek to change the Cable Act; they want scrambling to take place with reasonable guidelines.

This bill will provide fundamental protections for the backyard dish owner. Most backyard satellite dish owners are willing to pay to receive premium channels and want and deserve protections. The bill that Senator BUMPERS and I are introducing will solve many of the issues now surrounding the scrambling issue with limited Federal intervention.

The bill addresses the decoder availability issue and sets three conditions for scrambling. The bill will standardize the decoder with a standard set by the Federal Communications Commission. I do not believe that this is a burdensome requirement as the FCC has set standards for other forms of communications equipment, particularly television sets. I realize that most potential scramblers and HBO have chosen the M/A-Com encryption system, but there is potential for other systems. Backyard dish owners need a guarantee that if they choose to purchase a decoder, which is now being sold for $400, they will not have to purchase another decoder to receive a different channel.

The bill requires that the decoder must be available within 60 days of scrambling for sale or lease. The cable industry will have to better assess the availability of decoders before scrambling any other channels. Because of the uncertainties surrounding this issue, decoder sales have been slow. The announcements of approximately 12 other programmers in the next few months will certainly increase the demand. I recently noticed in Broadcasting that M/A-Com is committed to producing 100,000 units by the end of May and another 100,000 by the end of the year. As of March, M/A-Com had shipped 20,000 decoders. I wonder what the approximate 2 million owners of backyard satellite dishes will do when the 12 programmers

scramble this year. There has to be some reasonable availability of decoders before most of the premium programmers scramble.

The third provision requires that the decoder be reasonably priced. We have not defined "reasonable," but it is certainly an area which can be addressed by the FCC, as again they have expertise in this area. I really wonder if the current price of $400 is reasonable and the FCC should be able to ascertain the cost of manufacturing and the markup.

The fourth provision in H.R. 3989 requires that the subscription fee is not to exceed cable's fee in the same area and the programming be available through other sources other than just cable companies. We have, on purpose, left out this section as it is the most difficult to address. I believe that backyard dish owners should not be forced to pay more than cable subscribers, but requiring a federally mandated rate lessens the chances for movement of this bill. The rate should be reasonable and the fact that backyard dish owners have to go through a cable operator to subscribe is the major sticking point in this issue. There is no competition in the distribution of satellite programming to backyard dish owners. It is hoped that other groups seeking to provide a subscription service will not be turned down by programmers. This is the one area where the solution is most likely in the marketplace and programmers must use prudence and, therefore, not limit competition by only providing their product through cable operators. There is currently a monopoly on marketing the programs and if attempts by noncable groups continue to fail, then it will be necessary to add to this bill.

A suggestion to further competition has been to add a new section which would mandate that if cable programmers provide their signal to cable distributors for distribution then the cable programmer should not restrict the signals availability to other qualified distributors. This is certainly an approach which should be considered in addressing the competition problem.

Finally, the bill provides that aggrieved parties may bring a civil action in a Federal court. The court may grant temporary and final injunctions against scrambling if any of the three provisions of the bill are violated.

I keep reading that the marketplace will sort out all the problems of the backyard dish owners. This has not happened—in fact, talks between the cable industry and the owners of backyard dishes have not even taken place. If both groups would sit down and just talk about some of these issues, there would be no need for legislation. All I have seen in the press is a hard line on the issue. I believe that it is in the best interest of the cable industry to negotiate with dish owners. I am going to seek hearings on scrambling in the Senate because I fear talks will never take place. There is confusion and misinformation on both sides and it is time to resolve the issue. If marketplace and industry-negotiated solutions come about, there is no reason for this legislation.

This is a simple bill and I believe very reasonable to both cable programmers and backyard dish owners. The bill does not contain a federally mandated rate or address the network feed scrambling issue. I urge my colleagues to join in support of this bill and hopefully resolve the scrambling issue.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 2290

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

SECTION 1. SHORT TITLE

This Act may be cited as the "Rural Satellite Dish Owners Protection Act".

SEC. 2. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 605 of the Communications Act of 1934 (47 U.S.C. 705) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) No person shall encrypt any satellite cable programming for private viewing on or after 30 days after the date of enactment of the Rural Satellite Dish Owners Protection Act unless—

"(A) such encryption is conducted in accordance with uniform standards for encryption of such programming approved by the Commission;

"(B) devices for decryption of such programming are available for sale or lease to any and all interested persons within 60 days after submission of a request for such sale or lease;

"(C) the purchase or lease price of such devices is reasonable in relation to the cost of manufacture and distribution of such devices; and

"(2) Any person aggrieved by any violation of paragraph (1) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain such violations; and

"(B) direct the recovery of full costs, including awarding reasonable attorney fees, to a prevailing plaintiff.".

● Mr. BUMPERS. Mr. President, I am pleased to be an original cosponsor of the Rural Satellite Dish Owners Protection Act. I think this legislation is necessary to ensure that the diversity and variety of television available in most urban areas today will be made available to the estimated 24 million Americans that live in rural settings beyond the bounds of normally broadcast programming or existing systems. I think my colleagues will agree that this bill is fair to rural satellite dish owners, cable operators, programmers, and broadcasters.

Satellite broadcast technology developed in recent years has made television programming formerly available only over cable systems available to those who live beyond the bounds of cable. The information and entertainment carried over this novel form of communication will certainly be a boon to rural dwellers. It is now necessary that Congress enact legislation to ensure that the market structures to accompany these technological developments are fair to the owners, distributors, and manufacturers of the satellite antennas. The legislation is also sound public policy.

I am convinced that this bill will accomplish these goals. This legislation is very similar to a bill introduced in the House of Representatives by Congressman MAC SWEENEY on December 18, 1985. Hearings were held in the House on this issue on March 9, 1986, and the Sweeney bill was very well received. A clear conclusion of that hearing was that the market structures that have arisen in the wake of the Cable Communications Policy Act of 1984 have been inadequate to meet the legislative needs of rural satellite dish owners. The present scrambling crisis inhibits the further development of satellite antenna technology in rural areas of our country, and makes passage of this legislation imperative. The uncertainty about scrambling has caused satellite antenna sales in my state to plummet from a boom level last year to virtually none this year.

It is important to state at the outset that no one expects fee television to be made available free to rural dwellers. Further, most people agree that scrambling is a legitimate way to prevent the unintended reception of fee television. The many owners, distributors, and manufacturers of satellite dishes that I know have expressed these principles to me on numerous occasions. What this legislation seeks to accomplish is a fair method of marketing programs to ensure the availability and reasonableness of the cost of programming without infringing on the rights of cable operators, programmers, and broadcasters.

The legislation is brief and simple and has three major provisions pertaining to scrambling of television signals broadcast over satellites. It would ensure that only one decoder is necessary to receive the full breadth of encrypted programming by standardizing decoder technology in accordance with regulations established by the Federal Communications Commission. It would ensure that the cost of such decoders are reasonable in relation to

the cost of production and distribution. It would ensure that decoders are made available to all those who wish to purchase programming within 60 days of scrambling for sale or lease. A final provision of the bill allows aggrieved parties to seek redress in the courts.

Representative Sweeney's bill in the House contains a fourth provision that has been left out of this legislation. That provision would require that the subscription fee for programming is not to exceed the fee that cable franchises charge their own customers in the same area and that programming be made available through sources other than cable companies or programmers. I personally believe that these changes should not exceed fees charged others on cable subscriptions. I would not vote for this bill unless such fees are very reasonable in comparison to what cable customers pay for the same service. This provision has been left out because my colleague believes this matter can best be resolved in hearings where it will receive greater attention. It is possible that this issue will be resolved by the market, and if that happens, it is preferable to legislation.

I support this very simple legislation because I believe that rural satellite antenna owners need relief. I believe that this bill is fair to rural satellite dish manufacturers and owners, cable operators, programmers, and broadcasters. I have always maintained that this issue deserves the benefit of a full hearing in the Senate, and I once again urge that action. This is a reasonable bill that represents a good compromise on this issue, and I urge its adoption by the Senate.●

By Mr. BIDEN:

S. 2291. A bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board; to the Committee on Environment and Public Works.

NUCLEAR SAFETY BOARD ACT

● Mr. BIDEN. Mr. President, I am introducing legislation today to improve the ability of the Nuclear Regulatory Commission [NRC] to investigate accidents at nuclear powerplants, and to reduce the chances of similar mishaps occurring at other plants.

My interest in this issue stems from problems that occurred at the Salem nuclear powerplant in New Jersey, across the river from my hometown of Wilmington. In 1983, the Salem 1 reactor failed to perform its most important and basic function—it failed to shut down, even though the highly automated system detected a dangerous situation.

To make matters worse, plant personnel and supervisors did not even notice that Salem had experienced the first-ever "anticipated transient without scram," as technicians call it, in a licensed nuclear reactor in the United States. Three days later, another failure in the same system was noticed and an investigation was started by the NRC.

Two findings of the Salem investigation are worth noting.

First, a record fine of $850,000 was levied on the operators of Salem because of the pervasive management failures that led up to the pair of system failures. Clearly the size of the fine shows the NRC found the problems at Salem to be quite serious.

Second, the NRC investigation concluded that the operations at the Salem plant were typical of the industry. In other words, the lackadaisical attitude toward safety at the Salem plant could be found in nuclear plants all over the country.

An additional result that showed up in the Salem investigation, although it was not noted in the report, was a case history of the haphazard and poorly directed way in which the NRC conducted its investigations of nuclear accidents. For example, one of the key components in the system failure was sent to its manufacturer to find out what the problem was. When the NRC went to look for the part, it was not to be found in the plant. After it was located, the NRC did have its chance to look at the part, but only after it had been taken apart and put back together as part of the manufacturer's study.

Mr. President, I am not implying that the manufacturer in this case tried to alter the part or obstruct the NRC investigation, but problems are bound to develop when confused, conflicting investigations fail to ask the necessary questions and miss vital pieces of equipment. There have been simply too many NRC investigations that have not met basic standards to assure public safety for us to allow a continuation of business-as-usual.

And let me make clear that the Salem investigation is not alone in its shortfalls. A report prepared for the NRC looked at several other recent accidents, including ones at Quad Cities, Browns Ferry and Hatch-2, and found problems in the timeliness of reports, the focus of investigations, and the potential for investigatory bias. What I discovered at Salem was not unique and cannot be blamed on isolated troubles. It is an issue that deserves careful review by every one of my colleagues.

Near the end of the last Congress the Senate adopted an amendment I sponsored calling for more in-depth study of NRC investigatory practices, and how they could be improved. The report, prepared by the Brookhaven National Laboratory, was clear in its criticism of NRC investigatory practices, and recommended changes in the NRC structure to address its shortfalls.

The purpose of my bill is to establish a safety board, along the lines of the one described in the Brookhaven report but independent of the NRC, to investigate major accidents at NRC-licensed facilities. A consensus has developed that NRC inquiry capabilities are limited in effectiveness by the structure of the agency and need to be reformed. The safety board proposal would clear up many of these weaknesses by consolidating the main responsibility for accident investigation in one office.

As an example, if there were an accident at a nuclear powerplant, the safety board staff would be on the scene as soon as the reactor or plant was stabilized to start the investigation into the causes of the accident. The safety board would conduct the initial inquiry, and could follow up this preliminary research with public hearings to allow experts from all sides to testify. The safety board would make recommendations based on its findings and, perhaps most importantly, would act as a watchdog to see them put into effect.

Additional important advantages would result from the creation of an independent safety board. First, the members of the safety board would be the organizers of any investigation of a nuclear accident. As I described earlier, past investigations by the NRC have proven to be ineffective because several departments of the NRC may each conduct their own, separate reviews. These confused and overlapping investigations have caused vital information to be lost and important reactor equipment to be mishandled, and they have produced, at best, uncertain results.

I would like to emphasize that these criticisms of NRC investigations are recognized widely in the nuclear industry.

The NRC has taken tentative steps to correct these shortfalls, but while the incident investigatory teams [IIT] address some of the problems described in the Brookhaven report, an independent safety board clearly retains the benefits of the IIT, and then adds more.

Allowing a safety board to lead accident investigations will build the experience in one office that is needed for effective investigations. A former head of the National Transportation Safety Board, after which the Nuclear Safety Board is modeled, commenting on the safety board proposal noted that investigations "are as much an art as a science; thus special education, training and indoctrination are needed to make them effective." Safety board members and staff would be prepared, not surprised, to receive the call that an investigation is needed. An independent safety board would put veter-

ans, rather than rookies, in charge of these important investigations.

Placing the safety board outside the NRC removes any question in the public's mind that there may be a conflict in an NRC staff-led inquiry into an accident that could possibly have been caused by NRC errors. Again, the Brookhaven report raised this issue by citing probes that missed crucial factors leading to the accident, and acknowledged that a perceived conflict of interest is a problem. The recommendations of an inquiry team outside of the NRC will carry greater weight with the public and industry, and will be more likely to be put into place.

Finally, in addition to investigations immediately after an accident, the safety board will have the authority to conduct longer term investigations into minor problems of the day-to-day operation of powerplants that may be precursors to more serious problems. As with many jobs, this will not be the most glamorous part, but it is as important as finding the causes of accidents for the safety of nuclear power.

I expect there will be some initial objections to establishing an independent safety board at a time when Federal agencies are threatened with cutbacks, and savings are being sought throughout the Federal budget. However, it should be clear that the safety board will reduce overall demands on the NRC. Changes could be made within the NRC to offset the increase in employees of the safety board.

Inside the NRC is a department called the Office for Analysis and Evaluation of Operational Data [AEOD]. I believe the AEOD could be used as the base for building an independent safety board. This office's current job is to collect and evaluate safety information from NRC-licensed facilities, and prepare reports on trends which indicate potential safety problems. Moving it outside the NRC, and adding the primary investigation responsibility, will result in a safety board that can pursue the short- and long-term reviews with competence and impartiality, and that will be a visible and respected advocate for the public.

Mr. President, demands on the NRC have changed as the nuclear industry has evolved. I believe this proposal is a reform Congress can make to square the NRC with the new demands placed upon it. Without a doubt, it is a step that needs to be taken to raise public confidence and make the entire nuclear regulatory structure work better.●

By Mr. GRASSLEY:

S. 2292. A bill to amend the Food Security Act of 1985 to require the Secretary of Agriculture to take certain actions to reduce the adverse effect of the Milk Production Termination Program on red meat producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ADVERSE EFFECT OF MILK PRODUCTION TERMINATION PROGRAM ON RED MEAT PRODUCERS

● Mr. GRASSLEY. Mr. President, the bill I am introducing today will help to solve some of the problems that have been created by the Whole Herd Dairy Buyout Program. First, this bill will require the Secretary of Agriculture to develop a more orderly marketing procedure for the dairy cattle that will be brought to market as a result of the Whole Herd Dairy Buyout Program. This marketing process' objective is to minimize the adverse impact of the Milk Production Termination Program on the beef, pork, and lamb producers. This action is critical since many farmers have experienced severe problems as a result of the USDA's poor implementation of this program. Prices in some areas have fallen 10 percent in less than a week. This hurts a farmer's profits, cash-flow, and net worth, which is particularly devastating on many already financially strapped farmers. Orderly marketing should have been the USDA's top priority and instead it has been almost completely neglected.

Second, this bill will require the Secretary to buy 400 million pounds of red meat or the quantity of meat that can be bought with $400 million, whichever is higher. Under present law the Secretary is only required to buy 400 million pounds of red meat without any reference to the amount of money which should be spent. In effect, this allows the Government to save money from the free falling cattle prices which are the result of poor Government policies. I do not believe that the Government should make a profit off a crisis it has caused. This provision will force the Government to help eliminate some of the excess supply of meat by requiring it to buy more meat if the price falls below $1 per pound, which is what has already been budgeted.

Third, the bill will require the Secretary to use any money saved in the Dairy Price Support Program as a result of the accelerated schedule in the Whole Herd Dairy Buyout to be used for the buying of red meat. The cattle industry has never wanted to be involved in Government programs but now that we have forced them into this situation we should make an effort to help them out. By using this money saved in the Dairy Price Support Program for the buying of red meat, we are giving back to the cattlemen a little of what we have taken away. This is only fair, since much of these savings are at the expense of the cattlemen in the first place.

Fourth, my bill will require the Secretary to buy meat under section 104 of the farm bill at the same rate as the cattle are brought to market under the Whole Herd Dairy Buyout. This is returning us to what Congress had intended when it passed the farm bill. Common sense should tell us not to cause a glut of meat and then, when it is too late, use the tools we have to prevent the crisis. Instead it is obvious that we should coordinate the two efforts to keep the impact on the market to a minimum.

Finally, this bill stresses the importance of exports in section 104 and requires that these Government purchases of meat are in addition to purchases that would take place normally by the Secretary or any other persons or entities. The present law does not prevent these purchases from displacing purchases that would take place on other levels other than the Federal level. Local entities may use this meat bought by the Secretary to replace purchases that they would normally make, thereby defeating the purpose of the program which is to increase the over all demand for meat through these purchases.

Mr. President, it is my hope that the Secretary acts administratively to correct the problems this bill attempts to address. I have written the Secretary outlining some of my concerns, as I know other Senators and Representatives have, in order to get him to solve the problem without legislative action. I am also a cosponsor of a resolution, which has passed the Senate instructing the Secretary to correct these problems. It is important, however, that he knows legislation is ready to go if necessary.

I strongly encourage my colleagues to support this bill and other actions that may be necessary to help our Nation's livestock farmers.●

By Mr. LUGAR (by request):

S. 2293. A bill to authorize appropriations for the African Development Foundation; to the Committee on Foreign Relations.

AFRICAN DEVELOPMENT FOUNDATION AUTHORIZATION

● Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to amend the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2151) with respect to the African Development Foundation.

This proposed legislation has been requested by ADF and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the President of the African Develop-

ment Foundation to the President of the Senate dated March 24, 1986.

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

S. 2293

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

AUTHORIZATION OF APPROPRIATIONS

Section 510 of Title V of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2151) is amended by deleting "$3,872,000 for fiscal year 1987" in the first sentence, and inserting "$6,500,000 for fiscal year 1987, and such sums as may be necessary for fiscal year 1988" in lieu thereof.

AFRICAN DEVELOPMENT FOUNDATION,
Washington, DC, March 24, 1986.

Hon. GEORGE H.W. BUSH,
Vice President of the United States and President of the Senate, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I herewith transmit a bill to amend Section 510 of Title V of the International Security and Development Cooperation Act of 1980 to authorize the appropriation of $6,500,000 for the African Development Foundation for Fiscal Year 1987, and such sums as may be necessary for Fiscal Year 1988.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

LEONARD H. ROBINSON, Jr.,
President.●

ADDITIONAL COSPONSORS

S. 426

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 426, a bill to amend the Federal Power Act to provide for more protection to electric consumers.

S. 524

At the request of Mr. ARMSTRONG, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 524, a bill to recognize the organization known as The Retired Enlisted Association, Inc.

S. 1223

At the request of Mr. ARMSTRONG, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 1223, a bill to authorize the erection of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in the Korean war.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 1847

At the request of Mr. MITCHELL, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1847, a bill to provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the United States and the Soviet Union, and for other purposes.

S. 1873

At the request of Mr. SPECTER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1873, a bill to require the Secretary of Health and Human Services to make grants to, and enter into contracts with, community based health care organizations in order to support disease prevention and health promotion projects.

S. 1980

At the request of Mr. THURMOND, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1980, a bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes.

S. 2046

At the request of Mr. MCCONNELL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2046, a bill to provide limits and procedures in certain civil cases.

S. 2064

At the request of Mr. WARNER, the names of the Senator from Arizona [Mr. GOLDWATER], the Senator from Indiana [Mr. LUGAR], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. BUMPERS], the Senator from Maine [Mr. COHEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Colorado [Mr. HART], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Wisconsin [Mr. KASTEN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Delaware [Mr. ROTH], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2064, a bill to require the President to make an annual report on the national strategy of the United States Government to certain committees of Congress and to require joint committee meetings to be held on such report.

S. 2103

At the request of Mr. MCCLURE, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2103, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed with State insurance departments or agencies.

S. 2166

At the request of Mr. DURENBERGER, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2166, a bill to amend the Internal Revenue Code of 1954 to modify the tax treatment of tax-exempt municipal bonds, and for other purposes.

S. 2187

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2187, a bill to amend title 38, United States Code, to exempt from sequestration certain benefits for veterans and dependents and survivors of certain veterans which are paid based on the service-connected disability or death of veterans.

S. 2208

At the request of Mr. KASTEN, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. SIMON], the Senator from North Dakota [Mr. ANDREWS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2208, a bill to establish the African Famine, Recovery and Development Fund for the relief, recovery, and long-term development of sub-Saharan Africa, and for other purposes.

S. 2261

At the request of Mr. HUMPHREY, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 2261, a bill to amend the Service Contract Act of 1965 to reform the administration of such act, and for other purposes.

S. 2271

At the request of Mr. DENTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2271, a bill for the relief of Jens-Peter Berndt.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Dakota [Mr. BURDICK], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 112, joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the names of the Senator from Florida [Mr. CHILES], the Senator from Alabama [Mr. DENTON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 134, joint resolution to des-

ignate "National Safety in the Workplace Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. GRASSLEY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 274, joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend."

SENATE JOINT RESOLUTION 280

At the request of Mr. HEINZ, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of Senate Joint Resolution 280, joint resolution designating the month of November 1986 as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 281

At the request of Mr. NUNN, the names of the Senator from Alabama [Mr. DENTON], and the Senator from Arizona [Mr. GOLDWATER] were added as cosponsors of Senate Joint Resolution 281, joint resolution to designate the week of May 11, 1986, through May 17, 1986, as "Senior Center Week."

SENATE JOINT RESOLUTION 300

At the request of Mr. GLENN, the names of the Senator from Virginia [Mr. TRIBLE], the Senator from Illinois [Mr. SIMON], the Senator from Georgia [Mr. MATTINGLY], the Senator from Arkansas [Mr. BUMPERS], the Senator from South Carolina [Mr. THURMOND], the Senator from West Virginia [Mr. BYRD], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 300, joint resolution to recognize and honor 350 years of service of the National Guard.

SENATE JOINT RESOLUTION 307

At the request of Mr. MATTINGLY, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 307, joint resolution to designate the week of April 18 through April 27, 1986 as "National Carpet and Floor-covering Week."

SENATE JOINT RESOLUTION 315

At the request of Mrs. HAWKINS, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Illinois [Mr. SIMON], the Senator from Indiana [Mr. LUGAR], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 315, joint resolution designating May 1986 as "Older Americans Month."

SENATE RESOLUTION 304

At the request of Mr. TRIBLE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponor of Senate Resolution 304, resolution to express the sense of the Senate that the present 3-year basis recovery rule on taxation of retirement annuities be maintained.

SENATE RESOLUTION 368

At the request of Mr. GORE, the names of the Senator from Kentucky [Mr. FORD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Maryland [Mr. SARBANES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arkansas [Mr. BUMPERS], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Michigan [Mr. RIEGLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 368, resolution to express the sense of the Senate that Federal funding to States for cooperative extension service programs for fiscal year 1987 be restored to at least the level approved in the 1986 budget resolution, except for reductions required in such programs by the Balanced Budget and Emergency Deficit Control Act of 1985.

SENATE RESOLUTION 381

At the request of Mr. DECONCINI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Resolution 381, resolution expressing the sense of the Senate with respect to United States corporations doing business in Angola.

SENATE CONCURRENT RESOLUTION 126—AUTHORIZING THE USE OF THE U.S. CAPITOL ROTUNDA FOR A CEREMONY COMMEMORATING DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. RUDMAN (for Mrs. HAWKINS, for herself, Mr. PELL, Mr. KASTEN, Mr. LAUTENBERG, and Mr. MATTINGLY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 126

Whereas, pursuant to the Act entitled "An Act to establish the United States Holocaust Memorial Council" and approved October 7, 1980 (94 Stat. 1547), the United States Holocaust Memorial Council is directed to provide for appropriate ways for the Nation to commemorate the days of remembrance of victims of the Holocaust, as an annual, national, civic commemoration of the Holocaust, and to encourage and sponsor appropriate observances of such days of remembrance throughout the United States;

Whereas, pursuant to such Act, the United States Holocaust Memorial Council has designated May 4 through May 11, 1986, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony be held at noon on May 6, 1986, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on May 6, 1986, from 10 o'clock ante meridiem until 3 o'clock post meridiem for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

SENATE CONCURRENT RESOLUTION 127—RELATING TO PREDATORY TIED AID CREDITS

Mr. RUDMAN (for Mr. HEINZ, for himself, and Mr. GARN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 127

Whereas tied aid and partially untied aid credits with low levels of concessionality are used by several governments as a predatory method of financing exports and result in market-distorting effects;

Whereas these distortions have caused the United States to lose export sales, with resulting losses in economic growth and development;

Whereas the Congress is preparing legislation intended to support the efforts of the Secretary of the Treasury to negotiate a comprehensive arrangement restricting the use of tied and partially untied aid credits for commercial purposes; and

Whereas these negotiating efforts of the Secretary of the Treasury are fully supported by the Congress of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a successful conclusion of an arrangement to regulate tied aid credits, so that their use for predatory commercial purposes is ended, would eliminate the need for the Congress to enact a special tied aid credit program;

(2) the Secretary of the Treasury should use the full resources of his office to promote such a successful conclusion to the negotations; and

(3) the President should make the use of predatory tied aid credits a major topic of discussion at the Tokyo Summit.

AMENDMENTS SUBMITTED

METROPOLITAN WASHINGTON AIRPORT TRANSFER

EXON AMENDMENT NO. 1769

Mr. EXON proposed an amendment to the bill (S. 1017) to provide for the transfer of the Metropolitan Washington Airports to an independent airport authority; as follows:

On page 35, line 5, strike out all through line 15, on page 36 and insert in lieu thereof the following:

(9) governed by a board of thirteen members, as follows:

(A) Three members shall be appointed by the Governor of Virginia, three members shall be appointed by the Mayor of the District of Columbia, three members shall be appointed by the Governor of Maryland, and four members shall be appointed by the President with the advice and consent of the Senate; the Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(B) Members shall (i) not hold elective or appointive political office, (ii) serve without compensation other than for reasonable expenses incident to board functions, and (iii) reside within the Washington Standard Metropolitan Statistical Area, except that the members appointed by the President shall not be required to reside in that area.

(C) Appointments to the board shall be for a period of 6 years; however, initial appointments to the board shall be made as follows: each jurisdiction shall appoint one member for a full 6-year term, a second member for a 4-year term and a third member for a 2-year term. The President shall make an initial appointment of one member for a 6-year term, a second member for a 5-year term, a third member for a 4-year term, and a fourth member for a 3-year term. All subsequent appointments by the President shall be for a 6-year term. Such Federal appointees shall be subject to removal for cause.

(D) Seven votes shall be required to approve bond issues and the annual budget.

MATHIAS AMENDMENT NO. 1770

Mr. MATHIAS proposed an amendment to the bill S. 1017, supra; as follows:

On page 30, line 6, strike out the period and insert in lieu thereof "within six months after the date of enactment of this Act. In no event shall the determination of hypothetical indebtedness by the Federal Aviation Administration pursuant to this paragraph be an amount which is less than $108,600,000 or the audit finding of the Comptroller General of the United States, if it is different".

SARBANES AMENDMENT NO. 1771

Mr. SARBANES proposed an amendment to the bill S. 1017, supra; as follows:

On page 37, strike out lines 1 through "such" on line 3.

PROTECTION TO ELECTRIC POWER CONSUMERS

METZENBAUM (AND McCLURE) AMENDMENT NO. 1772

Mr. METZENBAUM (for himself and Mr. McCLURE) proposed an amendment to the bill (S. 426) to amend the Federal Power Act to provide more protection to electric consumers; as follows:

At the end of the Committee Amendment insert the following: "SEC. 13. Section 10(h) of the Federal Power Act (16 U.S.C. 803(h)) is amended by redesignating section 10(h) as 10(h)(1) and adding a new section 10(h)(2) as follows:

(2) That conduct under the license that: (A) results in the contravention of the policies expressed in the antitrust laws; and (B) is not otherwise justified by the public interest considering regulatory policies expressed in other applicable law (including but not limited to those contained in Part II of this Act) shall be prevented or adequately minimized by means of conditions included in the license prior to its issuance. In the event it is impossible to prevent or adequately minimize the contravention, the Commission shall refuse to issue the license to the applicant."

McCLURE AMENDMENT NOS. 1773 THROUGH 1775

Mr. McCLURE proposed three amendments to the bill S. 426, supra; as follows:

AMENDMENT NO. 1773

Section 11 of the Committee amendment is amended by:

(1) deleting "pursuant to this part" in subsections (b)(1) and (2) and inserting in lieu thereof "pursuant to this Act, whether granted under this Act or another provision of law"; and

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

(c) Section 13 of the Federal Power Act, as amended, is further amended by striking the final sentence thereof.

(d) Section 26(a) of the Federal Power Act, as amended, is further amended—

(1) by striking the first sentence and inserting in lieu thereof the following sentence: "The Commission, or the Attorney General on request of the Commission or of the Secretary of the Army, may institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for significant violation of its terms any permit or license issued hereunder or any exemption from any requirement of this Act, whether granted under this Act or another provision of law, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder."; and

(2) by adding at the end thereof the following new sentence: "In the case of revocation of an exemption from any requirement of this Act, whether granted under this Act or another provision of law, the courts may exercise the same powers as they have under this section with respect to revocation of a license.".

(e) Section 402(a)(2)(A) of the Department of Energy Organizaiton Act, as amended, is further amended by inserting between "4," and "301" the following: "5, 13, 26, 30,".

(f) The amendments made by this section shall apply to licenses, permits, exemptions, rules, regulations, and orders issued before, on, or after the date of enactment of this Act.

AMENDMENT NO. 1774

Beginning on page 4, line 19, strike all through page 5, line 3, and insert:

"(3)(A) Upon receipt of an application for a license, the Commission shall solicit recommendations from the agencies and Indian tribes identified in paragraph (a)(2) of this section for proposed terms and conditions for the Commission's consideration for inclusion in the license;

"(B) If any recommendation for a proposed term or condition is received by the Commission within 120 days of the public notice of any license application under this section, the Commission shall explain in writing its reasons for adopting, rejecting or modifying any such proposed term or condition."

AMENDMENT NO. 1775

On page 10, following line 16 add the following new Section 11 and renumber subsequent sections accordingly:

"SEC. 11. The amendments made by section 10 of this Act shall not apply to any hydroelectric project for which an application for a license or preliminary permit was filed with the Federal Energy Regulatory Commission on or before April 11, 1986."

HUMPHREY AMENDMENT NO. 1776

Mr. HUMPHREY proposed an amendment to the bill S. 426, supra; as follows:

On page 12, following line 2 add the following new Section 13:

"SEC. 13. Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(a) by striking "And provided further" and inserting in lieu thereof "Provided further"; and

(b) by striking the final period "." and inserting in lieu thereof the following ': *And provided further,* That upon the filing of any application for a license the Commission shall seek to notify by certified mail the owner or owners of the property within the bounds of the project, and any State, municipality or other local governmental entity likely to be interested in or affected by such application.' "

EVANS AMENDMENT NO. 1777

Mr. EVANS proposed an amendment to the bill S. 426, supra; as follows:

On pages 9-10, strike section 10 and insert in lieu thereof the following new section:

"SEC. 10. Section 3(17) of the Federal Power Act (16 U.S.C. 796(17)), as amended, is further amended—

(a) by adding the following new subsection (B):

"(B)(i) Notwithstanding subsection (A) of this section, no hydroelectric project shall be considered a small power production facility (other than for purposes of section 210(e) of the Public Utility Regulatory Policies Act) if such project impounds or diverts the water of a natural watercourse other than by means of an existing dam or diversion, unless such project is located at a Government dam.

"(ii) For the purposes of this paragraph, the term "existing dam or diversion" means any dam or diversion that is part of a project for which a license has been issued on or before the date of enactment of this subsection, or which the Commission determines does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) except for the addition of flashboards (or similar adjustable devices).".

EVANS AMENDMENT NO. 1778

Mr. EVANS proposed an amendment to the bill S. 426, supra; as follows:

On page 4, line 18 before the period insert the following: "; and (c) if the applicant is an electric utility, its plans for energy con-

servation through energy efficiency programs".

WILSON AMENDMENT NO. 1779

Mr. WILSON proposed an amendment to the bill S. 426, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . ELECTION CONCERNING OTHER CONTESTED PROJECTS SUBJECT TO LITIGATION

(a) APPLICATION OF SECTION.—This section applies to any relicensing proceeding initiated prior to October 1983 at the Federal Energy Regulatory Commission involving the following projects: Mokelumne (No. 137), California; Phoenix (No. 1061), California; Rock Creek/Cresta (No. 1962), California; Haas-King (No. 1988), California; Poole (No. 1388), California; and Rush Creek (No. 1389), California. The numbers in this subsection refer to Federal Energy Regulatory Commission project identifcation numbers for the existing licensee. This subsection shall also apply to any subsequent relicensing proceeding for any such project involving the same parties which results from the rejection, without prejudice, of an application in any of the proceedings specified in this subsection.

(b) ELECTION BY COMPETING APPLICATIONS.—In the case of each project named in subsection (a), a license applicant competing against an existing licensee must elect within 90 days after the enactment of the Act to either:

(1) withdraw the competing application and agree to be subject to the provisions of this section, or

(2) refuse to withdraw the application, in which case the relicensing proceeding for such project shall be continued and a new license issued solely in accordance with the Federal Power Act, as amended by this act.

(c) COMMISSION ORDER.—If an election is made, the Commission, after notice and opportunity for a hearing, shall issue an order requiring the existing licensee to compensate the competing applicant in an amount representing the reasonable costs plus interest (at a rate determined by the Federal Energy Regulatory Commission in accordance with its regulations governing refunds in proceedings involving electric rate schedules) incurred by the competing applicant, which are related to—

(1) the cost of preparing, filing and maintaining the license applications for the hydroelectric project through the date of enactment;

(2) the cost of seeking to apply, and preserve the application of, Section 7 of the Federal Power Act to the pending relicensing proceedings through the date of enactment;

(3) the cost of preparing, filing and maintaining an application for compensation pursuant to this section through the date of payment; and

(4) the incremental costs the competing applicants will incur or have incurred as a result of any delay in pursuing alternatives to securing the hydroelectric power sought by the competing applicants in their license applications.

JUDICIAL IMPROVEMENTS ACT

STENNIS AMENDMENT NO. 1780

Mr. BYRD (for Mr. STENNIS) proposed an amendment to the bill (H.R. 3570) to amend title 28, United States Code, to reform and improve the Federal justice and judges survivors' annuities program, and for other purposes; as follows:

At the appropriate place, add the following new section:

"SEC. . The Bankruptcy Amendments and Federal Judgeship Act of 1984 (98 Stat. 333) is amended as follows:

"(1) section 206 is revised to read as follows:

"SEC. 206. Sections 8706(a), 8714a(c)(1), 8714b(c)(1), and 8714c(c)(1) of title 5, United States Code, are amended to insert immediately after the first sentence in each of those sections a new sentence which reads as follows: 'Justices and judges of the United States described in section 8701(a)(5)(ii) and (iii) of this chapter are deemed to continue in active employment for purposes of this chapter, and

"(2) section 207 is revised to read as follows:

"SEC. 207. The amendments to chapter 87 of title 5, United States Code, made by section 206 of this Act shall apply in the case of any justice or judge who is retired under section 371(a) or 371(b) or 372(a) of title 28, United States Code. The amendments apply to those who retire on or after January 1, 1982.".

THURMOND AMENDMENT NO. 1781

Mr. RUDMAN (for Mr. THURMOND) proposed an amendment to the bill H.R. 3570, supra; as follows:

On page 16, line 2 delete "or" and insert in lieu thereof: "and".

On page 16, line 3, delete "(46 U.S.C. App. 839);" and insert in lieu thereof: "(46 U.S.C. App. 802, 803, 808, 835, 839 and 841(a));".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, April 16, 1986, at 5:30 p.m., to consider legislation relating to official mail costs.

The committee will be marking up S. 2059, to control franking costs; S. 2255, to prohibit the expenditure of Federal funding for congressional newsletters; and Senate Resolution 374, to limit the amount that may be expended by Senators for mass mailings during the remainder of fiscal year 1986. The committee held a hearing on these items on April 9, 1986.

For further information concerning this business meeting, please contact Ron Hicks of the Rules Committee staff on x40290.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a hearing before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Tuesday, June 17, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510. Testimony will be received on S. 2055, to establish the Columbia Gorge National Scenic Area, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing.

For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a hearing on Tuesday, April 22, 1986, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC, to receive testimony on S. 2073, to encourage the standardization of nuclear powerplants, to improve the nuclear licensing and regulatory process, to amend the Atomic Energy Act of 1954, and for other purposes.

Those wishing to testify or who wish to submit written statements for this hearing should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For additional information regarding this hearing, you may contact Marilyn Meigs on the staff at (202) 224-4431.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources has scheduled a hearing on Tuesday, April 29, 1986, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC, to receive testimony on the Department of Energy's nuclear research and development programs.

Those wishing to testify or who wish to submit written statements for this hearing should write to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, Washington, DC 20510.

For additional information regarding this hearing, you may contact Marilyn Meigs on the subcommittee staff at (202) 224-4431.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. TRIBLE. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, April 11, to hold a hearing on S. 977, to establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes; S. 1374, to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island; S. 1413 and H.R. 3067, to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co.; S. 1542, to amend the National Trails System Act by designating the Nez Perce (Nee-Me-Poo) Trail as a component of the National Trails System; S. 1946, to designate the west branch of the Farmington River as a study area for inclusion in the National Wild and Scenic Rivers System, and for other purposes; S. 2265, to authorize the establishment of the Burr Trail National Rural Scenic Road in the State of Utah, and for other purposes; and H.R. 3556, to provide for the exchange of land for the Cape Henry Memorial site in Fort Story, VA.

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

SUBCOMMITTEE ON MILITARY CONSTRUCTION

Mr. TRIBLE. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction of the Committee on Armed Services, be authorized to meet during the session of the Senate on Friday, April 11, in order to receive testimony on home porting.

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

SUBCOMMITTEE ON PREPAREDNESS

Mr. TRIBLE. Mr. President, I ask unanimous consent that the Preparedness Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, April 11, in open session, followed by a closed session to conduct a hearing on ammunition readiness.

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

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. TRIBLE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, April 11, in closed session, to be immediately followed by an open session, to hold a hearing on Strategic Command, Control, and Communication; and Federal Emergency Management Agency.

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

ADDITIONAL STATEMENTS

FINANCING OUR ADVERSARIES

● Mr. GARN. Mr. President, each day is bringing new indications of the degree to which the United States and our allies are financing the Soviet Union and its global activities. As Roger W. Robinson, former National Security Council staff member responsible for international finance, recently pointed out, it is difficult to understand how the Soviet Union is able to support its entire external empire with total annual hard currency earnings of only $32 billion. For the second largest economy in the world these are rather marginal earnings, representing only one-third the annual revenues of Exxon, for example. Yet it is largely this margin that must meet the Soviet Union's hard currency needs, and that includes almost all of its external activities in a world where the ruble will not go very far. Obviously, there must be additional sources of financing, and that is primarily borrowing from the West.

The largest component of Soviet hard currency earnings has been their earnings from oil exports. With both Soviet oil production declining and world oil prices dropping sharply the Soviets are facing a severe shortage of hard currency.

This would be good news for the free world, particularly for the targets of Soviet adventurism, were it not for the fact that the shortfall in Soviet earnings has coincided with a dramatic increase in Western lending to the Soviet Union. Last year United States commercial banks syndicated at least $1.3 billion in loans to Soviet bloc countries at what were generally recognized as very generous interest rates; $200 million of that amount was in lending directly to the Soviet Union, the first United States commercial lending to the Soviets since the crackdown on Solidarity.

When financial constraints on the Soviets could have an important impact toward reducing their international activities and therefore reducing international instability, at what should be a particularly fortuitous time for world peace, Western banks appear eager to step in and help the Soviets conduct their business as usual.

What can the President of the United States do about this? The President has under current law, short of a national emergency, no authority to do anything about it. That is why I have introduced, along with several of my colleagues, legislation to give the President authority to regulate financial transfers to our adversaries at times when it would be in the national interest to do so. That bill, S. 812, has already been the subject of hearings in the Banking Committee. With each day the need for this legislation becomes more apparent.

Mr. President, when the national interest overrides the importance of loan syndication fees the President of the United States should have authority to exert that national interest. Today he cannot. Even when the Soviets are looking for billions of dollars in Western loans, so that their activities around the world can continue well fed instead of starve due to lack of hard currency to fund them, the President cannot even require that loans to the Soviets be for specific projects that are not detrimental to our security or foreign policy interests. It is time that we gave the President that power.

I ask that the text of a speech given by Roger W. Robinson, Jr., delivered at the Heritage Foundation on February 11, 1986, be included in the RECORD.

The speech follows:

EAST-WEST TRADE AND NATIONAL SECURITY

(By Roger W. Robinson, Jr.[1])

I think it would surprise most people were they to step back and assess how many of the more publicized issues and challenges which the United States faces in the world today are directly or indirectly underpinned by the East-West economic and financial equation. I make this assertion because, like most endeavors in the human condition—whether it be at the individual, state, or national level—the proverbial "bottom-line" of the ability to get things done rests upon economics and particularly finance.

Having said that, I must confess that after a dozen years of active involvement in this policy area, I continue to be somewhat troubled by the lack of a more common understanding in the Western Alliance concerning the key elements of the strategic or security side of East-West economic and commercial relations. I have long referred to what I believe to be the three most important components of strategic trade with the East as the "Triad." They are: 1) the illegal acquisition by the Soviet bloc of militarily relevant Western technology; 2) Western energy security—specifically, the ongoing Soviet strategy to dominate Western Europe's nat-

[1] Roger W. Robinson, Jr., is President of RWR, Inc. and former Senior Director for International Economic Affairs at the National Security Council (1982-1985). Mr. Robinson spoke at The Heritage Foundation on February 11, 1986. ISSN 0273-1155. Copyright 1986 by The Heritage Foundation.

ural gas markets; and 3) untied and nontransparent Western financial flows to the Warsaw Pact countries. These components of the Triad are, in my view, the principal avenues of the West's windfall contributions to Soviet military-related innovation, the USSR's hard currency earnings structure, and the Soviet Union's ability to maintain and expand its costly global commitments.

For example, has it not struck most Western policy makers as odd that the Soviet Union, which has a total annual hard currency income of only about $32 billion from all sources (including arms sales), can sustain a global empire which can directly rival the United States? More specifically, how does the USSR support such a vast array of third country commitments—many of which must be hard currency financed—with annual earnings equivalent to only about one-third of Exxon's annual revenues for 1985? These are central questions which I believe call for more thorough examination. Although the brevity of my remarks today will not permit a detailed attempt to answer these questions, I might at least offer a framework to advance the search.

In the area of finance, I have often been curious why I have never come across a security-oriented cash flow analysis of the USSR, a page divided down the middle with "sources" of hard currency or the left side—for example, oil and gas exports and the sales of arms, gold, diamonds—and "uses" of hard currency on the right side—such as imports from the West, technology theft, underwriting Cuba and other client states, KGB/GRU operations, and other expenditures. My own guess is that a detailed security cash flow analysis of this kind would show a formidable annual hard currency shortfall that presumably has to be financed through Western borrowings. Declining Soviet oil production and plummeting prices for both oil and gas—composing approximately two-thirds of the USSR's total annual hard currency earnings structure—should result in an even more active Soviet presence on the world credit markets than the roughly $3 billion in new credits attracted in 1985. The fact is that the level of Soviet indebtedness remained largely unchanged during the period 1979-1984 despite the fact that the USSR's hard currency needs apparently grew significantly. I believe this discrepancy can be explained, at least in part, by substantial Soviet reliance on a rather hidden borrowing source in Western financial markets.

This less visible borrowing activity takes place in the vast and amorphous interbank market where the Soviet Union has been a major player for many years. The interbank market is global in scope and is formed by the established practice among the world's banks of depositing cash with one another to facilitate the efficient flow of funds and to earn income on excess cash. The London Interbank Offering Rate (LIBOR) serves as a benchmark rate at which these deposits are offered to prime potential borrowers, and usually floats at roughly 1 percent below the U.S. prime rate. Interbank transactions can either be arranged by a money broker or directly between banks. A typical transaction might have bid and offer rates of 7⅞ percent and 8 percent respectively, with the higher rate representing the price at which a bank would offer, for example, a six-month time deposit to another bank. Prior to concluding an interbank transaction, the bank offering the funds will check the credit limit for the particular bank taking the funds as well as the "country exposure limit" for the country in which the bank is domiciled. It is not necessarily standard practice to check the "country exposure limit" for the country which owns the "taking" bank.

The six Soviet-owned banks located in the West, along with their branches, have been major beneficiaries of this global flow of interbank funds. The largest Soviet-owned banks in the West include Banque Commerciale pour l'Europe du Nord or Eurobank in Paris, Moscow Norodney Bank, London (which often serves as the coordinating point for other Soviet banking institutions in the West), and Ost-West Handlesbank in Frankfurt. Other 100 percent Soviet-owned banking institutions are located in Luxembourg, Zurich, Vienna, and Singapore. The latter is a branch of Moscow Narodney. The Soviets go to some lengths to obscure their complete ownership of these institutions. For example, these banks are incorporated under the laws of the countries in which they are domiciled, have foreign nationals in management positions, have what appears to be a diverse group of shareholders, and even maintain representative offices in Moscow similar to those of Western banks.

These Soviet banks engage in other banking activities outside the interbank market and even place some of their own deposits with major Western banks. This does not, however, offset the enormous advantage to the Soviets of having access to a large amount of hard currency at an interest rate which is below the U.S. prime rate and which can be used at their sole discretion. Similar to an individual who would use his or her cash reserve bank line to bridge shortages of cash in a regular checking account, interbank deposits provide the Soviets with needed liquidity on the margin to meet their pressing cash requirements. Access to these Western deposits also permits the Soviets to avoid more expensive and visible forms of Western financing. After all, why should the USSR step up its modest use of bankers acceptances or go more often to the syndicated loan market when they can tap a largely invisible pool of Western deposits at interest rates below U.S. prime?

It is very difficult to estimate the precise amount of such Western funds on deposit with the Soviet Bank for Foreign Trade, the COMECON banks, the State Bank of the USSR, and Soviet-owned banks in the West. Nevertheless, as the Soviets maintain correspondent banking relations with virtually every sizable banking institution in the world, a ballpark estimate of the aggregate amount of Western deposits with Soviet-owned banks in West would be roughly $5 billion. I would estimate that several billion dollars more in Western deposits have been attracted directly by the Soviet Bank for Foreign Trade and the State Bank of the USSR. Individual East European banks also enjoy the same favorable access to this untied, low-cost financing source. Although these deposits must eventually be repaid, similar to loans, they still represent a major reservoir of cheap money. I think that it would be very illuminating for the Administration and Congress to get a better handle on the role of interbank deposits in the funding of the Soviet Union's global activities.

Returning for a moment to the first leg of the strategic trade Triad—the Soviet acquisition of militarily sensitive technology—we can take satisfaction in knowing that this problem is far better understood today than ever before. The President instructed the bureaucracy early in his first term to redouble its efforts to stem the flow of strategic technology to the Warsaw Pact countries. This past fall the Department of Defense, in coordination with the CIA, released an unclassified White Paper which made a valiant effort to quantify, where possible, the magnitude of our technology losses. The paper sought to identify the estimated savings achieved by the Soviet military research and development establishment as well as the direct costs incurred by U.S. taxpayers to defend against these Western-sponsored advances in Soviet military strength. Whether or not one accepts the estimates in the Department of Defense White Paper, most informed observers would have to concede that U.S. taxpayers are penalized to the tune of billions of dollars annually.

Concerning the second leg of the Triad—Western energy security, and specifically the carefully crafted Soviet game plan to dominate the natural gas markets of Western Europe—again, the President demonstrated what will be judged by history to be impressive vision and courage when he urged his allied counterparts, at the Ottawa Summit in July 1981, to limit their level of dependency on Soviet gas supplies. Subsequent to the Ottawa meetings, he dispatched two high-level U.S. delegations to Europe (the first one in the fall of 1981 and the second in early 1982) to persuade the allies to identify and develop secure, indigenous natural gas reserves (particularly the Troll gas field in Norway) and to halt the expansion of subsidized credits to the Soviet bloc for energy development and other purposes. The declaration of martial law in Poland in December 1981 added urgency to these undertakings, since the Alliance needed to send a unified signal that continued repression in Poland would not be cost-free.

The President immediately decided to implement economic sanctions against the USSR by embargoing U.S. origin oil and gas equipment destined for the Soviet energy industry. In June 1982, with no movement toward reconciliation in Poland and insufficient allied unity on a response to this situation, the President extended these sanctions to include U.S. subsidiaries and licensees located abroad. This decision temporarily crippled progress in the construction of the USSR's major gas export pipeline. Intensive allied consultations were then undertaken at the ministerial level with a view toward achieving the President's goal of forging a durable allied consensus on the security dimensions of East-West trade.

The positive outcome of these ministerial deliberations led the President to decide in November 1982 to lift the oil and gas equipment sanctions, but only after the allies had agreed to undertake urgent work programs in the key strategic trade areas, including enhanced Western energy security, which were to be completed by the Williamsburg Summit in May 1983. Progress was swift in coming. The practice of offering subsidized credits was eliminated by an understanding achieved within the OECD. An agreement signed by some 25 nations in the International Energy Agency in May 1983 also represented a major accomplishment for the Administration. The language of that agreement effectively deprives the USSR of major European participation in construction of the anticipated second strand of the Siberian gas pipeline which is currently underway or will be imminently. If abided by, this agreement will not only block Soviet

domination of Western Europe's gas markets but will also deny the USSR between $5 to $10 billion in annual projected hard currency earnings from the second strand in the mid- to late 1990s and beyond.

I think it is important to emphasize that the mission of the Poland-related sanctions was not, as so often reported in the world press, to block the first strand of the Siberian gas pipeline project. The administration was aware that the first pipeline was a fait accompli. The Administration's extension of the Poland-related sanctions represented a last-resort, tactical decision by the President to penalize Soviet repression in Poland and to forge a new consensus within the Alliance on the security aspects of East-West economic relations. All of the security-minded objectives which the President outlined to his counterparts in Ottawa in 1981 were achieved.

POLICY PRESCRIPTIONS

I would like to use the remainder of this talk to offer some specific policy recommendations which address each of the three legs of the strategic trade Triad.

First, on technology transfer, I recommend the continuation of the effort to quantify the impact on the West of what these losses mean to our long-term security, to our taxpayers, and our intensive efforts to reduce the U.S. budget deficit. The potential Gramm-Rudman trigger mandating reductions in our own defense expenditures adds urgency to this task. The infrastructure of COCOM, the multilateral organization which controls strategic technologies, must be substantially bolstered from its woefully inadequate present status. In addition, an expanded array of incentives and disincentives should be brought to the table by the U.S. in negotiations with the allies and neutral countries in an effort to finally subordinate commerical benefit to our common security. The U.S. should also continuously develop new methods designed to assist the trucking and identification of stolen technology so that would-be diverters will operate in an uncertain environment.

In the area of Western energy security, the Administration should send an early signal to the allies that despite the fall in demand for Soviet gas, we will insist that the May 1983 International Energy Agency agreement be strictly observed, particularly when the Soviets begin to contact Ruhrgas, Gaz de France, and others for below-market second strand gas deliveries during a future period of increased demand. In addition, the positive direction of the current negotiations for the accelerated development of the Nowegian Troll gas field, as a substitute for Soviet gas, should be politically reinforced at the highest levels. The Administration should also do whatever it can to defuse the dangers inherent in West Berlin becoming 10 percent dependent on Soviet gas stemming from an agreement signed in 1982 and the likelihood that Turkey will become approximately 95 percent dependent on Soviet gas if current negotiations with the USSR come to fruition. Also, allied willingness to provide the West's most sophisticated oil and gas equipment and technology to the USSR and actively assist in the extraction, processing, and transmission of Soviet energy resources should be, in some way, factored into allied efforts to increase emigration from the USSR and achieve equal and verifiable reductions in nuclear weapons. The other elements of the Triad should likewise be considered in this context.

Finally, the Administration can play an important role by examining the practice of untied or so-called balance of payments lending to potential adversaries and scrutinizing the extent to which the Soviets rely on interbank deposits. Certain principles or guidelines should also be considered for voluntary adoption by the Western banking community, if they have not already been instituted. Specifically, each loan to a potential adversary should have an identified and verifiable purpose—be it an equipment purchase, a specific project (with loan drawdowns calibrated to project expenditures) or a short-term commodity transaction such as grain. Every loan should have a maturity that is strictly matched against the duration of the underlying transaction. For example, a grain transaction should be financed with a maximum loan maturity of 180 days rather than 3 years which would otherwise de facto provide the Soviets with 2½ years of cash for their discretionary use. Finally, U.S. banks should aggregate their interbank deposit exposure to all Soviet-owned entities and periodically report these aggregate exposures to U.S. ban regulators, if they are not already doing so. The same practices should be applied to East European entities. In this connection, I am not arguing for the discontinuation of interbank activity with the USSR—only that specific information be developed on the amounts and the proper use and maturity of such deposits.

These proposed principles to govern financial flows to potential adversaries are prudent from a commercial as well as security perspective, and therefore, it is hoped, will not present major problems for the Western banking community. The Administration should urge our allies, through the OECD, to monitor the implementation of similar guidelines. In the event that the Administration and Congress are disappointed by the lack of allied cooperation in adopting these commercially prudent lending principles, more information should be gathered to determine the respective levels of allied involvement in untied, non-transparent financial flows to potential adversaries and what, if anything, should be done about it. To illustrate why we need a coordinated allied approach to this issue, we should ask the allies whether they view it as appropriate to make available even $10 million in untied Western cash to Colonel Qadhafi for his sole discretionary use. This particular issue brings to mind the sound advice offered by John Le Carre in his novel "The Honorable Schoolboy," which is embodied in three simple words—"Follow the money."

In conclusion, there do not have to be any "losers" in the West as a result of these policy recommendations. Legitimate, nonstrategic trade can go forward and expand; the U.S. can continue to streamline and expedite its export licensing procedures and trim the COCOM list of controlled technologies, where indicated, to ensure enhanced U.S. export competitiveness; Western loans can continue to support specific trade transactions and projects; and incentives for greater Soviet geopolitical cooperation can be created through expanded East-West economic and commercial relations. Nevertheless, we simply cannot avert our eye from those economic and financial practices which are deleterious to our long-term security interests; nor can we side-step the need to develop a more comprehensive picture of how the Soviet Union funds itself and its global activities.

I would hope that the U.S. security community, The Heritage Foundation, and other like-minded organizations will dedicate more resources and talented people to undertake further analyses of these issues. I would also recommend that consideration be given to the establishment, through legislation, of an Assistant Secretary of Defense for International Economic Security specifically to deal with the critical security aspects of trade and energy relations, and global finance. If property structured, such a new position need not interfere or overlap with existing positions or functions which are, for example, responsible for the complex issue of technology transfer.

Finally, it is imperative that we successfully come to terms with the enormous Western contribution to the economic and financial vitality of the Soviet Union and its client states, particularly at a time of budget-related austerity at home.●

ENCOMIUM OF FREE PAPERS

● Mr. D'AMATO. Mr. President, since the days of our forefathers, independent, free circulation papers have represented a superlative tradition in America's free enterprise system: They fill a need, and they provide a choice in the media marketplace.

Free papers are a strong, grassroots publishing force, filling the gap in cities and towns that do not receive full coverage by larger, paid papers. The American businessman has always needed a forum for advertising products and services, for sharing community news, and for disseminating information to a broad audience. In all cases, whether free newspapers, shopping guides, or pennysavers, free circulation papers fill this need. They offer a choice to local businesses and members of the community—providing the media support that keeps cities, small towns, and neighborhoods prospering.

Just how far back in history have American free papers been circulating? As far back as Benjamin Franklin. Benjamin Franklin was, in fact, the first free-paper publisher; his circulars and flyers were the first such publications. The number of free papers increased exponentially during the 1920's; and even more appeared in the 1930's as a direct response to the special needs arising from the Great Depression. After World War II, these papers were flourishing. More and more businesses wanted to reach every home in the community, and free circulation papers were the answer.

Today, it is estimated that 3,000 free community papers are published in the United States, attracting advertisers with their guarantee of blanket, door-to-door circulation. From New York to California, free papers are circulated to every home in the marketplace, providing all consumers with comprehensive buying information. In New York State alone, there are a total of 55 publishers in the free newspaper industry, reaching roughly 3 million homes across the State. They contribute to the growth and prosperity of business in the communities they serve.

Today's free-paper publisher continues to follow the spirit and dedication toward business exemplified by Benjamin Franklin. Many publishers are small "mom and pop" operations; in many cases, free-paper businesses have been passed down from generation to generation. They have witnessed their communities change and, with that, have strengthened their product to keep pace with reader and advertiser needs. Even large communications companies have carved a niche in their operations for free circulation papers, recognizing their reader strength and profitability.

Mr. President, I have called the attention of my colleagues to the benefits and services of free papers today because I believe their publishers deserve our recognition and respect.●

DR. LEON GINTZIG ANNUAL FORUM

● Mr. MATHIAS. Mr. President, it has been 2 years since the death of Dr. Leon Gintzig, a Marylander and a leader in the field of hospital administration. Dr. Gintzig was educated in Massachusetts, Illinois, and Iowa and went on to forge a distinguished career at the George Washington University. He did not, however, devote himself solely to his own career. He also volunteered his services for some 15 years to the Hospital Commission of Prince Georges County, MD, and the Prince Georges General Hospital. Dr. Gintzig's colleagues feel keenly the loss of his concern, expertise and particularly his friendship.

Now, however, we have another reason to remember Dr. Gintzig. Through private donations, a fund has been established which will underwrite an annual forum in Dr. Gintzig's name. There, the Nation's leading hospital administrators will gather each year at the congress of the American College of Healthcare Executives to exchange ideas and renew their commitment to building an efficient, fair, and affordable health care network. The first such meeting was held recently in Chicago and its success lends encouragement to all who have high hopes for its future. I believe this tribute is worthy of Dr. Gintzig and is worthy of note by the Senate today.●

ADVANCE NOTIFICATION—PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Committee on Foreign Relations.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, April 9, 1986.

Dr. M. GRAEME BANNERMAN,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost $50 million or more.

Sincerely,

GLENN A. RUDD, *Acting Director.*●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, April 9, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-30 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter(s) of Offer to the Netherlands for defense articles and services estimated to cost $45 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

Attachments.

TRANSMITTAL NO. 86-30—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Netherlands.

(ii) Total Estimated Value: Major Defense Equipment,[1] $36 million; other, $9 million total $45 million.

(iii) Description of Articles or Services Offered: Four AN/TPQ-37 Radar Sets with supporting test equipment, generators, spares, tool kits and publications.

(iv) Military Department: Army (VRC).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delievered to Congress: April 9, 1986.

POLICY JUSTIFICATION

NETHERLANDS—AN/TPQ—RADAR SETS

The Government of the Netherlands has requested the purchase of four AN/TPQ-37 Radar Sets with supporting test equipment, generators, spares, tool kits and publications. The estimated cost is $45 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the Netherlands; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Netherlands needs the AN/TPQ-37 Radar Sets to continue an ongoing effort to upgrade its artillery counter-battery capability. Acquisition of these radars will enable the Netherlands to locate enemy long-range artillery and rocket launcher positions and to relay the information needed for counterfire. The Netherlands will have no difficulty absorbing these sets into its armed forces.

The sale of this equipment and support will not effect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Company of Fullerton, California.

Implementation of this sale will require the assignment of one contractor representative to the Netherlands for one year.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

GRANT DOREL CATARAMA AMNESTY

● Mr. SIMON. Mr. President, a young man and his parents living in Chicago hold out hope every day they will soon

[1] As defined in Section 47(6) of the Arms Export Control Act.

see their brother and son who languishes in a Romanian prison.

The prisoner is reported to be tortured and beaten regularly and he rarely gets enough to eat. He is not even allowed a Bible, his family says.

Viorel Catarama and his parents agonize over the fate of their beloved brother and son, Dorel Catarama, the Romanian prisoner.

The Cataramas and human rights groups are convinced Dorel is being persecuted for his Seventh-Day Adventist beliefs. The Romanian Government says Dorel broke Romanian law and is justly serving his sentence after being convicted of embezzlement and possession of foreign currency.

Reliable reports indicate there is no solid evidence to support the conviction.

Romanian officials allowed Dorel's wife to see him in February and for that we are grateful. Still, she waits in Romania for the day when she will be reunited with her husband and they can live as a family once again.

I ask the Romanian Government for a humanitarian gesture and grant Dorel Catarama amnesty. He poses no threat to Romanian society and only asks to be able to join his loved ones and worship his God in peace.

Such a gesture would strengthen the harmonious relations between our two countries.●

TRIO PROGRAMS

● Mr. RIEGLE. Mr. President, I rise today to express my support of the TRIO programs which provide low income youth and adults a realistic opportunity to escape cycles of poverty and achieve the upward mobility afforded by higher education. Congressional support of the TRIO programs was formally expressed in a recently passed concurrent resolution that I cosponsored, which designated February 28, 1986, as "National TRIO Day."

The special programs for students from disadvantaged backgrounds, commonly referred to as TRIO, were first authorized in 1965 and have since consistently proven their effectiveness in providing special supportive services for qualified low-income individuals and/or first generation college students.

TRIO includes five programs funded under the special programs for the disadvantaged which provide postsecondary outreach programs. These are: Educational Opportunity Centers, Special Services for Disadvantaged Students, Talent Search, Upward Bound and a training program for TRIO staffs. These programs provide low-income students the supportive services they need such as counseling, basic skills instruction, tutoring, and information about college admissions and financial aid in order to attend college.

The President's proposed budget requested a drastic 55 percent reduction for TRIO programs. I am pleased to say that the Senate Budget Committee, of which I am a member, in a bipartisan effort, passed a compromise budget proposal which maintains funding at present levels. The administration's desire to cut funding for valuable educational programs such as TRIO is not a new trend. The administration has frequently advocated drastic reductions and eliminations of educational programs since taking office in 1981. Fortunately, Congress continues to display its support of our Nation's educational system by opposing these proposals and funding educational programs at levels higher than those requested by the administration.

In the Senate's higher education reauthorization bill, funding for TRIO programs is $188 million. This is a 10-percent increase over the 1986 post-sequestration level of $169 million and more than double of what was requested in the President's fiscal year 1987 budget proposal for this program.

TRIO enjoys a praiseworthy record of success in providing young people the opportunity to achieve their full potential, rather than being swept into a cycle of poverty which destroys their chance to contribute to society. Special services students who receive counseling, tutoring, and basic skills instruction are more than twice as likely to remain in school than do those students who are not involved in the program. Graduates of Upward Bound are more than four times as likely to graduate from college as similar students not included in the program. TRIO programs provide key incentives and encouragement to make possible a meaningful educational experience. Nationwide, over 460,000 disadvantaged students receive TRIO services.

When some members of society are educationally neglected, we as a Nation are failing to live up to the higher standards of a world leader. I feel strongly that we must continue to provide the proper means to an education for all those who seek one.●

NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION

● Mr. SIMON. Mr. President, during this week the National Association for Equal Opportunity in Higher Education [NAFEO] will hold its 11th national conference on blacks in higher education here in Washington. The association was founded in October 1969 as a voluntary, independent association of public and private 2- and 4-year institutions. Graduate and professional schools are counted among its member institutions in 21 States, the District of Columbia and the Virgin Islands.

NAFEO is a membership organization of 116 historically and predominantly black colleges and universities. NAFEO has as one of its major objectives, the responsibility to serve as a coordinator in black higher education. As such, NAFEO's annual national conference has become the most prestigious and important conference discussing issues affecting black higher education in America. The conference which attracts an audience of some 2,000 top leaders and decisionmakers of the Nation, including 8 black college/university presidents/chancellors, representatives from 400 institutions from all of the States and abroad, as well as 100 of the 300 black college alumni chosen—from among the 1 million graduates of black colleges—to receive NAFEO's annual distinguished alumni citation.

Recently, one of the presidents of the Nation's historically black colleges celebrated his 61st birthday. Dr. M. Maceo Nance, Jr., president of South Carolina State College for 19 years will also retire at the end of this academic year. He has served the Nation, the State of South Carolina, and black higher education with distinction. As a member of the board of directors of the office for black public colleges at the National Association for State Universities and Land Grant Colleges and the educational testing service's HBC-ETS black college collaboration, he has been instrumental in fashioning national policy on behalf of black colleges and universities and blacks in higher education. We will miss his contribution and South Carolina State will miss his leadership.

My distinguished Republican colleague from South Carolina, with whom I have the pleasure of serving on the Judiciary and Labor and Human Resources Committees, spoke at Dr. Nance's birthday celebration. Senator THURMOND has been a longstanding supporter of historically black colleges and universities, regularly introducing a resolution commemorating historically Black Colleges Day. He has also been a strong advocate and supporter of my legislation to create the Black College and University Act, which has been included in S. 1965, the Higher Education Act Amendments of 1985 as reported by the Committee on Labor and Human Resources.

I ask that his remarks be printed in the RECORD.

The remarks follow:

ADDRESS BY SENATOR STROM THURMOND AT THE DR. MACEO NANCE BIRTHDAY CELEBRATION

It is indeed a pleasure to be here tonight to pay tribute to a role model for young people, a National leader in higher education, the moving force behind the modernization of a great college, and a good friend, Dr. Maceo Nance.

In 1968, South Carolina State College was the focus of racial tensions in this Country. The enrollment was less than two thousand students. There was no School of Business or School of Engineering. The curriculum here did not include studies in nursing or agribusiness. There was no Martin Luther King, Jr. Auditorium, Smith-Hammond-Middleton Physical Education Center, I. P. Stanback Museum and Planetarium, Donma Administration Building, Nance Hall Classroom Building, or Sojourner Truth Residence Hall for Women. There was no sports program for women.

All of this was before the man whom we honor tonight became President of South Carolina State College.

As I reflect on the period of time between 1968 and 1986, I sincerely believe that no State has made more progress to ensure that the rights and opportunities of all citizens are safeguarded than South Carolina. The contributions which Dr. Nance made to this great achievement will not be forgotten.

The enrollment at South Carolina State has more than doubled during the Nance era. Thirty buildings on this attractive campus have either been constructed or improved since 1968. No mathematical computation can accurately gauge the expanded educational opportunities or improved quality of education presently available at South Carolina State College.

Although it was not highly publicized, March 19, 1986 was an important date to those of us who care about South Carolina State College, and all other institutions which provide higher education opportunities to low income, educationally disadvantaged young people. On that date, the Senate Labor and Human Resources Committee, of which I am a member, voted in favor of the Higher Education Reauthorization Act. Included in that bill was a five-year reauthorization of what used to be known as the "Title III—Institutional Aid Programs." These important programs recognize the contributions which Historically Black Colleges and Universities have made to this Nation.

I am proud to have actively worked with Senator Paul Simon to reauthorize these programs. This bill establishes a new "Part B" which is authorized exclusively for Historically Black Colleges. The United Negro College Fund and the National Association for Equal Opportunity in Higher Education (NAFEO) strongly support this legislation.

In two weeks, I will be one of several members of Congress honored by NAFEO for efforts on behalf of Historically Black Colleges. Although I appreciate such recognition, it is accepted with the knowledge that my commitment to these institutions has been gained through observing the valuable contributions made by these colleges, and because of my personal respect and deep admiration for leaders in Higher Education, like Dr. Maceo Nance.

Dr. Nance, we are proud of what you have accomplished here. Although you are retiring, I am sure that your influence in making South Carolina State College such an outstanding institution will be felt for many years. I wish you a happy birthday, and many more filled with good health in the future.●

BENAZIR BHUTTO RETURNS TO PAKISTAN

● Mr. KENNEDY. Mr. President, the people of Pakistan have been living under military rule since General Mohammad Zia ul-Haq seized power in a military coup in 1977. But today it appears that Pakistan has made some progress in the effort to return to democracy. Last December, President Zia announced the lifting of martial law and the return of civilian rule. And yesterday, Benazir Bhutto was allowed to return—in safety and in freedom—to her homeland.

The response of the Pakistani people has been overwhelming. I have received reports from Pakistan that 300,000 people greeted Ms. Bhutto when she arrived at the airport and that 1 million Pakistanis gathered in downtown Lahore to hear her speak and to welcome her home. Ms. Bhutto's return and her continued ability—freely and safely—to participate in the political affairs of her nation will test the commitment of the Pakistani Government to fundamental democratic principles.

In returning to Pakistan, Benazir Bhutto has shown great personal courage. It is clear that she commands the support of large numbers of Pakistani citizens, and if it was not clear before her return to Pakistan, it should be clear now that she is a major political leader who has a serious claim to political power—if democracy is permitted to run its course.

Pakistan and the United States have been close friends and have worked together on many common projects throughout the years. Our ties continue to be close. For that reason, we should make sure that the United States does not allow itself to be perceived as an enemy or an adversary of democracy inside Pakistan, and that we exercise whatever influence we have to make certain that human rights are respected and that the progress toward democracy continues. We will be watching very closely how the Pakistani Government deals with Benazir Bhutto, and we can only pray—for the future peace and well-being of the Pakistani people—that she is continued to be free to participate in the political affairs of her country without fear for her personal safety or for her freedom.

I ask that the newspaper reports of Benazir Bhutto's return to Pakistan—from the New York Times and from the Washington Post—be inserted in the RECORD.

The material follows:

[From the New York Times, Apr. 11, 1986]

A DAUGHTER RETURNS TO PAKISTAN TO CRY FOR VICTORY

(By Steven R. Weisman)

LAHORE, PAKISTAN, April 10.—Hundreds of thousands of people thronged the streets today demanding the ouster of President Mohammad Zia ul-Haq in the biggest anti-Government rally in Pakistan since General Zia seized power in a military coup in 1977.

The immense crowd turned out peacefully to cheer their loyalty instead to Benazir Bhutto, 33-year-old daughter of Prime Minister Zulfikar Ali Bhutto, who was overthrown and later executed by General Zia. Miss Bhutto arrived here this morning from a long self-imposed exile to proclaim herself heir to her father's once powerful political movement.

"Zia out! Zia must go!" the crowd shouted and chanted as Miss Bhutto declared, "The time has come to be united and push out the dictator who has ruled us for these nine years."

Others in the throng shouted, "Zia is a dog!" and along the route of a nine-hour procession through the broad streets of this historic city many Pakistanis burned American flags and shouted "down with America!" and other anti-American slogans. Their anger was a reflection of the widespread view in the opposition that General Zia has been propped up for many years by encouragement and economic and military assistance from Washington.

CROWD BEYOND EXPECTATION

The size of the crowd went far beyond the expectation of many politicians, diplomats and other analysts who had doubted that Miss Bhutto could galvanize the kind of support for which her father was famous. Before she arrived, however, Miss Bhutto's supporters were asserting that she could oust General Zia the way President Corazon C. Aquino has ousted Ferdinand E. Marcos in the Philippines.

Picking up on this theme, Miss Bhutto told the crowd that 1986 was "a bad year for dictators" because of what happened in both the Philippines and Haiti. "Marcos is gone, the president of Haiti is gone, and now another dictator must go," she declared as the crowd roared its delight.

But despite the enthusiasm of the opposition, it remained unclear whether Miss Bhutto would be able to translate her evident popularity into an actual drive to throw out Mr. Zia. The tone of her speech was emotional but it did not call for an actual public uprising or confrontation with the Government. At the rally's conclusion, the crowd drifted off peacefully in a festive but nonviolent mood. "I have not come here to take revenge," she told them.

RELAXED ENVIRONMENT REFLECTED

The fact that the rally was permitted to take place was a reflection of the relaxed political environment in Pakistan and what some say is the growing confidence of the country's recently installed civilian leaders that their Government can withstand a challenge from Miss Bhutto.

General Zia ruled under martial law from 1977 until last Dec. 30, when he formally restored civilian rule but retained his position as president and army chief of staff. The actual running of the Government—setting foreign and domestic policy, administering the bureaucracy, regulating political activities and maintaining order—is in the hands of a civilian cabinet led by Prime Minister Mohammad Khan Junejo.

The civilian leaders, elected a year ago, have been trying to establish their credibility in the eyes of potential supporters of Miss Bhutto. Earlier this week, Prime Minister Junejo held a rally in Lahore where he announced a scheme to hand over land to urban squatters. But the size of his rally was dwarded by Miss Bhutto's crowd today.

IN EXILE OR DETENTION

Miss Bhutto has spent most of the last nine years in exile or under detention here. She returned to Pakistan last summer briefly to attend a funeral for her slain brother,

Shahnawaz. The funeral drew tens of thousands of mourners. But many politicians said this was far fewer than had been expected. Later Miss Bhutto was put under house arrest for supposedly engaging in opposition activities, but she was permitted to return to exile in London.

For months, politicians have openly questioned whether she had the support to lead the opposition. Even her own party, the Pakistan People's Party, has been split over whether to cooperate with or confront General Zia's regime. The larger coalition of parties opposed to Mr. Zia is also divided over whether to accept her leadership.

But with her rally today, Miss Bhutto appeared to sweep aside these doubts and open a new chapter in the country's turbulent history. After arriving from London and spending the day on top of a truck in the city streets she spoke in the shadow of the old Red Fort and Lahore Mosque built by the Mogul emperors. Earlier, Miss Bhutto appeared to many to look uncertain and reticent, but at the end of her one-hour speech, she was shouting, grinning broadly and leading the crowd in chants.

EVOKES HER FATHER

Everywhere in the streets there were pictures of her and especially of her father, a charismatic politician from Sind province who came into power in 1971 after Pakistan lost a war with India. Prime Minister Bhutto was hanged in 1979 by General Zia's Government, which charged him with plotting the murder of a political foe.

Today Miss Bhutto evoked her father again and again, at one point declaring to the crowd: "Seeing you, the people, makes me feel that Bhutto is alive before my eyes. He told me at our last meeting at Rawalpindi jail that I must sacrifice everything for my country. This is a mission I shall live or die for."

At the end of the speech, Miss Bhutto seemed exhausted. Her voice was hoarse, but she seemed elated with the response.

Although all of Lahore seemed caught up in the mood of the rally, there was very little disorder. The police remained mostly on the sidelines and army troops remained in their barracks.

It appeared that the Government of Prime Minister Junejo was pinning its hopes on the possibility that the rally today would let off steam among the opposition without leading to further turmoil in the streets, which have been a feature of Pakistan's history.

The country has had martial law three different times when the situation in the streets erupted with protest, and many politicians fear this could easily happen again. That is why not all of those opposed to the Government favor an approach of raising a challenge in the streets. Instead some of these opponents are calling for foes of General Zia to wait until the next elections in four years, register their parties legally and try to oust Mr. Zia through the democratic process. Miss Bhutto has already rejected that approach, but it remained unclear what she would do next with her newly proclaimed support.

[From the Washington Post, Apr. 11, 1986]

PAKISTANI CROWD HAILS RETURN OF EXILED OPPOSITION LEADER

(By James Rupert)

LAHORE, PAKISTAN, April 10.—Hundreds of thousands of Pakistanis roared their condemnation of President Mohammed Zia ul-Haq and their support for Benazir Bhutto today as the opposition leader returned from political exile.

The return of the daughter and political heir of former prime minister Zulfiqar Ali Bhutto appeared to mark Zia's most serious domestic political challenge. She has vowed to campaign for Zia's resignation and for immediate national elections to replace the man who overthrew her father in 1977 and then saw him executed.

Before her return, Bhutto, 32, had told interviewers in London that she would not launch a "frontal attack" on Zia's government. But, speaking at a massive rally in Lahore's old city tonight, Bhutto said that if Zia refused to step down and schedule new elections, "the people will pursue their own line of action."

The massive welcome—which many local residents judged the largest gathering in Lahore since Pakistan's formation—confirmed that Bhutto retains a powerful hold over a substantial segment of the population for which her father remains a political hero.

Inching through the often frantic crowds, her motorcade needed 10 hours to travel the eight miles from the airport to the rally. Bhutto supporters stripped the flowers from public gardens along the route to toss them at Bhutto's truck, at foreign correspondents and each other.

The crowd was sometimes euphoric but more often angry, chanting slogans against Zia and U.S. support for him, "America is the murderer of [Ali] Bhutto and Pakistan," they chanted.

At one point—amid a forest of red, green and black flags of Bhutto's Pakistan People's Party—a half dozen U.S. flags waved above the demonstrators before bursting into flame, one by one.

"We knew she would get the largest crowd," said Mohabbat Ali Dogar, a Lahore lawyer and a senior official of Prime Minister Mohammed Khan Junejo's Moslem League party. "She is very popular here in Punjab, and the government is keeping its hands off" the demonstration.

In 1977, Zia overthrew Ali Bhutto in a military coup and immediately declared martial law. Zia lifted the martial law last December as part of a controlled return to civilian rule.

With the encouragement of the Reagan administration, Zia last year held nonpartisan elections to a National Assembly—elections that Bhutto's party and other opposition groups boycotted as unfair. The elections gathered a respectable turnout, however, and produced a conservative assembly from which Zia appointed Prime Minister Junejo and a civilian Cabinet.

Bhutto's party and the 11 smaller members of the opposition Movement for the Restoration of Democracy have been permitted to resume political activities under civilian rule, but have insisted on new elections, which they say cannot be fair under Zia's authority.

Bhutto landed shortly after dawn at Lahore International Airport, where other flights were canceled, as riot police were deployed and barbed-wire barricades were set up to hold back thousands who had gathered overnight to greet her. Although the authorities had called in thousands of police from surrounding areas, they were kept out of view during the day in an attempt to avoid provoking the often hostile crowds.

During today's motorcade, the crowd's most consistent chant proclaimed, "Zia is a dog," and demonstrators laughed at a man who portrayed the Pakistani ruler by crawling along the street with a leash around his neck. Demonstrators shouted over the constant beat of drums and the chanting crowd to explain their anger.

"The reason we support Benazir is because Zia has brought us years of martial law and repression," shouted Parvaiz Gill, a Lahore veterinarian. Referring to the name Pakistan, which translates as "land of the pure," Gill said, "Zia has given us not a democratic Pakistan but his own Pseudostan."

"There have been no human rights under Zia's martial law," said Tariq Rahim, a university engineering student. "Zia claims to rule in the name of Islam, but his martial law is anti-Islamic."

During the motorcade, Bhutto showed neither the anger nor the euphoria of her supporters. Appearing self-conscious, she waved and saluted to the crowd with the same gestures her father once used, and periodically readjusted a scarf over her head when it slipped to her shoulders.

Arriving this evening at Lahore's independence monument to address the rally, Bhutto was nearly crushed among her supporters packed tightly around the podium. Angered at being pushed, she suddenly lashed out at a young man, shouting at him as she grabbed him by the hair and slapped him.

Her voice often shrill, Bhutto repeated a comparison she has made in recent weeks between Pakistan and the Philippines, whose people recently deposed an authoritarian president, Ferdinand Marcos. "Marcos had to run from the Philippines," she said, "and after this evening another dictator will have to run."

Bhutto declared that her massive welcome represented a popular referendum in Lahore against Zia.

Bhutto tried to reinforce her traditional appeal to many Pakistanis as the political successor to her father—and as a woman who, with her family, has suffered under Zia. She told of promising her father, in their last conversation before his execution, to pursue the populist political themes that made him almost a cult figure for many in this country.

The longstanding anti-American stance of the Bhutto party—beginning with Ali Bhutto, who accused the United States of engineering his downfall—was symbolized by a massive portrait, hung near the podium, that showed Bhutto clasping hands triumphantly with Libya's Col. Muammar Qaddafi. But in her speech, Benazir Bhutto left out the anti-American rhetoric of many of her supporters, and noted that she had visited both Washington and Moscow in the weeks before her return.

Responding largely to criticism from leftists in the opposition who suggested she might be coopted by the United States, Bhutto insisted that she held a balanced position between the two superpowers and had acted only "as the agent of the Pakistani people."●

THE EGYPT-ISRAEL TREATY, 7 YEARS LATER

● Mr. SIMON. Mr. President, recently our former Ambassador to Israel, Samuel W. Lewis, had an item in the New York Times that I think is important for Members of this body to read.

Since Egyptian-Israeli relations are not as completely cordial as we would

like, there are some who say that the whole Camp David process and the whole Egyptian-Israeli peace effort was meaningless or worse.

That sentiment is expressed sometimes by people here and sometimes by people in Israel and Egypt.

The reality is that things have not gone as well as we had hoped, but that agreement has totally changed the map of the Middle East.

The momentum prior to this agreement was in the direction of war. Now the momentum, however slow it is sometimes, is in the direction of peace.

Ambassador Lewis has made an important contribution to our understanding with this article, which I urge my colleagues to read, and I ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Mar. 23, 1986]

THE EGYPT-ISRAEL TREATY, 7 YEARS LATER

(By Samuel W. Lewis)

WASHINGTON.—Seven years have passed since that chilly afternoon in late March 1979 when a festive crowd gathered before the north portico of the White House to witness a historic drama—the signing of the first peace treaty between Israel and an Arab state. A new era was dawning, or so it seemed. The pageantry of peace-making silenced, for a heady moment, the doubts and fears of the skeptics.

Seven years later, the Egyptian-Israel peace treaty appears a lonely relic of shattered dreams. Anwar el-Sadat is gone, Menachem Begin in seclusion, Jimmy Carter far from power. Their successors do, on occasion, politely commend their achievement, but today's preoccupations lie elsewhere. In both Israel and Egypt, there is widespread disillusionment with the peace, though few in either country speak of overturning it.

Both President Hosni Mubarak and Prime Minister Shimon Peres—preoccupied with other matters, at home, in the Arab world and over the West Bank and Gaza—grope for some way to rekindle the warmth that has gone out of this peace. As yet, the results are meager, though negotiators still meet, and meet, and meet again.

Nonetheless, peace it is, in a tormented region where peace is rare and warfare and terror seem endemic. The largest, most populous, most powerful Arab state has an open border with Israel, which had never in its modern history seen its citizens crossing any of its land frontiers as simple tourists. Hundreds of thousands of Israelis have by now been photographed by the pyramids and befriended by anonymous Egyptians in coffee houses, hotels and homes. A thin trickle of Egyptians have in turn ventured to Tel Aviv, Jerusalem, Haifa—not many, but some.

Egypt's bustling Embassy in Tel Aviv is, after the United States mission, the largest, most active diplomatic establishment in Israel. The continued absence of an Egyptian ambassador, recalled in the wake of the Sabra and Shatila massacres near Beirut in September 1982, deeply rankles Israeli sensitivities. Yet Egypt's able charge d'affaires ranges far and wide among Jews and Arabs alike—on television, at academic conferences, in frequent meetings with senior Cabinet ministers.

Israel's Embassy in Cairo is much more isolated, prey to an unacknowledged near-boycott by Egyptian officialdom. Even so, Ambassador Moshe Sasson, fluent in Arabic, moves widely, with his staff, in unofficial Egyptian circles. The Israeli flag flies in Cairo and the Embassy plays an important role in analyzing the political, economic and social currents flowing alongside the Nile.

There is little trade, except in oil; Israel buys much of its energy from Egypt. There could and should be more trade if negotiations revivify some of the many now moribund normalization agreements of 1981 and 1982. The two economies are, however, scarcely complementary, and trade potential is limited.

The border is peaceful, yet watched carefully by a 3,000-man multinational force. Tourists cross it uneventfully by bus, taxi and car at two points, hampered only by outmoded Egyptian bureaucratic practices. A daily flight leapfrogs the intervening desert in one hour; the overland trip takes about eight. Today, the planes fly three-fourths empty, but they fly.

Disputes, misunderstandings, suspicions, random tragedies like the shooting last autumn of Israeli tourists in Sinai by a fanatical Egyptian policeman, unfulfilled promises, bitter media attacks—all continue to roil the peace. Just last week, terrorists killed two Israeli diplomats in Cairo and wounded others. Yet leaders reaffirm their fidelity to peace, exchange visits and encourage their negotiators to keep trying.

In truth, this "peace' is not much different from the kind of "peace" enjoyed by other nations around the world: colder than most, but warmer than many—India and Pakistan for instance, Greece and Turkey, or the United States and the Soviet Union. It is peace—a first for the region—and it is broadly supported by the common people of both countries who have lost too many sons in fruitless wars to want to fight again. And since it serves the basic interests of both nations, the treaty is a sturdy plant that will not easily be uprooted, even if icicles at times weigh it down.

Egypt's leaders sustain it for another reason: pride prohibits their admitting to Arab critics that Mr. Sadat's choice, to exchange peace for lost lands, might have been mistaken. Israel's leaders embrace it because it realizes a part of the Israelis' fervent dream—acceptance by its neighbors. And, of course, peace in the south frees energy to confront Syria in the north.

Why, then, the disillusionment?

For Israelis, the answer lies in the gap between the dream and the reality. Never having known any peace at all in the 31 years of existence that predated this treaty, Israelis naïvely imagined that peace would mean warmth and friendship, not merely the absence of war. Many subconsciously took the American-Canadian peace as the model. When reality was different, Israelis felt irrationally betrayed—and the idea of peace itself seemed diminished in value.

That disillusion has produced a damaging side-effect: The Israeli public is now less, not more, convinced that giving up strategic depth in territory is worth the risk—if the result is only a "cold peace," hardly more in reality than the de facto state of "nonbelligerency" that already exists on Israel's eastern border with Jordan. "Territory for peace" is a controversial slogan in Israeli politics at best—and the "cold peace" with Egypt makes it less attractive today.

For Egyptians, there has also been disillusionment. Mr. Sadat led them to believe that peace would help overcome their economic hardships, that a settlement of the Palestinian problem would follow, that the Arab world would copy Egypt's example and Egypt would regain its traditional place as Arab leader.

None of that occurred. Instead, a negotiating stalemate thwarted fulfillment of the part of the agreement intended to provide a transitional period of real autonomy for the West Bank and Gaza, while Israeli forces struck at the Iraqi nuclear reactor and the Palestine Liberation Organization in both Beirut and Tunis. Egyptian counsel was ignored in Jerusalem, and Egypt did not become a bridge between Israel and other Arab states. Most important, inexorable population growth and Arab economic sanctions left the Egyptian people still desperately poor and with decreasing hope.

Nevertheless, the peace stands intact after seven blustery years. It survived a vicious war in Lebanon and the Isaeli occupation of a great Arab capital. It withstands the strain of an unresolved border dispute over Taba, on the Red Sea, and endures Syrian and Libyan efforts to undermine it. It is not what was once dreamed of, but it is peace—real peace, buttressed by United States support for both nations.

In a region where peace has been determinedly elusive, the Egyptian-Israeli treaty is a mountain peak in a sea of sand. There is no stomach in either people to overturn it. And nothing will again be the same in the Middle East in its wake.●

SENATE JOINT RESOLUTION 226, WORLD HEALTH WEEK

● Mr. BINGAMAN. Mr. President, on March 27, 1986, Senate Joint Resolution 226, a resolution to designate the week of April 6, 1986, through April 12, 1986, as "World Health Week," and to designate April 7, 1986, as "World Health Day"—became Public Law 99-268. At this time I call this law to the attention of my colleagues and I commend Senator RIEGLE for sponsoring the measure.

World Health Week is a reminder to us all that the health of a nation depends on the health of its people. The United States accepts the principle stated in the constitution of the World Health Organization that by improving the health of Americans we contribute to world health, which in turn contributes to the health of our Nation. Countries of the world, acting through the World Health Organization, are committed to the goal of "Health for All by the Year 2000." This week we recognize that effort by designating a commemorative week and day to call attention to what individuals and governments can do to promote health. I strongly support this effort.

I am especially committed to improving the health of Americans through health promotion and disease prevention as a means to improve individual health. Becoming concerned with health promotion is justified because of the need for this country to become more productive and remain competitive in our global economy. Currently, we spend close to 11 percent of our gross national product on health care

costs. This expenditure drains our resources and should alert us to look toward prevention rather than treatment as a way to control rising health care costs. Health promotion and disease prevention must be an essential part of our strategy to develop a more productive and more competitive America.

As we recognize this week as "World Health Week" I hope we all are mindful of the continuing need for all Americans to lead healthier lives. We should also continue to be aware of the links between health care costs, health promotion, and our national competitiveness.●

INNA AND NAUM MEIMAN: A MIND IS A TERRIBLE THING TO WASTE

● Mr. SIMON. Mr. President, we, as Americans, are fortunate to be able to choose the profession we wish to pursue. In some cases, training takes months; in highly professional careers, we go through arduous years of training. When the training is finally complete and employment is obtained, we expect that we will be given ample equipment, staff, and supplies required to perform that job. In most cases, those expectations are met.

In the Soviet Union, however, a man named Naum Meiman sits at home, idle, deprived of professional contacts, despite his past years of brilliant work as a physicist. Although Naum is over 70, it is not his years that keep him from his work. It is the Soviet Government. Because Naum and Inna, his wife, have applied to leave the Soviet Union, the Government decided that the Meimans should be shunned by Soviet society at all levels. Naum was fired from his job.

Naum tries to work at home, but without constant interaction with his colleagues he cannot use his training as a physicist to contribute to the march of science. All Naum and Inna wish to do is to leave the Soviet Union to live quietly in Israel.

I urge the Soviet authorities to allow the Meimans to go to Israel.●

CAMPAIGN FINANCE REFORM

● Mr. BOREN. Mr. President, late last year, as the Senate adjourned at the end of the first session of the 99th Congress, we approved, S. 655, the Central States Low Level Radioactive Waste Compact, without final consideration of my amendment—cosponsored by 10 of our colleagues—dealing with campaign finance reform.

At that time, it was agreed that for the first couple of months of 1986, the Rules and Administration Committee would be given time to hold hearings in consideration of this legislation, as well as the bills sponsored by the Senator from Pennsylvania, Mr. HEINZ, and the Senator from Maryland, Mr. MATHIAS.

It was further understood, that because of the overwhelming vote of 84 to 7, not to table my bill, the Senate was clearly serious about campaign finance reform. Members of this body paid great verbal service to calling for reform of the campaign laws which govern the integrity of our democracy. Yet, out of a desire to have possible solutions carefully weighed through the committee process prior to floor action, the Senate then voted only to symbolically call for reform.

In an effort to keep debate completely open for others to add to and strengthen our bill, S. 1806, and in light of the importance of the committee process, I agreed to allow the Central States Compact to be approved by the Senate in return for an assurance of committee consideration and the right to have S. 655, which is now a shell of a bill, to remain on the Senate Calendar. Therefore, should a committee proposal not be reported in time for Senate and House action this year, we could bring S. 1806 back to the floor, as an amendment to S. 655.

Mr. President, let me commend the chairman of the Rules and Administration Committee for arranging a quick hearing upon the Senate's return in January. Another hearing was held 2 weeks ago, and hopefully, further action will take place very soon.

In light of the possibility that no committee recommendation may come forward, or if progress toward such a proposal is not apparent, I think it only fair that I advise my colleagues of my intention to again bring my legislation before the full Senate. I have contacted the majority leader to advise him of my intentions and to ask his assistance in bringing a proposal to the floor.

The seriousness of the problems in our election process are too severe to allow the passing of yet another election cycle. As I told my colleagues in December, I will push for this reform again, and again, and again, until the focus of the Senate is firmly set on this crisis of liberty.●

PC CLASS OF '61—A QUARTER CENTURY!

● Mr. PELL. Mr. President, I rise to offer congratulations to the class of 1961 at Providence College which this year is celebrating the 25th anniversary of graduation.

It was a quarter of a century ago that this group of talented young men, most of them residents of Rhode Island, left "PC"—as it is affectionately known in my State—to pursue careers, marry and raise families, and embark on a multitude of ventures and adventures.

For all of this they were admirably prepared by the fine education which Providence College and its Dominican Fathers have been providing to the young men and, in the last 15 years, women of my State since 1919.

And the members of this class have indeed distinguished themselves. They are among Rhode Island's most prominent attorneys, physicians, businessmen, educators, and public servants. And many of them are contributing significantly to other States to which they have moved since leaving Providence College.

I cannot help mentioning the fact that the year of their graduation has special meaning for me, for in January 1961 I was sworn in as a Member of this body. I remember that time as if it were yesterday. It was a time of great hope and excitement in our State and our country, the state of a new decade. And we were specially excited and challenged by a young President from a neighboring State who embodied so many of our hopes and dreams.

So, Mr. President, I congratulate these men and wish them a happy reunion, full of warm memories and renewed friendships. And I wish them and their families continued success and happiness in the years to come.●

ORDERS FOR MONDAY, APRIL 14, 1986

Mr. RUDMAN. Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in recess until the hour of 12 noon on Monday, April 14, 1986.

Further, I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senator HAWKINS, Senator PROXMIRE, Senator WEICKER, and Senator CRANSTON.

Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

PROGRAM

Mr. RUDMAN. Mr. President, at the conclusion of routine morning business, the Senate could turn to any of the following: the motion to proceed to S. 1774, the Hobbs Act; S. 1236, technical amendments to the crime bill; or any other legislative or executive calendar items that can be cleared for action.

I now ask my friend, the distinguished Democratic leader, if he has anything that he would like to address to the Chair or to the body before we call for a recess today on Friday.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his characteristic courtesy.

CONDOLENCES TO ALAN FRUMIN

Mr. BYRD. Mr. President, I wish to take this moment to extend my sincere condolences to Alan Frumin, the Senate's Assistant Parliamentarian, whose mother Nanette Frumin passed away yesterday.

Alan has been with the Parliamentarian's office since January 1977 and has from the beginning served the Senate in a courteous, thorough, and most able way. I am confident that I speak for all who know Alan, both Senators and staff alike, when I express our sympathies and say that our prayers go with Alan and his family in this their time of grief.

Mr. RUDMAN. Mr. President, I wish to thank the Democratic leader, certainly on behalf of everyone on this side of the aisle, for those sentiments.

ORDER OF PROCEDURE

Mr. RUDMAN. Mr. President, I understand there may be one item that is now ready to be brought to the floor that has been cleared. I am going to wait just a short time to see if that is accomplished. If not, I will ask that the Senate recess. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL MONDAY, APRIL 14, 1986

Mr. RUDMAN. Mr. President, there appears to be no further business to come before the Senate. Therefore, I move, in accordance with the previous order, that the Senate stand in recess until Monday, April 14, 1986, at 12 noon.

The motion was agreed to, and at 5:25 p.m., the Senate recessed until Monday, April 14, 1986, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 11, 1986:

DEPARTMENT OF THE TREASURY

J. Roger Mentz, of New Jersey, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF STATE

H. Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, class of Career Minister, to be an Assistant Secretary of State.

Otto J. Reich, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

Ronald S. Lauder, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Henry F. Schickling, of Pennsylvania, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988.

Carlos Salman, of Florida, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Marian Blank Horn, of Maryland, to be a judge of the U.S. Claims Court for a term of 15 years.

DEPARTMENT OF JUSTICE

Ralph D. Morgan, of Indiana, to be U.S. Marshal for the southern district of Indiana for the term of 4 years.

John R. Kendall, of Michigan, to be U.S. Marshal for the western district of Michigan for the term of 4 years.

Emery R. Jordan, of Maine, to be U.S. Marshal for the district of Maine for the term of 4 years.

K. William O'Connor, of Virginia, to be U.S. attorney for the district of Guam and concurrently U.S. attorney for the district of the Northern Mariana Islands for the term of 4 years.

DEPARTMENT OF COMMERCE

Donald W. Peterson, of Missouri, to be Deputy Commissioner of Patents and Trademarks.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. David K. Doyle, [redacted], age 54, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thurman D. Rodgers, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Nathaniel R. Thompson, Jr., [redacted], age 58, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Henry Doctor, Jr., [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert L. Moore, [redacted], age 55, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Lawrence F. Skibbie, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Peter G. Burbules, [redacted], U.S. Army.

IN THE MARINE CORPS

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John K. Davis, [redacted] U.S. Marine Corps.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Thomas R. Morgan, [redacted], U.S. Marine Corps.

IN THE AIR FORCE

Air Force nominations beginning Nina K. Rhoton, and ending Janet C. Flournoy, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Air Force nominations beginning Janet C. Flournoy, and ending Charles A. Culver, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Air Force nominations beginning Warren O. Abraham, and ending Laura M. Zukowski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Air Force nominations beginning Thomas E. Applegate, and ending Christopher M. Zahn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1986.

IN THE ARMY

Army nominations beginning Melvin Abercrombie, and ending Douglas B. Tesdahl, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 14, 1986.

Army nominations beginning Charles R. Savely, and ending Robert Russell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 27, 1986.

IN THE MARINE CORPS

Marine Corps nominations beginning Michael T. Barry, and ending Paul C. Schreck, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 14, 1986.

IN THE NAVY

Navy nominations beginning Michael S. Anisowicz, and ending Gale J. Wolff, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1986.

Navy nominations beginning Timothy Higgins, and ending David D. Buckley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1986.

Navy nominations beginning Jeffery J. Iovine, and ending Barry L. Hunter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 24, 1986.

Navy nominations beginning Kathryn K. Murray, and ending John F. Wilker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 26, 1986.