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Senate

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, Sovereign of this Nation and Lord of our Lives, You have blessed us to be a vital part of Your blessing to others. We commit this day to be sensitive to the needs of others around us. Show us the people who particularly need encouragement or affirmation. Give us exactly what we should say to give them a lift. Free us of preoccupation with ourselves and our own needs. Help us to remember that people will care about what we know when they know we care about them. May our countenance, words, and actions communicate our caring. Make us good listeners and enable us to hear what people are expressing beneath what they are saying. Most of all, remind us of the power of intercessory prayer. May we claim Your best for people as we pray for them. Especially we pray for those with whom we disagree on issues. Help us to see them not as enemies but as people who will help sharpen our edge. Lift us above petty attitudes or petulant gossip. Fill this Chamber with Your presence and our hearts with Your magnanimous attitude toward others.

Today, we remember William Ridgley, who joined the company of heaven this last Saturday. He started his Senate service on June 1, 1949, as a bookkeeper in the Senate Disbursing Office and rose through the ranks of the Disbursing Office, leaving as the Senate Financial Clerk after 28 years. We remember him with gratefulness and ask You to comfort his family. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Minnesota [Mr. GRAMS] is recognized.

Mr. GRAMS. Thank you very much, Mr. President.

SCHEDULE

Mr. GRAMS. Mr. President, today the Senate will conduct a period of morning business until the hour of 2 p.m. with Senator DASCHLE or his designee controlling the time from 12 until 1, and Senator COVERDELL or his designee controlling the time from 1 until 2 this afternoon. Following morning business, the Senate will then resume consideration of H.R. 3662, the Interior appropriations bill. There will be no rollcall votes during today's session, however, and the majority leader urges any Senator who intends to offer an amendment to this appropriations bill to offer and to debate the amendment today so that we may complete action on this legislation tomorrow. Any votes ordered on amendments today will occur beginning at 9:30 a.m. on Tuesday. Under a previous consent agreement, Senator BUMPERS will be recognized at 3 o'clock today in order to offer and debate his grazing fees amendment. It is the majority leader's hope that once Senator BUMPERS offers that amendment, we will be able to reach a reasonable time limitation for debate so that we may move on to other outstanding issues on the Interior appropriations bill.

Again, the majority leader asks for the cooperation of all colleagues as we continue to dispose of the remaining appropriations bills and hopes that Members will refrain from offering nongermane amendments that will only continue to delay passage of these spending measures as we approach the end of the fiscal year. We are also attempting to reach an agreement for consideration of the FAA reauthorization bill that would enable us to finish that legislation in a reasonable timeframe. There are also a number of other legislative matters we hope to consider prior to the Senate adjournment, including the Magnuson Act. And with the help of all Senators, we can reach time agreements to finish all these matters.

Finally, I would remind all Senators that the majority leader expects busy sessions for the remaining weeks, and Senators should plan their schedules accordingly. It will be difficult, if not impossible, to finish our Senate business on time if Members request no votes every evening because of other commitments. I thank all of my colleagues in advance for their cooperation.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 2 hours, with the time until 1 p.m. to be under the control of the Democratic leader, Mr. DASCHLE, and the time between 1 and 2 p.m. to be under the control of the Senator from Georgia, Mr. COVERDELL.

MEASURE PLACED ON THE CALENDAR—S. 2073

Mr. GRAMS. Mr. President, I understand that Senator NICKLES has a bill that is due for its second reading.

The PRESIDENT pro tempore. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2073) to require the District of Columbia to comply with the 5-year time limit for welfare recipients, to prohibit any future waiver of such limit, and for other purposes.

Mr. GRAMS. Mr. President, I object to further proceedings on the bill at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. GRAMS. Thank you, Mr. President.

Mr. President, I see no Senator on the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I realize this is the time that is under the control of the Democrats, but since there is no one here, I ask unanimous consent that I may proceed as in morning business for 6 or 7 minutes.

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

NATIONAL PARK SYSTEM

Mr. THOMAS. Mr. President, we are going to move, later today and tomorrow, to the Department of Interior appropriations bill which is very important to me and to my State of Wyoming. I wanted to talk just a couple of moments about something that is very important to me and very close to my heart. That is the National Park System.

Wyoming, of course, has two of what I think are the crown jewels of the Park System, the Teton National Park and Yellowstone National Park, as well as several others in our State. Selfishly, they are very important. But more than that, national parks are, I think, a part of our heritage. They are part of our past, they are part of our future, they are part of our economy, and something that I feel very strongly about. Of course, they are funded in the appropriations bill for the Department of Interior.

I spent a considerable amount of time in August in the parks, both Yellowstone and Teton. Part of the problem we talked about while I was there is a financial one. It is big business. Yellowstone National Park has an operating budget of somewhere over $20 million, and with other income, more than a $40 million budget. It is a large activity.

We will be talking in this appropriations bill about priorities. Mr. President, over time, the idea of priorities, the idea of funding, will become even more difficult. We will have to set those priorities. We will have to set priorities among land management agencies, Yellowstone Park and the Park System, the forest and the wilderness, the Fish and Wildlife Service and the BLM. All of these competed, frankly, for funding. So we have to talk about priorities.

Certainly my highest priority in that process is the National Park System. Part of it is my own personal history. I grew up just outside of Yellowstone Park between Cody and Yellowstone. So it has been part of my life.

The question, of course, is how we manage these parks. Frankly, we have some problems.

We have some problems short term and we have some problems, in my judgment, long term. A part of the short-term problem, of course, we will be facing today and tomorrow. But part of the longer term issues, I think, will be discussed over a period of time, and properly so, because there needs to be some fairly significant changes. Specifically, there is funding for Park Service operations, and in the Senate bill is $1.1 billion. The House is somewhat less than that. This will be about a $75 million increase over last year for the operations of the park. I support that. I hope that we maintain, when the bill is finally passed, the additional funds that the Senate has put in. This is a good first step to deal with some of the problems that we have. But it is a short term solution.

What are some of the other solutions? One of them is what was done last year in this appropriations bill, and done again this year, in terms of extending a pilot fee program. One of the ways that, obviously, we can deal with funding for parks is to do something about the fees. Yellowstone Park, I believe, is $10 per car per week. Compared to other recreational activities in this country, that is a very low price, one that has not been changed for a very long time, and one that we ought to take a look at.

We have an opportunity to do that now in the pilot fee program that was passed by the Congress, which allows the parks to take a look at their fees, to temporarily extend and increase these fees, if they want to, on a pilot basis, and to keep in the park some 80 percent of the increase. This has been one of the problems for parks like Yellowstone. Much of the revenue that comes in there doesn't stay there. It goes into the pot and is redistributed among all of the parks. So this gives an opportunity, on a pilot basis, to raise the fees, if that seems appropriate, and then to maintain these fees where they are collected—80 percent of them—in that particular park.

I think it is an excellent opportunity to do this as a pilot program. The problem is, they have had an opportunity—the Park Service—to do this now since early last winter and haven't done it yet. They haven't moved on this program yet. I am disappointed in that. It is not a function of the local parks. First of all, originally, 50 of them were designated to participate in this pilot program. Now the Senate has increased it to a hundred. None has been designated by the Park Service. On the other hand, the Forest Service and, I think, BLM both have already moved on this program and are making some progress with it. When we go to Yellowstone and talk about their needs, the park superintendent there is for it. I called the Director of the Park Service. He is for it, too, but it hasn't happened; it hasn't happened because the Secretary of the Interior hasn't authorized it. That is too bad because that is part of a demonstration, a short-term solution to this issue.

Now, I don't think that it's the long-term solution. There needs to be some other things done, some fairly major things. We have talked about them for some time. One of the problems, as you can imagine, is the continuing authorization of more and more Federal parks. Without a definition of what a Federal park really is, I have to suggest that I think a number of the parks that have been authorized in recent times have been parks that, under most circumstances, could just as well be State parks or local parks or community parks, but Members of this body and others want them to be national parks so they are paid for by the Federal Government. So now we have a $4 billion backlog in the service of taking care of facilities that need to be brought up current, but we continue to authorize more and more parks, without being able to fund the parks we have.

So that is one of the things that needs to be done, it seems to me—at least to develop a criterion as to what really qualifies as a national park, what characteristics ought to be involved to qualify as a national park.

Another is concession reform. For a long time, we have been seeking to do something about concessions. Now, the concessions are not there to fund the parks, necessarily; they are there to provide services for visitors. But it is true, I think, that we need to revise that. First of all, the concession contracts cannot be removed because we haven't passed a bill that does it. They are operating on a short-term basis. Second, there are instances in which the park should be receiving more money than they are from the concessions. Third, those concession funds probably ought to stay in those parks. That is another thing that we need to talk about and need to change.

Many of these changes are acceptable to the people who manage the park, but the Department hasn't moved, and indeed the Congress hasn't moved. There also, of course, needs to be some management changes, as well. GAO has done a study. One of the notable things was that the money that has gone to parks has not gone to the resources that the parks themselves say are the highest priority. That is one of the management problems that needs to be changed. When you set priorities in planning, then it seems to me the funding ought to coincide with those priorities. So there needs to be a lot of things done.

I am here to support national parks. I think they are a very, very important thing. I think they have a great future.

I think we, as citizens, are willing to pay some more, particularly if we are certain that the fees we pay in the particular park stay in that park to enhance the resources of the park that we like to see.

The other is that management, of course, is expected to be good. I think they should implement programs that give it the opportunity to do it, like the pilot program. We are going to need, over time, to continue to set priorities. I have argued from time to time that there is a difference in the public lands. Some of them, like parks and forests, have been withdrawn by the Federal Government for a purpose. There were unique characteristics, and they were withdrawn from the public domain because they are and were unique. Lands managed by the Bureau of Land Management were simply residual lands. Wyoming is 50 percent owned by the Federal Government. The State of the Senator from Idaho is more than that. Nevada is 87 percent owned by the Federal Government. Many of those lands were never withdrawn for a particular purpose. The parks were, the forests were, the wildernesses were. So we will have to set some priorities, over time, on that.

So, Mr. President, I appreciate the opportunity to talk just a little bit about something I think is very important, and to encourage that the funding for operations of parks, which is in this bill we will be considering, ought to be maintained, despite the fact that the House is somewhat lower. I think that is a move toward the short-term resolution, and then I hope that my associates and I can work toward resolving some of the longer-term solutions over the next 2, 3 years, so that we can make these national parks, cultural institutions, fiscally sound.

Mr. President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, what is the business of the Senate at this moment?

The PRESIDING OFFICER. We are currently in morning business, under the control of Senator DASCHLE until 1 o'clock, and under the control of the Republicans until 2 o'clock.

Mr. CRAIG. I ask unanimous consent to speak for 5 minutes in morning business.

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

A MESSAGE FROM THE WEST

Mr. CRAIG. Mr. President, with my colleague from Wyoming just having spoken, one would think it is ''Western day'' on the floor of the U.S. Senate, especially when I choose to come to the floor this morning also to speak about Western public lands issues.

Certainly, the issue of national parks, in which the Senator from Wyoming is so knowledgeable, is not just a Western issue; it is clearly a national issue, with national parks spanning the length and breath of our country.

I come to visit about an issue that has been in the skies of the West all summer. It doesn't happen to be there at this moment. As I flew out of Idaho this weekend after a rainstorm, the sky was clear. But for well over 2 months this summer, up until this weekend, Western skies have not been clear. They have been filled with smoke.

If you had flown over Idaho or nearly any part of the West as I have many times this summer, you would have been convinced that the West truly was on fire. In many instances, that was true. Our Western forests and rangelands have burned again at an unprecedented rate this summer. Smoke from extensive wildfires invaded our cities. It damaged tourism, it caused health problems, and homes adjacent to the public lands were in jeopardy and many burned as a result of the high incident of wildfires.

I know that you and others have seen this on television, it was talked about oftentimes on national television and in the newspapers through the course of the summer. Wildfires were regular occurrences on nightly news shows in the West in States like Oregon or Idaho or California or Arizona or New Mexico or Montana or Wyoming or in places in Utah.

Tragically, what we heard this summer has become a regular occurrence which we in the West have had to endure. Nearly every 2 years, it seems, since 1988, the frequency and intensity of fire has gone well beyond the historic norm. Its genesis is the increasingly poor health of our public forests and the fuel buildup from millions of acres of dead and dying trees and unforaged, or in other words, nongrazed, grasslands of the West. It is a problem that we could do something about in this Congress and as Americans if we chose to do so.

These fires are destroying our resources, trying our patience and exhausting our financial ability to suppress them. This year another record will be set with more than 6 million acres burned, in excess of the record set only 2 years ago, and before that, in 1988. In fact, this is the largest amount of acres burned in a single year since 1967.

Firefighting forces started the year with over $400 million of debt, and the deficit continues to pile up as more and more Federal personnel and equipment are thrown into this battle against wildfire.

The Knutson-Vandenburg, known as the KV, fund has been the handy source from which we have borrowed hundreds of millions of dollars to pay for emergency firefighting costs, and it is now broke. There is no money in the fund. KV moneys are collected from timber sale revenues specifically to replant and regenerate public forests with new seedings. Because the borrowed money has not been replaced, the tree planting programs are now in jeopardy.

In other words, what we are doing is we are borrowing all of the money to fight fires, but we are not putting the money back, so there is no money to replant the forests.

Tragically enough, there are some folks out there who say, ''Oh, well, this is Mother Nature; let it be.'' I am one of those who cannot agree with that, and I think most of our colleagues cannot, and certainly the citizens of the West cannot.

My question to my colleagues is simple: How long can we ignore what is happening in our western forests? If that smoke were blowing through the urban canyons of the eastern cities, how long would the public put up with it before demanding action from their Representatives in Congress?

I have offered a long-term, broad-based solution with my legislation to restore forest health. We have a chance to pass that legislation. It is S. 391, which was approved by the Energy and Natural Resources Committee in June; but it has been hung up in politics, politics, and environmental politics that have no basis in science and no understanding of the tragedy that our western national forests are experiencing today. It is simply the politics of politics that has stopped efforts to deal with forest health, and I ask that you help me to change that, because we should be addressing the crisis that exists, and will continue to exist, in the western forests.

I have stood in this Chamber to sustain the temporary emergency salvage law which is critical to our short-term needs from the 1994 fires. And, yes, I have heard some people claim that there is no emergency.

If that is true, they were not listening to the nightly news this summer, or they were not listening in Idaho or Oregon or Washington or Montana or Wyoming or Utah or Arizona or California or New Mexico. They are simply ignoring the fact, or they are being lulled to sleep by the symphony of environmental voices that would only argue that this is Mother Nature at her finest.

There is an emergency. A critical emergency. But in most people's minds it is not an emergency until the fire starts and is roaring up the mountainside and threatening their own town. Then it becomes an emergency overnight, and all of the resources of the State and Federal Government, including the Army and the Marines, are brought into the fight. Oregon's Governor, in fact, this year declared a state of emergency because of the fires roaring across the State of Oregon.

Would it not make more sense to take preventive actions before the crisis starts? Of course that makes sense, but then again it is not politically correct right now to make sense about the idea of managing our forests if man is involved in that management. It makes better sense for some to argue that you simply lock them up and let Mother Nature do her thing. Well, Mother Nature was doing her thing this summer,

and she burned well over 6 million acres of land, land whose forests will now take decades and sometimes generations to restore or replace themselves.

First of all, we must permit active management of these forests. We must reduce forest fuels to restrict the size of the fires and cool their intensity. Some scratch their heads and say, ''What are you talking about, Senator? Fires are hot.''

That is right, but some fires are hotter than others. And when you have phenomenal fuel buildup of the kind we have seen because of the dead and dying trees on these forest floors, and ignored because of the absence of management, these fires are intensively hotter than the normal fires that oftentimes amble through a forest burning shrubbery but not destroying and killing the trees. Those normal fires are the fires of Mother Nature of decades ago, those are the fires that periodically cleansed our forests. But these cleansing fires were not the fires of the summer of 1996.

Would it not make more sense to take the preventive action that I am talking about? Of course, we could do that. First we must permit, as I have mentioned, the active management of our forests. We must reduce the fuels. One needed activity is salvage timber removal, and my guess is we will be back on this floor later this year, and probably the first of next year, asking for flexibility to do salvage on some of these 6 million burned acres. There will be Senators on this floor who will say, ''But environmental groups do not want this; it would be destructive.'' And so we would let hundreds of millions of dollars in trees then rot and wash away, and we would not replenish our funds to replant and regenerate our forests. For the life of me, I cannot understand how that is good business, good environmental business, good economic business, for that matter, or just good management. It is, in fact, poor management, poor management at its very worst.

Let me close by asking the cooperation of the Senate, whether it is the passage of my forest health legislation or whether it is just the simple awakening to the situation that exists in the western forests of today, a situation that is largely our doing, largely our doing because we have been so good at putting out fires over the last 30 years that we have now created the circumstance which creates the extraordinary, the unusual, the dramatic fires that we saw in the West this summer.

So I hope that we recognize an emergency exists, and if we created it, we ought to be able to manage it. The science of forestry today argues that we can, but it is not a science of ignorance or a science of turning your back. It is a science that demands the kind of active management that the U.S. Forest Service and its professionals know how to use, if they would only be allowed to do so.

Frankly, it is not the science of this administration, which has passively ignored the problem because of the pressure placed upon them by certain environmental groups to do nothing and walk away. In Idaho and the rest of the Western States over the next decade, doing nothing and walking away will simply create another summer of 1996 over and over again. Millions of acres will be burned, houses and private property will be lost, and the debt will mount, a debt that the public owes for fighting these fires in an effort to save the resource and save private lands and private resources. We can avoid this. We can avoid this by wise and responsible management.

I yield back the remainder of my time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, what is the time situation and the procedure situation?

The PRESIDING OFFICER. The pending business right now is we are in morning business until 2 o'clock; between 12 and 1 it is under the control of Senator DASCHLE, and then, from 1 until 2 o'clock, morning business will be under the control of Republicans.

Mr. SIMPSON. With that, Mr. President, and a thank you to my friend from Montana, Senator BURNS, because I will take a few minutes, and then perhaps 5 minutes of the time under our administration will go to him. I will not take 15; I may take 7—maybe.

Mr. BURNS. You can take as much as you want.

Mr. SIMPSON. Mr. President, that was a noble comment from my friend from Montana. Absolutely the generosity matches only his magnanimous smile, and I love it. I will just continue now for an hour and 40—no, excuse me. That just slipped. It slipped away for a moment. That is the trouble with me, Mr. President. I take my work seriously but not myself. That can get you in a lot of difficulty in life, but that is still the best way to fly.

Mr. BURNS. I thank my colleague.

ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. SIMPSON. Mr. President, I want to speak on the issue of illegal immigration. Not legal immigration; that issue is not before this body. I know how to legislate. It was very clear this body did not wish to deal with legal immigration. That will be for others who come after me, Democrats and Republicans alike, to deal with that very tough issue. But, on Wednesday of last week, the House appointed conferees to the conference on the immigration bill, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. That is legislation that passed both Houses of the Congress by overwhelming margins. There were only three votes against this very popular bill in the Senate. I think the vote was 97 to 3. The House version passed by a vote of 333 to 87.

Our fine majority leader and the House majority leader have each stated that passing immigration reform legislation in this Congress is a priority. Senator Bob Dole, a man for whom I have the richest admiration and respect—I served as his assistant—was always a very strong supporter of responsible immigration reform issues, all such measures, and candidate Dole has always expressed his support for the present illegal immigration control bill.

The conference committee will meet this week, but already we are hearing about a plan now to filibuster the conference report here in the Senate. We all received a letter, of course, from the President, explicitly threatening a veto. That is common knowledge. His reason is clear to him and clear to many others, and that is the so-called Gallegly amendment.

But I would refresh and remind my colleagues why this legislation received such strong bipartisan support in both Houses.

This legislation is to strengthen the border enforcement by nearly doubling the size of the Border Patrol.

It will ensure that aliens who commit serious crimes are detained upon their release from prison until they can be deported, and then they will be deported under expedited procedures.

It will provide prompt decisions for those who apply for asylum and ensure that those who genuinely fear persecution at home can remain here.

It will create an expedited removal process, so that those who seek to enter the United States surreptitiously or with fraudulent documents can be promptly deported and not allowed to stay here for years while pursuing various frivolous appeals at all levels and in all forums, administrative and judicial.

It will ensure that the sponsor and not the U.S. taxpayer will be primarily responsible for providing financial support to new immigrants in need.

And it will provide for voluntary pilot programs on systems to enable employers and welfare providers more reliably to identify those who are eligible to work or to receive benefits in this country.

The most controversial portion of the bill, of course, the one that gave rise to the veto threat and the filibuster plan caper, is the so-called Gallegly amendment, which authorizes the States to decide whether or not to provide a free public education to illegal persons, illegal aliens—a proposal which in its

present form is presented to the conferees as including some rather extensive changes to that provision. Some say it does not matter what you do to that provision, it is not appropriate. That may assuredly be so, and yet that is called legislating and it is about discussing and amending.

So it is now worded so that at least those who are opposed to any form of illegal immigration reform are not now able to say that we are ''kicking schoolchildren out into the streets.'' No one I know is interested in ''kicking children out into the streets.'' I certainly am not, and I have always had some serious problems with regard to aspects of the Gallegly amendment, but if that is what is to be in this conference report in this form, in its amended form, then it is certainly acceptable to me.

The proposal contains generous ''grandfathering'' provisions for those students now in school. They will be permitted to continue their education in the elementary or secondary school in which they are now enrolled at no charge. If they wish to change school districts in the same State or advance from elementary to secondary school, they may do so upon paying tuition, or a fee equal to the actual cost that others who are citizens pay within that district for their education.

Furthermore, the proposed change will ensure that unless the Congress is given an opportunity to vote on repealing this provision in 30 months, the provision will sunset—be gone. At the end of the 60 months, if a bill to repeal the measures is introduced there must be a vote within 90 days or the provision will sunset—be gone.

Those changes to moderate the provision were negotiated by Senators HATCH and SPECTER. They represent, obviously, substantial modifications to the elements that were there originally that were apparently the most objectionable. I believe they might be sufficient to make the bill acceptable to those who truly want illegal immigration control legislation.

But there are some very disappointing signals, I share with my colleagues, some very disappointing signals from the Dole campaign. I think that my fine leader, who I served as assistant for those 10 years—a most wonderfully decent man—is being ill-served on this issue. If what I read in the papers and hear through the media is true, and those who know me please believe that it is, indeed, always taken with a huge grain of salt by me as to what is in the media—indeed, that will always be so, hopefully—but I am informed he is being advised by those who advise these people who choose to submit themselves to seek the role of the Office of Presidency—that he is being advised simply to let the bill die. And the reason for that, apparently, is so, as I gather it, that the President will not have a Rose Garden ceremony with regard to illegal immigration; that apparently because the President had a Rose Garden ceremony with regard to welfare reform and with regard to health care and with regard to, I guess, anything else that he signs, that somehow this then cripples the effort of my friend, Bob Dole.

Thus it is rather extraordinary to me that those on my side of the aisle often accuse this administration of cynical politics and yet I can't imagine anything more cynical than not signing an illegal immigration bill or working for its passage—something that was passed by such overwhelming margins—on the basis that it is simply going to ''help the incumbent'' turning our backs on the singular issue that is reflected in polls across the country for years, and that is to ''do something'' about illegal immigration.

There is and always has been overwhelming public support for measures to reduce illegal immigration. Both candidate Dole and President Clinton have stated their support for illegal immigration control legislation. I say to my colleagues, it is in the national interest to achieve control over our borders, to achieve control over illegal immigration and the misuse of our most generous public support and welfare programs that so burden the taxpayers of this country.

When we have 60 percent of the live births in a certain hospital in California attributed to illegal undocumented mothers who then give birth to a U.S. citizen; when we have people who are minorities who go to seek public support because they need it and are then told that the cupboard is bare because it has all gone to illegal, undocumented persons, that stirs people up. They don't like it, and it really shouldn't be the guiding policy of anything we do here, but it is the way it is.

So I just say, apparently the scenario is this now. I gather in my wisdom: Pass the bill in the House with the Gallegly amendment, which will be adopted; send it over here, and then it will be filibustered by those who do not like the Gallegly amendment. I guess they think all of those people are Democrats. And then we will point our bony fingers at all the Democrats and say, ''They brought down illegal immigration.''

That is childish logic, because there are at least 10 to 12 Republicans in this body who do not like the Gallegly amendment in any form and who will assist in the filibuster. So if anybody thinks it is just going to be a wonderful roundelay over here of Democrats filibustering an illegal immigration bill and then we pointing the bony fickle finger of fate at those who destroyed the issue. No.

So, I guess that is where we are. We will pull the bill down and try to blame it on the Democrats and go home. Clever, not, because as I say, there are at least 10 to 12 Republicans who will join in that filibuster. Go home in October and tell voters a Republican Congress did nothing about illegal immigration in an election year.

Then we also heard, ''Well, if we just send it to President Clinton and he vetoes it, we will win California.'' I never went for that scenario. I think that is about as boneheaded as you can get, too. But when they are telling us that my dear friend, Bob Dole, should do nothing and nothing should happen, and that is going to help Bob Dole, I must say I have purely missed out on most of the trickery and cynicism of the campaign, because there are many on our side who will have nothing to do with the Gallegly amendment. Not me, for I am ready to do the modified version.

So what the public will see is a distorted figure of my friend, Bob Dole. We have had enough of those. Ten years as his assistant, I know him well. He will win the Presidency of the United States if the people of the United States come to know him as well as I do and as well as we do here, as well as my friend from Montana knows him, and he surely does, as well as the occupant of the chair.

Each and every week for the past 2 years, Bob Dole has said to me, ''When will we have an immigration bill, AL?'' And now we have one. Now we have people pulling at Bob Dole, mewling, puling, mumbling issuing from staff and others. He is being ill-served if he is led to believe that it is not a priority issue. And if California is in the balance, as we say in politics, by doing nothing, someone will have cut the tightrope wire for one great and decent man, my friend Bob Dole.

So perhaps we can move on now with the national interest. There is no one who expresses it more in its most honest form than that most wonderfully decent and capable man, Bob Dole. We shall see how it plays out.

I thank the Chair.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, parliamentary inquiry. It is my understanding that the hour from 1 to 2 p.m. is under my control and/or my designee; is that correct?

The PRESIDING OFFICER. The Senator from Georgia is correct. We are in morning business until 2 o'clock, and from 1 to 2 o'clock is under the control of the Senator from Georgia.

Mr. COVERDELL. Thank you, Mr. President.

CRIME IN AMERICA

Mr. COVERDELL. Mr. President, as most people know now, over the weekend, our former Senate majority leader announced in very broad, very specific, very forceful terms his plan to come to grips with a surging, raging crime wave in the United States.

All the data that I have seen over the last several years have indicated that crime, drugs, and the related two, are at the top or near the top over and over of grave concern on the part of American citizens. And well they should be,

because at least the first premise of Government is to protect the persons and property and citizens of the United States.

You cannot separate drugs from crime. Today, of the 80 percent of the 35,000 prisoners that are incarcerated in my State, they are there in prison from drug-related actions. As our attorney general, Attorney General Bowers, has said over and over again in Georgia, you can no longer separate the two. We are in the midst of a new drug epidemic; therefore, we will be in the midst of a surging crime epidemic.

There is no way to fully document the ill-effect that the drug epidemic, drug-related crimes have done to the citizens of our country, and in the cost of lives, personal property. It is stunning data any time you look at it. It just begs for leadership to come forward.

Over the weekend, Senator Dole said that if he were elected President, he would cut teen drug use in half. What does that mean? That means that two million youngsters would not be using drugs, when he is successful, that are today. I can not think of a more important commitment to make to America than to turn the drug war back on and to put the warning out to families and churches and business leadership across our country that we would have an administration that is going to be highly focused on drug use among teenagers.

As we all know now, drug use among teenagers has doubled in the last 36 months. It has gone up 33 percent in the last 12 months alone. And, in addition to the broad tragedies that we suffer by those individuals who have been ensnared in the drug epidemic, there will be hundreds and hundreds of families, in each case, that are caught up by the reaction to drug use and the crime that it festers.

We have the distinguished Senator from Montana who has joined us here this afternoon. I know he has had a long interest in the issue of crime and its impact on America. I yield up to 7 minutes to the Senator from Montana on this subject.

Mr. BURNS. I cannot have the rest of that?

Mr. COVERDELL. We will amend that as needed.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Montana.

Mr. BURNS. I thank the Chair, and I thank my good friend from Georgia.

We have just got in some interesting figures from Montana. I guess that is why some of us are very concerned about this, not only from a political standpoint—this is the season, and nobody can lift that out of this, out of the element of debate—but if you ask Americans today, ''Do you feel safer than you did 4 years ago,'' we hear an overwhelming, ''No.'' People are feeling threatened more and more in society. I think it comes from this old mindset of ''only obey the laws you agree with.'' It is a mindset.

Just in my State of Montana, violent crime has gone up 8 percent last year, and overall crime has gone up 16 percent since 1994. That concerns me because we are a small State. We are known as a State with hardly any crime, but there was a murder every 10 days last year—that concerns me—a rape every 38 hours; a robbery every 34.5 hours; property crime occurred every 13 minutes; and burglaries happened at a rate of 1 every 2 hours. That sort of concerns me a little bit.

Before I had the opportunity to serve here in the U.S. Senate, I served on the board of county commissioners in Yellowstone County. We built a new jail facility and went through that process of detention centers, and we also received a very nice award for a youth detention center. I was convinced, as we went through that process, that somewhere in this crime prevention, or how we deal with crime, there has to be some common sense injected in here.

We know that we cannot outbuild the criminal element to just lock up everybody. So we have to find ways not only to deter—one of them is not getting on television and having a low disregard for the laws of the land. You know, as adults, we teach our youth every day, some days we even use words. But that concerns me more than anything else because I have a young son, I have a daughter who will graduate from medical school next year, and they are concerned about crime and crime among the young people.

When we take a look at what we did in Yellowstone County in a youth detention center, I think we have to work with States, because the real violent offenders in crime, I don't think we can do much but just hold down on them and keep them in confinement. I think we should work to abolish the very liberal parole rules that some States have. I do not think there is anything wrong—and why should it be wrong—to require drug testing for those under supervision in the criminal justice system.

I ask the American people why it is wrong to establish a registry for the release of violent sex offenders, the Megan's law. I see no reason why we should not move forward on that. And child pornography, we have to move on that. But juvenile crime worries me more than anything else, because I guess I got into politics because of youth. I have sort of a soft spot in my heart for them.

I have worked very much with 4–H groups and FFA groups, and those are kinds of groups—can you imagine any other kind of group than the Future Farmers of America where you can pour 31,000 of them, with those blue jackets, in downtown Kansas City, and you never have to put an extra cop on the beat? We need to be promoting those kinds of youth groups that espouse their way of thinking and the way they act. I know every Senator in this body gets calls from their local FFA chapters across this country.

So we have to do some things that deter crime. We have to promote those groups and organizations that do have their values in the right place. We have to ask some of the hard questions. But some of them are going to have to have common sense, too. The alarming increase of teen drug use, marijuana use, between 12- and 17-year-olds has increased some 200 percent in the last 2 years—200 percent. Why? We had it going down for a while. We had it going down by just one little statement from the First Lady in the White House, who said, ''Just say no.'' We need to help them say no; and when they say no, stick by them. That is what we have to look at. It is concerning to me that we would look at it any other way.

Do we want to prosecute juveniles as adults for adult crime? Maybe sometimes. Maybe we should use some common sense there and provide past criminal records for juveniles in sentencing. There is nothing wrong with that.

We came a long way in attacking the root cause of crime and drugs in the inner city a few short weeks ago when we passed the welfare reform bill. It deals with dependency and illegitimacy in ways that have never been tried before. It is a big step in the right direction, and yet the job is not over.

When we take a look at what is ahead of us, we have to start appointing judges that interpret the law—do not make the law, interpret the law. The elected officials of this country make the laws. Judges interpret them. We need to start appointing Federal marshals and prosecutors that want to prosecute drug dealers and child pornographers rather than making excuses for them that they were just victims of society. If there has ever been a cop-out in America, it is some psychologist or some person who is saying, ''Well, they're victims of society, and leniency should be shown.'' That is a one-way ticket down the drain for this country, when we start making excuses for people who knowingly break the law.

Let us take another end of it—victims' rights. I think we ought to have an amendment to the Constitution. Victims have to have some rights. All the rights are not with the felon. It is time to reform the court system, limit appeals, and punish criminals quickly. Keep violent criminals behind bars so they cannot commit more crime. It is time to stop these election-year games and take a stand for what is right. We should just do what is right.

I was in Illinois on Saturday for my friend Bob Dole. How many mothers did I talk to that are concerned—they have teenagers in high school in rural areas. Where they have never had problems before, they are coming up with these problems and saying there has to be a more liberal way of dealing with discipline and all those elements.

I imagine most of us who serve in this body, when we were in school, if you got a licking in school, you got one when you went home. They did not ask

why you got a licking. They did not even ask. My dad did not even ask whether I was right or wrong. The fact is you got a licking, and if you warranted one there, you warranted one here. There was a time I was a victim of society. There was a time when the whole world was against me and I was that victim. I do not think it hurt very many of us.

I want to say one word. Not only can we do something here, but we adults, like I said a while ago, we teach every day. Some days we even use words. We are going to have to get on the ground with these young people and we are going to show them they have support to do the right thing, not the wrong thing. It has to be done here. It has to be done across our Nation, and, yes, the national leaders have to set the example. I am asking America, what kind of example are we setting?

I yield back my time.

Mr. COVERDELL. I thank the Senator from Montana. I think he would agree with me that this five-point plan where Senator Dole pledges to cut teenage drug use in half—by 50 percent—to end revolving door justice, to hold violent juveniles accountable for their actions, to make prisoners work, and to keep guns out of the hands of criminals is exactly the prescription to get at the tone and the issues that the Senator from Montana alluded to.

Mr. President, we have been joined by the senior Senator from Mississippi, a long and loyal colleague of our former Senate majority leader. I yield up to 10 minutes to the Senator from Mississippi on this matter.

Mr. COCHRAN. Mr. President, I thank my friend and colleague from Georgia for yielding me this time. I join him in commending the distinguished Senator from Montana for his remarks.

Our former colleague has proposed a very important new plan to deal with what has to be the most serious challenge that our governments—Federal, State, and local—face today, the epidemic of crime and violence in our society.

This plan has meat to it. It has substance to it. It is thoughtful. If we will embrace it and join Bob Dole in seeing that it is enacted and administered in the way it is proposed, I think we will get results. It is time we turned the country around, turned the country around from ever-increasing drug abuse and violent crime to an era when people assume responsibilities for their own actions and they are held accountable for their own actions, whatever their age, and that they are treated in a way that deters action in the future that is a menace to innocent society members.

In our society we have a number of efforts that are underway to try to deal with the core problems. There is a wonderful program called Character Counts. In Ocean Springs, MS, during the week of October 13–19, the schools will have special programs to observe the importance of good character in not only students, but faculty, administration officials, and the communities at large across America. We need to restore America to the place where we have been looked up to as an example for the rest of the world in terms of community spirit, recognition of what is right and wrong, a country that stands for democracy and principles of freedom that have been an inspiration to many countries all over the world.

What this program suggests is there are six essential elements or core pillars to good character: trustworthiness, respect, responsibility, caring, citizenship, and fairness. These are important and indispensable individual traits if we are to have a successful, free society. It is on that basis and on that premise that I think Bob Dole establishes this five-point plan of action. An essential part of this is holding juveniles accountable for drug abuse, for criminal acts, and for other violations that put the safety and security of others in jeopardy.

Something has to be done about it. Something is being done about it, but not enough. We need to do better. We need stronger leadership, a better example of leadership at the top. That is a part of this, too. An example is that we have seen the abuse of drugs go up by 105 percent for teenagers between the ages of 12–17 from 1992 to 1995. Before that time, drug use was going in the other direction. It was going down. Now it has turned and is going up again. We have to ask why.

What does this lead to? A third of all juvenile criminals are under the influence of drugs at the time of their criminal offense. That is what happens. There are consequences for everybody for the failure to exert good, commonsense, strong, committed leadership in this area.

I traveled one day with the sheriff of Hinds County, MS. He told me, as we looked firsthand at some of the problems in the largest populated county in my State, he said public enemy No. 1 in the State of Mississippi is crack cocaine. I am sure that is the case in many, many, other towns and communities and cities throughout this country. What do we do? We have a White House that cut the programs to deal with this. They cut the Office of Drug Control Policy by 83 percent. They cut the number of drug agents. The U.S. attorneys used to be challenged by the President and the Attorney General to do something about those who are committing offenses with guns. There was an Operation Triggerlock, you remember, an effort to go out on the streets and get those who are using guns to commit violent acts and crimes and lock them up, put an end to it. Take the guns away from them.

What is being done now? The arrests for that kind of behavior are down considerably in this administration. I think we need to turn it around. I think the five-point program Bob Dole has recommended is just what we need. We need to make the fight against drugs a top national priority again. We need to support his effort to create 1,000 new community-based antidrug coalitions.

There is another part of this plan that strikes me as being very important. We need to have the Federal Government assisting, supporting, helping States and local communities deal with this problem, not imposing arbitrary new, hard-to-follow regulations that are expensive, that make it more difficult to operate prisons, that do a variety of things that really undercut the efforts being made by law enforcement at the State and local level.

He suggests that we assist the States in keeping violent criminals behind bars completing their sentences.

There is another part—holding juveniles accountable for their actions. The distinguished Senator from Georgia mentioned that. Youth violence is on the rise. Mr. President, 35 percent of all violent crimes are committed by those who are younger than 20 years of age. What Bob Dole is recommending and what we are suggesting is a good idea is to revise the Federal juvenile justice system to hold juveniles accountable.

The Senator from Tennessee, FRED THOMPSON, is chairman of the Juvenile Justice Subcommittee here in the Senate. He recommended a new approach to try to find out what programs at the local level are working, support them with Federal assistance and initiatives that reward those for following these paths and these new procedures, and to do something about those who commit crimes as juveniles; consider treating them as adults in certain circumstances. No longer coddle the juvenile just because he is younger, because some are more dangerous than adults. That is what has been overlooked.

This administration has done absolutely nothing about that, absolutely nothing. The program that he is suggesting will authorize new funds to assist in the investigation and apprehension of juvenile offenders, collect and distribute juvenile records to help better deal with this problem, and authorize new funds to be spent on prevention programs that involve parents and community based groups.

That example I cited a while ago, the Character Counts Program, is a good example of something that could be done on the prevention side. We are not talking about punishing everybody in an arbitrary or cruel way. We are talking about a balanced approach to doing something more likely to be successful in this area. One thing that I am convinced Bob Dole will do, in accordance with the plan that he proposed, is that he will end the interference by Federal judges and Federal agencies into the proper administration of State prisons. It is about time.

There is also a part of the program that deals with keeping guns out of the hands of criminals. We have heard about the National Instant Check Program. We had that as part of the crime

bill. He wants to make it a top priority in order to prevent criminals from purchasing any type of gun. There is a procedure for it. He will, as President, instruct the Attorney General to target violent crime by making maximum use of Federal law to get dangerous gun using criminals off the streets and into prison. That is reminiscent of Operation Triggerlock—I assume that is exactly what we will have reinstituted again—which has been abandoned and turned down and discontinued by this President. There was an emphasis on the U.S. attorneys going after those who commit crimes using guns. There has been a noticeable dropoff in prosecutions for those crimes by this administration.

In conclusion, what does this action plan do? It provides a sound, sensible, thoughtful blueprint for coordinated Federal and State efforts to combat violent crime and reverse the current trends in the use of drugs that have led to so much violence in our society.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I thank the senior Senator from Mississippi very much for coming forward and speaking to this critical issue of crime and the tragedy it is causing across our country, and for highlighting these very targeted suggestions that we now have from Senator Dole to get at this core problem. I appreciate very much the Senator's remarks here this afternoon.

Senator JOHNSTON from Louisiana has just come on the floor. He has a very distinguished guest.

I yield 2 minutes to Senator JOHNSTON for the purpose of this introduction.

VISIT TO THE SENATE BY HIS EXCELLENCY JASSUM MOH'D ALOWN, KUWAIT MINISTER OF ENERGY

Mr. JOHNSTON. Mr. President, I have the high honor of introducing to my colleagues here in the United States Senate the distinguished minister of energy from the country of Kuwait, His Excellency Jassum Moh'd Al-Own, who happens also to be a Member of the Parliament of Kuwait.

This is a very important time between our two countries. We have sealed the friendship between our two countries in battle, and that friendship persists, and will persist as long as there is a Kuwait and as long as there is a United States, which will be for many centuries, we all hope.

So, Mr. President, with a great deal of pleasure, I introduce to my colleagues the distinguished Minister of energy from Kuwait. [Applause.]

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

CRIME IN AMERICA

Mr. COVERDELL. Mr. President, undoubtedly, Senator Dole's emphasis on taking crime head-on is an outgrowth of a circumstance over the last 3 years that has just turned sour on us. It has been alluded to, but I want to cite some of the facts that have developed in the last 36 months.

First of all, I want to make it clear that there can be no doubt about it that, in the last 36 months, the United States has found itself, once again, in a massive drug epidemic. It is fueling and will continue to fuel crime. Just to cite this, in the last 36 months, marijuana use is up 105 percent, LSD is up 130 percent, cocaine up 160 percent. Somebody in the administration suggested that, actually, drug use is down. I have no idea where that data is coming from, but it must be a single source, because every other source has documented that drugs were up in virtually every category. The sad thing, Mr. President, is that they are kids.

In the last epidemic, during the 1960's and 1970's, it was a target group from about 16 to 20. It has dropped, which is such a tragedy. Now the ensnarement is occurring at age 8 to 13. This country is going to feel the impact of that for a long, long time. One in every 10 kids is using drugs.

Drug prosecutions are down 12 percent. This administration cut 625 drug agents. Federal spending on drug interdiction has been cut by 25 percent. The drug czar's office was reduced by 83 percent. On the list of national security threats, compiled by the National Security Council, this administration moved illegal drugs from No. 3, as a threat, to No. 29 out of 29.

Now, Mr. President, can there be any wonder that our children are getting the wrong message, and that they no longer think drugs are a risk, and that, therefore, they are using them in record numbers, and that, therefore, we have an epidemic, and that, therefore, we are having the emergence of a new crime wave?

Mr. President, we have been joined by one of our colleagues that has been in the center of this controversy during his entire time, which is since 1994. The distinguished Senator from Michigan is already making an impact in this area of vital concern across our country.

I yield up to 15 minutes to the Senator from Michigan.

PRESIDENT CLINTON'S VETO BY LAWYERING

Mr. ABRAHAM. Mr. President, I thank the Senator from Georgia, again, for his efforts to bring us together here to focus on various vital matters before the Senate and before the American people.

Mr. President, I have taken the floor on several previous occasions to discuss the problem of abusive prison litigation and this Congress' efforts to attack that problem.

The last time I did so was April 19, 1996. At that time, I expressed my disappointment that President Clinton had just vetoed the Commerce-Justice-State appropriations bill.

Contained in that bill was the Prison Litigation Reform Act, a carefully crafted set of provisions designed to stem the tide of prison litigation.

In my view, this was a very important piece of legislation. Lawsuits by prisoners and lawsuits over prison conditions were completely out of hand.

One figure captures the situation very well. In fiscal year 1995, prisoners—inmates in prison—filed 63,550 civil lawsuits in our Federal court system. That is a little over one-quarter of all the civil lawsuits filed in Federal courts that year. It's also far more than the 45,788 Federal criminal prosecutions initiated that fiscal year.

In short, Mr. President, we saw, in fiscal year 1995, prison lawsuits outnumber prosecutions under our Federal system and account for one-quarter of all the lawsuits brought in this country in the Federal system.

One prisoner sued because he had been served melted ice cream. For this he claimed $1 million in damages. Fortunately, the judge ruled that the right to eat frozen ice cream was not one of those the Framers of the Constitution had in mind.

Another sued because when his dinner tray arrived, the piece of cake on it was ''hacked up.''

A third sued demanding LA Gear or Reebok ''Pumps'' instead of Converse tennis shoes. This kind of abusive litigation is not only frivolous, it costs money and cost the taxpayers a lot of money.

The National Association of Attorneys General estimated that the States were spending about $81 million to battle cases of the sort I just described—this even though the States win 95 percent of these cases early in the litigation for reasons that are obvious.

We were determined to do something about this problem in the Congress, so as part of the Commerce-State-Justice appropriations bill in 1996 we passed the Prison Litigation Reform Act. This legislation charged prisoners a fee for filing any lawsuit, while making it possible for the prisoners to pay that fee in installments. If a prisoner filed more than three frivolous cases, however, the prisoner would no longer be able to pay the filing fee in installments. He or she would have to pay the full fee up front, unless a court found this would create imminent risk of bodily harm.

In addition, prisoners who filed frivolous lawsuits would lose their good time credits, thus making their stay in prison longer. And judges were given authority to screen out frivolous cases on their own.

The legislation was designed to put an end to another aspect of the prison litigation problem: Seizure by Federal judges of the power to run prison systems. These seizures have consequences that range from the ridiculous to the disastrous.

In my own State of Michigan, judicial orders resulting from Justice Department lawsuits have resulted in

Federal courts monitoring our State prisons to determine how warm the food is, how bright the lights are, whether there are electrical outlets in each cell, whether the prisoners' hair is cut by licensed barbers—this despite the fact that no court has ever found that any of these conditions regarding which it is giving orders violate the Constitution.

The orders issued by a judge in Philadelphia were even worse. There a Federal judge had been overseeing what had become a program of wholesale releases of up to 600 criminal defendants per week. Why? To keep the prison population down to what the judge considered an appropriate level. Thousands of the released defendants were then rearrested for new crimes including in one 18-month period 79 murders, 90 rapes, 959 robberies, 2,215 drug dealing charges, 701 burglaries, 2,748 thefts, and 1,113 assaults.

In the interest of justice and public safety, we wanted to stop this, and the means were simple and fully in keeping with everyone's rights. We simply required in that same Prison Litigation Reform Act that no judge could take over a prison without first holding that it had violated the Constitution and explaining how the order was necessary to correct the violation. We also directed that the judge give due regard to public safety in deciding what kinds of remedies to require. And we established stringent limits on the power of the courts to order prisoners released. Existing orders would have to meet these new standards. If they did not, they would have to be dissolved immediately on motion of the prison authorities, unless the court found that the orders were necessary to correct an on-going violation of a Federal right.

Unfortunately, President Clinton vetoed that legislation. At the time, the President said his veto had nothing to do with our prison litigation proposals. Instead, he said, he was vetoing the bill over other matters.

We took the President at his word and included our proposals in a second piece of legislation. This time, the President signed the legislation. Unfortunately, the President's top ranking officials in the Department of Justice seem intent on inventing a new kind of veto, veto by lawyering.

This effort started almost as soon as the ink from the President's signing pen was dry. A mere 11 weeks after signing the bill, his Department of Justice was filing briefs all around the country that would undermine the clear intent of our legislation. The briefs claimed that, far from requiring the courts to stop running the prisons for the comfort of prisoners, that law authorized them to continue to do so indefinitely.

Thus, according to President Clinton's Justice Department, Federal judges should continue to tell Michigan how warm the food should be, how bright the lights have to be, and who should cut the prisoners' hair. And by the logic of their position, judges should also continue to dictate prison population size and order excess prisoners released—this even if the Constitution contains no such requirement and even if the release orders jeopardize public safety. At least they should do this while they are investigating whether the prison ever violated any provision of the Constitution, an investigation that can take quite a bit of time.

The Department of Justice has come up with a host of legal theories to explain why the reform act should be read to require indefinite judicial supervision of prisons for the benefit of prisoners. It is difficult to say which is more ludicrous, the original or the current theory. The original theory, now abandoned in the face of questions from Members of this body and the National Association of Attorneys General, was that the phrase ''violation of a Federal right'' includes violations of the very decrees the reform act was adopted to end.

The current theory stands on its head the reform act's requirement that existing decrees be automatically stayed 30 days after a motion to end one has been filed unless there has been a final ruling on the motion.

According to the current Justice Department theory, this requirement in fact means the decrees are not automatically stayed, and, indeed, that nothing should happen to them at all until the court conducts its own exhaustive inquiry as to whether conditions at the prison have ever violated any constitutional provision.

These theories are unpersuasive, Mr. President. Even Judge Harold Baer, the subject of some attention for his theory that running away from the cops gave no grounds for reasonable suspicion, rejected these theories and ended judicial rule at Riker's Island. Judges there had been dictating such crucial matters as the brand and exact concentration of cleanser to be used in certain areas.

The theories are ludicrous but the end result is not. These interpretations make a mockery of this Congress, they make a mockery of the law, and they make a mockery of the American people's desire to have prisons run to promote the public order, not to promote the comfort of our prisoners.

Further, even if they desperately try to protect existing decrees, President Clinton's Department of Justice continues to threaten exactly the kinds of lawsuits the reform act was supposed to end.

For example, a mere 4 days after President Clinton signed the reform act, the Assistant Attorney General for Civil Rights threatened to sue Gov. Parris Glendening of Maryland over conditions in Maryland's supermaximum security prison. Supermaxes are reserved for the most dangerous prisoners, murderers and rapists who continue their violent behavior in prison.

What were the egregious unconstitutional conditions that led President Clinton's Assistant Attorney General for Civil Rights to threaten suit? The fact that supermax prisoners are not allowed to socialize enough and are not getting enough outdoor exercise. The Department calls these conditions unconstitutional because they are the ''mental equivalent of putting an asthmatic in a place with little air to breathe.''

Fortunately, this particular veto by lawyering will ultimately succeed only if President Clinton's Justice Department persuades the courts to go along with it. I do not expect that it will.

So far the results are not promising for the Justice Department. So far, the judges who have decided these issues, interestingly, all of them Democratic appointees who had either taken over the running of prisons themselves or had inherited them from a predecessor who retired, rejected half the arguments urging them to retain control.

Mr. President, other parts of the Reform Act, the ones designed to cut back on individual prisoner lawsuits, which President Clinton's Department of Justice has no role in enforcing, already are showing their effects. Prisoner filings since the bill's enactment have declined sharply. Nevertheless, the Department of Justice, through its attempted veto by lawyering, is delaying and undermining the effectiveness of critical portions of the Reform Act. The Judiciary Committee will be holding a hearing on this matter next week.

It is my intention to propose an amendment to whatever proves to be the most appropriate legislation, either this year's Commerce-State-Justice appropriations bill or perhaps another omnibus appropriations bill, that clarifies once and for all it is time for abusive prison litigation to end, whether it is brought by prisoners or by President Clinton's Department of Justice.

It is unfortunate we must clarify once again the clear intent of such recently enacted legislation. But public safety and the costs of our prison system are too important for us to allow this inappropriate veto by misinterpretation.

In short, I am here today to say that if we are truly serious about getting tough with crime, we ought to begin immediately to take the Prison Litigation Reform Act and administer it in the exact clear sense that Congress intended it to be administered.

That is not happening today. I am extraordinarily disappointed by it. I intend to be on the floor as often as necessary to bring about the correct interpretation of that legislation or to add new legislation that eliminates any possibility of misinterpretation in the future. Prisons should be tough time for prisoners and the rights of victims should take priority.

That is what I believe everybody in this Chamber is committed to doing, and if necessary we will have to enact more legislation to get the job done. But I am very disappointed in the actions of the Department of Justice to

date because it is certainly inconsistent with what we demand and what the American people I believe want to see happen in the area of prison reform.

I thank the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I wonder if the Senator from Michigan would stay just a moment to see if I get the sequence of these events down. We had a condition of legal frivolity—if you froze an ice cream or not. I think any American who would hear this just would be dumbfounded. But your legislation put an end to that and put an end to judicial management of prisons. And the President vetoed that.

Mr. ABRAHAM. That is correct.

Mr. COVERDELL. Then you came back again, passed the essence of this legislation, and he signed it, but his Justice Department has subsequently been engaged in an overt attempt to undo it?

Mr. ABRAHAM. That is accurate. I would say to the Senator from Georgia, we were told when the first veto occurred, because this legislation was included in a broader bill, that the legislation, the Prison Litigation Reform Act, was not the basis for the veto; that, in fact, it was supported.

When the second bill was signed, we assumed the Justice Department would seek to make sure the provisions of that Litigation Reform Act would be enacted and followed by the courts. Instead, what we have seen is the Department of Justice intervening in lawsuits in a way that would, in fact, preclude, rather than allow, States to extricate themselves from these various judicial circumstances where judges were running the prison systems with no clear evidence of a constitutional violation ever having occurred. Instead, we find the Justice Department finding ways to allow the judges to stay in charge and to allow for various things such as we have seen around the country, where these prisoner lawsuits are growing in number, where judges are requiring prisons and State authorities to expend millions of taxpayer dollars simply to ensure and improve the comfort of prisoners. We think that is the wrong direction.

CRIME IN AMERICA

Mr. COVERDELL. I thank the Senator from Michigan. Again, as I said when he came to the floor, he has been very dutiful on this issue and I am comfortable will ultimately prevail.

Mr. President, a moment ago I was talking about this drug epidemic. There can be no doubt but that we had a change in policies that occurred when this administration took office. And we have had a resulting change in behavior. If you start shutting the drug war down, I think you can expect to see a reversal and we will find more and more young people caught up in this tragic problem and then society caught up in their problems.

This administration has, as we just heard, vulnerability and accountability that it has to accept with regard to the condition of crime in the country today. This administration has touted signing the assault weapon ban and Brady bill as evidence that they got tough on guns. This has been the effect: Federal gun prosecutions are down 20 percent. Federal gun convictions are down 13 percent. The U.S. attorneys' program to target gun crimes and to report on gun prosecutions, Operation Triggerlock, which the Senator from Mississippi talked about a moment ago, has been dismantled—gone. Congress authorized $200 million for States to help with background checks under the Brady bill. Clinton's budget request has cut that figure by 68 percent. ''It is fine to pass the bill, but do not fund it.''

This administration claims to have put 100,000-plus cops on the streets. Myself and Senator BIDEN, the Senator from Delaware, debated that number a couple of months ago. The data is actually this: The Justice Department says the number is actually more like 17,000. Now, 17,000 is a long way from 100,000. It is questionable whether 17,000 have ended up there as well. In Florida, 30 of this 17,000—not 100,000 but 17,000. In the ads we hear 100,000, but in reality it is more like 17,000. Here is where some of the 17,000 are: They were added to the State Department of Environmental Protection to keep watch over a coral sanctuary off the Florida Keys. The cost of that was $3.5 million.

Florida received $1.8 million to hire 25 cops for State parks. At the same time, Florida received $3.5 million to watch a coral reef. This Justice Department rejected a request from the St. Augustine police department, in northern Florida, to fund a 1-year antidomestic violence program. That would have cost $80,000, to hire this officer. In other words, we do not have 100,000, we have 17,000; and of the 17,000 we have, we have them watching a coral reef off the Florida Keys but denying the ability to set up an antidomestic violence program. This is almost as baffling as some of the statistics that we heard from the Senator from Michigan.

The Justice Department admits that, of that number, as many as 14,000 were already on the streets and are now just paid for with Federal tax dollars. Mr. President, 20 percent of the 100,000 may be officers who are redeployed. So the early money has gone to existing police officers. In reality, only about 3,000 new cops have been added. That is a long way from the 100,000 to 3,000.

Mr. President, we have been joined by the senior Senator from Oklahoma, the assistant majority leader. He is a strong proponent of crime measures that work. I yield up to 8 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I would like to compliment the Senator from Georgia for his leadership on calling to our attention both Senator Dole's initiative to combat crime, which I think has some outstanding points that need to be brought to the public attention and public debate, and also some of the shortcomings we have witnessed through action or inaction from the Clinton administration for the last 3½ years.

First and foremost in the effort to combat crime, I think we have to combat the rapid rise in drug use amongst teenagers. Teenagers are our country's future, and it is very, very sad indeed to see that drug use amongst teenagers in the last 3½ years has more than doubled. That is a frightening statistic. It may be one of the most frightening statistics we could think of. Some of us are parents. I happen to have four kids. To think that drug use has more than doubled in just 3½ years should cause everybody, Democrat, Republican, independent, real cause for concern.

You might say why? Some people point a finger at President Clinton. I think he shares some of the blame. I remember very well Nancy Reagan and her effort to say, ''Just say no to drugs.'' Try to convince young people to, ''Just say no. Do not mess with them, do not experiment with them, you are on thin ice, you are asking for trouble and you can start down the road beginning with marijuana and maybe ending up with more serious drugs, cocaine, crack and others, that can destroy your life.''

Some people have ridiculed Nancy Reagan's statement. But as a result of her efforts and those continued by President and Mrs. Bush, drug use continued to decline throughout their administrations. We had a 10-year decline in drug use among young people; and basically among all age groups, drug use declined.

Unfortunately, in the last 3½ years drug use among teenagers more than doubled. And what kind of leadership did we have from the White House? We had President Clinton making light of the fact that he had broken our drug laws. He said he did not break the drug laws, he said he never inhaled, not in this country, that was in England and, ''No, I never inhaled.'' Then last year, on a nationally televised show, I think it was MTV, when he was asked the question by a youngster, ''Would you inhale if you had a chance to do that again?'' he said yes. What kind of example is that? What kind of leadership is that? That is a frivolous attitude, as if it does not really make any difference. That kind of cavalier attitude, I think, tells a lot of people, maybe it is OK to use drugs or try drugs; President Clinton tried drugs.

Then you see in the President's own administration, several people could not get White House clearance through the FBI because they had recent drug use. Not 10 years ago, not 20 years ago when they were in their early twenties or something, but recent drug use. Mr. Aldrich's book indicated that there was drug use even possibly on Inaugural

Day. Yet, some of those people are serving in the White House today. I believe it is acknowledged by the White House, 21 current employees, top-level officials in the White House are currently undergoing a drug program, a drug rehab program and surveillance.

What kind of example is that? What kind of leadership is that? And what about some of the appointments that President Clinton has made?

I remember we had a big battle over Dr. Joycelyn Elders to be Surgeon General. A lot of us, mostly Republicans, said, no, she would not be the proper person to be the Surgeon General, to be the No. 1 health officer appointed by the President, to be the person in the bully pulpit, because she had views that were more than liberal, they were off the radar screen to the left.

Many of us opposed her nomination, but she was confirmed. We opposed her nomination because she made a lot of statements that we felt should not be made by the Surgeon General.

After Dr. Elders was appointed, it wasn't too long before she said something about, ''Well, maybe we should legalize drugs, maybe we should study legalizing drugs.'' Did President Clinton fire her for that statement? No. I think I heard somebody say, ''Well, the President doesn't agree with her on that issue.''

It wasn't a month later and she said the same thing, I think before the National Press Club. She thought maybe we should consider legalizing drugs. Was she fired for making it a second time? The answer is no. She was fired later for making some other comments that were, again, very irresponsible in what we should be teaching our kids in school, but the point being is he didn't fire her. She made several comments about legalizing drugs, and she was still the Surgeon General, she was still President Clinton's appointee to a very important prestigious position. Again, he was aware of her background, he was aware of her philosophy, and yet that was his recommendation to the country for that position.

My point being, the war on drugs needs to be fought. It was fought under Ronald Reagan, it was fought under George Bush, and, basically, it was abandoned under the Clinton administration. The net result is, we have a lot of young people today who are experimenting with drugs, thinking, ''Well, maybe it's OK.'' So we see drug use way up, we see the number of young people who will be addicts, who will see their lives ruined, we will see those numbers go up as well.

So we need to fight the war on crime, we need to fight the war on drugs, but, unfortunately, this administration has been AWOL on both. Mr. President, I regret to say that, I hate to say that.

Mr. President, I am going to make a couple more comments. I looked at Senator Dole's announcement. He said he had a stated goal that he wants to reduce drug use by 50 percent during his first term. It can be done. It was done under Reagan and Bush. It can be done again. You see the current upsurge in drug use due to a very cavalier attitude by this administration, the current administration, on the war on drugs. It will be nice to have a change in the White House and have an individual and a team that is very committed, that is very dedicated, very sincere in saying, ''We want to let everyone know that drugs are hazardous to your health.''

I find it interesting to see that President Clinton is attacking tobacco and has been silent about other drugs, such as crack and cocaine, marijuana use. I almost think that he made the announcement on tobacco maybe to kind of get this release of information talking about drug use doubling under his term off the front pages. I don't know.

Mr. President, this war has to be fought. We need energetic leadership coming from the White House. I believe we will have that from Senator Dole and his team.

Also, I want to comment on the interdiction efforts. I remember shortly after President Clinton took office, he cut the office of the drug czar by 83 percent. He reduced it from, I believe, 140 employees to 15, and cut the funding way back. That tells you something about his priorities.

Senator Dole said, if elected, he would reestablish the drug czar office. He would redouble and rekindle our efforts on drug interdiction so we can stop drugs before they come into the United States. He said he would increase penalties on those people who have been involved in drug trafficking, particularly amongst people who have been involved in drug trafficking to our young people.

So, Mr. President, it is vitally important that we have a leader who will make change, and make change appropriately, to protect our kids for the future.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, our control of time is nearing an end, but I would like to just draw a contrast here.

The former majority leader has embraced a very focused attack on crime in our country, and he begins—and I think it is appropriate—with the first pledge to cut teen drug use in half. I can't think of a grander thing to achieve that would do more good, reduce pain and anxiety and trouble in millions of American families.

Sometimes these numbers get out of whack. We are talking about a sister, a brother, somebody in the neighborhood, and we are talking about 2 million of them who are now experimenting with drugs who did not 3 years ago. That is a city the size of my hometown, Atlanta, GA—every person in it. Every one of those is a family and is in a personal crisis. So by focusing that as No. 1 is right on target.

No. 2, an end to revolving-door-justice, which Americans have been so concerned about. One in every three persons arrested for a violent crime is on parole. Sometimes people say, ''Well, it costs too much to keep them in prison, $25,000, $30,000 a year.'' It costs $450,000 for them to be out of prison, in property damage and personal damage.

No. 3, holding violent juveniles accountable for their actions. We all know we have a juvenile crime wave and it is tied to the drug wave.

No. 4, making prisoners work. Only one-third of the prisoners work full time. We heard the Senator from Michigan addressing that.

No. 5, keeping guns out of the hands of criminals.

On target, 1, 2, 3, 4, 5.

Conversely, this administration suffers from a lack of commitment in this arena. Shortly after arriving at her job, Attorney General Janet Reno repealed the Department of Justice policy requiring prosecutors to seek the most serious criminal charge they could prove in court. We all heard from the Senator from Oklahoma about the former Surgeon General suggesting that maybe we should legalize drugs and the effect that has had, with children no longer thinking that drugs are serious.

This administration's chief prosecutor in San Diego has released hundreds of captured drug smugglers and sent them back to Mexico without prosecuting. This administration's prosecutors across the country have cut back prosecutions of felons for possessing guns by 13 percent and have reduced prosecution for crimes involving guns 20 to 25 percent.

Many of this administration's judges have embraced the criminal as a victim-of-society philosophy. The Senator from Montana talked about that earlier this afternoon and how wrong that is. We heard the statistics of getting these people back out on the street and the price society pays when we do that.

His appointees to the Supreme Court have been among the most willing to use technicalities to overturn death sentences for brutal murders.

The list goes on, Mr. President. Here we have a focused, energetic, committed Senator Dole targeting crime as a No. 1 issue in America and going after it, and over here we have a record of conciliation and a drug war and a drug epidemic.

We need to do this not only for the stability of our country, but for the compassion of our children.

Mr. President, I yield the floor.

DEFENSE OF MARRIAGE ACT

Mr. PELL. Mr. President, last week the Senate passed the so-called Defense of Marriage Act. I voted against this bill for three reasons.

First, there is no need for this legislation. Not one State in this Nation has legalized marriages between gay

men or lesbians. Until one does, there is absolutely no need for Congress to consider whether other States are, or should be, obligated to recognize such marriages.

Second, it is clear to me that this legislation is politically motivated. By making this unnecessary bill a priority of this Congress, while failing to act on numerous other measures of much more immediate importance, the Republican leadership has made clear its desire to try to embarrass those who have traditionally supported equal rights for all Americans, including gays and lesbians.

Third, I do not believe that most Rhode Islanders or most Americans think that this a matter of urgent national importance requiring congressional action. Prior to the introduction of this legislation, I had not received one letter or phone call expressing concern about gay or lesbian marriages. And since the introduction of this legislation, I have received only limited correspondence from Rhode Islanders expressing support for it. Whoever has this bill high on their agenda has not consulted with many of my constituents or with many of the people from across the Nation who write to me.

Mr. President, I know that people of good will and strong faith can differ on this sensitive subject. And I knew that the Senate's vote would be a lopsided one. But if we truly believe in family values, we should remember that the gay men and lesbians whom this legislation will affect are our sons and daughters, our sisters and brothers, our friends and colleagues. Before we enact legislation that further isolates them from the mainstream of society, we should consider carefully whether this legislation is needed, desired, or desirable. I do not believe that it is.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, September 13, the Federal debt stood at $5,217,304,758,895.91.

One year ago, September 13, 1995, the Federal debt stood at $4,967,411,000,000.

Five years ago, September 13, 1991, the Federal debt stood at $3,623,683,000,000.

Twenty-five years ago, September 13, 1971, the Federal debt stood at $416,135,000,000. This reflects an increase of more than $4 trillion during the 25 years from 1971 to 1996.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 3662) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Mr. PRESSLER. Mr. President, if the managers would agree, I ask unanimous consent to set aside the committee amendment to offer an amendment at this point. And perhaps it could be dealt with later, if the managers of the bill would agree. It is an amendment that addresses concerns confronting cattle producers in the United States.

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

AMENDMENT NO. 5351

(Purpose: To promote the livestock industry)

Mr. PRESSLER. 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 South Dakota [Mr. PRESSLER] proposes an amendment numbered 5351.

Mr. PRESSLER. 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 text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. PRESSLER. Mr. President this amendment attempts to address many of the concerns confronting cattle producers in the United States today. The issues of packer concentration, lack of price discovery, retail price spreads and low prices have been foremost on the minds of cattle producers and consumers throughout South Dakota and the Nation.

To say these are concerns of my fellow South Dakotans is a gross understatement. Thousands of South Dakotans have written, called, or visited with me on this issue. This is an issue that strikes at the heart of their ability to run their farms and businesses and provide for their families. The time has come for Congress to take action.

For the past 2 years, I have been pressing the Clinton administration to address meatpacker concentration and utilize existing antitrust laws to make sure that cattle are sold in an open and competitive market. Though the administration has taken some steps over the past several months, I believe these measures are marginal at best. Stronger action is needed.

What is of great concern to producers is the fact that while cattle prices have been at or near record lows, retail prices have not shown any significant drop. In fact, just the opposite is happening.

In 1995, at Eich's Meat Market, in Salem, SD, the price of a choice yield grade 2 hind quarter was $1.65 per pound—that is the highest price paid at this locker since it was opened. This past summer it was $1.60 per pound. The same hind quarter was selling for $1.57 per pound in 1993. In contrast, in 1993 live cattle prices were $80 or higher. Yet, in 1995, live prices have been as low as $51.50.

This represents a combination punch to South Dakota ranchers—as producers, they are getting fewer dollars for their livestock; yet, as consumers, ranchers—armed with fewer dollars—are forced to pay more both in terms of real dollars and as a portion of their budget to put their own product on the dinner table.

The influence of packer concentration on the market cannot be overlooked or dismissed. Fifteen years ago, the top four packers held about 40 percent of the market. Today market share is over 85 percent.

Economic studies have shown that this kind of market concentration provides these firms with the kind of power needed to control prices.

At a recent Senate Commerce Committee hearing that I chaired on this subject, it was made abundantly clear that all too often cattle producers do not have free, open, or competitive markets in which to sell their cattle. The Grain Inspection, Packers and Stockyards Administration, [GIPSA] is charged with insuring a free and open marketplace. GIPSA must be more vigilant in assuring this.

Only through enforcement of existing antitrust will we be able to ensure the long-term economic viability of the U.S. cattle industry. South Dakota ranchers agree.

I have held two Senate hearings on this subject over the past year. I also have introduced several bills to address concerns that cattle producers have told me must be addressed. Other Senators have offered their own proposals. Some are controversial. What I have done with this amendment is incorporate those measures that I believe we can pass this year. Our cattlemen need relief now, not a promise of future action at some point next year.

Mr. President, I ask unanimous consent that a summary of my amendment be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. I do not believe this is a partisan issue. Nor should this amendment be treated as one. Both Republicans and Democrats from cattle-producing States I expect will embrace this amendment. Some may say tougher action is needed. They're right. The goal here is to do what we can now. This amendment I believe is a strong step in the right direct.

Again, while my amendment does not include everything I think is needed I believe it is a measure that can pass

and provide real teeth to bring real results to the problems that our cattle producers face.

We need to keep in mind that old saying ''If it ain't broke, don't fix it.'' Well the U.S. cattle industry is broke and it needs fixing, now.

I would like to commend the South Dakota secretary of agriculture, Dean Anderson, for being a national leader on this issue. Secretary Anderson was responsible for bringing this matter before the National Association of State Departments of Agriculture. South Dakota livestock producers are proud of Secretary Anderson's efforts, as I am. As all South Dakotans know Secretary Anderson recently announced his retirement. He will be missed. His efforts to raise this issue to the national level will be a legacy that South Dakota cattle producers will long remember and be proud of. Passing the amendment I have offered would demonstrate that Congress has listened to Secretary Anderson.

The Senate needs to carefully review this amendment and other possible amendments that address issues confronting the U.S. cattle industry. Packer concentration, price manipulation, possible price fixing, and captive supply all must be looked at and a definite course of action implemented. I will withhold a detailed discussion of this amendment at this time. I offered the amendment to give my colleagues a chance to review it. I expect others may want to seek amendments to this proposal. I welcome any suggestions from all my colleagues. The goal, again, is to do the right thing for our cattlemen, and to do it as soon as possible.

So, Mr. President, in conclusion, let me ask my colleagues to take a look at this amendment, to make their suggestions. Our agricultural industry in the United States is in pretty good shape at this moment except for our cattlemen. We need to take a number of steps. We need to work on packer concentration. We need to get more of our beef into Japan, and some of those countries, and China. We need to get some of the tariffs lowered in some of the Asian countries on beef. We also need to take some steps domestically to be sure that we do not overlook the plight of our cattlemen at this time.

Mr. President, I offer this amendment and I ask that my colleagues consider it and that we take what action we can to help our cattlemen in the closing days of this Congress. Mr. President, I yield the floor.

EXHIBIT 1

PRESSLER LIVESTOCK AMENDMENT

Section 1. Captive Supply:

This section (from S. 1939) addresses producers' concern of captive supplies. A better definition of captive supply and more information regarding captive supplies will bring greater price discovery to producers.

The Packers and Stockyards Act would be amended by defining ''captive supply'' as livestock acquired by packers delivered 7 or more days before slaughter under a standing purchase agreement, forward contract, or packer ownership, feeding or financing.

This section also requires and annual report from the U.S. Department of Agriculture on the number and volume of U.S. livestock marketed or slaughtered. This report must include information on transactions involving livestock in regional and local markets. The confidentiality of individual livestock transactions would be maintained.

Finally, this section would require the Secretary of Agriculture to make available within 24 hours information received concerning captive supply transactions.

Section 2. Livestock Dealer Trust:

This section (S. 1707, revised) would establish a Livestock Dealer Trust. This provision was part of the Senate-passed version of the new Farm Bill, but was dropped in conference.

The section amends the Packers and Stockyards Act and establishes a statutory trust for the benefit of livestock sellers who sell to livestock dealers and market agencies that buy on commission. To ensure prompt payment of livestock sellers, all livestock purchased in cash sales by a dealer or market agency buying livestock on commission shall have all related property (i.e. livestock, receivables or proceeds) held in a ''floating '' trust until the unpaid seller receives full payment.

Section 3. Cooperative Bargaining:

This section (from S. 1939) ensures that producer cooperatives are fairly treated by handlers of agricultural products. The Agricultural Fair Practices Act of 1967 would be amendment to make it unlawful for handlers of agricultural products to fail to engage in good-faith negotiations with producer cooperatives. It would also make it unlawful to unfairly discriminate among producer cooperatives with respect to the purchase, acquisition, or other handling of agricultural products.

Section 4. Labeling of Meat and Meat Food Products:

This section (from S. 1939) would require country of origin labels on graded meats. Producers and consumers alike have made it abundantly clear that meat needs to be labeled to show country of origin. Under this section, the Federal Meat Inspection Act would be amended to require graded meat that was either imported, or produced from an animal that was located outside the United States for at least 120 days, be labeled showing the country of origin.

Section 5. Interstate Shipment of Meat and Poultry Products:

This section (S. 1862) would permit the interstate shipment of state-inspected meat and poultry products. The section would amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to allow states to apply to the Secretary of Agriculture for the interstate shipment of meat and poultry products. The Secretary of Agriculture first must verify that the state's mandatory inspection requirements are equal to or greater than the Federal inspection, reinspection and sanitation requirements.

Upon verification by the Secretary, the prohibition on interstate shipment of meat and poultry products inspected soley by the state shall be waived. Once a waiver has been granted, the Secretary of Agriculture may perform random inspections of state-inspected plants to ensure that mandatory state inspection requirements are equal to or greater than Federal requirements. If a state does not maintain its inspection requirements to Federal levels, the Secretary shall reimpose the restriction against the interstate distribution of meat and poultry products.

This section was recommended by members of USDA's packer concentration commission and is strongly supported in the agricultural community. Lifting the market restrictions imposed on state-inspected meat and poultry processors would slow the concentration in meat packing by enabling small-and mid-size processors to expand their operations and create more jobs. 400 state-inspected plants have gone out of business since 1993 because of the prohibition. This section would provide the same opportunity for small business owners and operators that exists for large corporations and foreign competitors.

Section 6. Review of Federal Agriculture Credit Policies:

This section (from S. 1949) establishes an interagency working group to study the extent that Federal lending practices have contributed to concentration in the livestock and dairy markets. This interagency working group would be established by the Secretary of Agriculture after consultation with the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System and the Chairman of the Board of the Farm Credit Administration.

Section 7. International Barriers to Trade:

This section (from S. Res. 277) expresses the Sense of the Senate that certain actions be take to address international barriers to trade. Those actions are as follows:

(1) the Secretary of Agriculture should continue to identify and seek to eliminate unfair trade barriers and subsidies that affect U.S. beef markets;

(2) the U.S. and Canada should expeditiously negotiate the elimination of animal health barriers that are not based on sound science. Many U.S. cattle producers are concerned that Canada requires more stringent veterinary and inspection requirements on U.S. cattle entering their market than what the U.S. requires on Canadian cattle entering our market;

(3) the import ban on beef from cattle treated with approved growth hormones imposed by the European Union should be terminated. The European Union's ban on U.S. cattle and beef is not scientifically based, represents an unreasonable barrier to U.S. trade, and has cost U.S. beef producers more than $1 billion in export sales since 1989; and

(4) the Secretary of Agriculture should use the Export Credit Guarantee Program (GSM–102) and the Intermediate Export Credit Guarantee Program (GSM–103) to promote the export of U.S. agricultural commodities to countries of Africa.

Section 8. Animal Drug Availability Act:

This section (S. 773, revised) contains the Animal Drug Availability Act of 1996. The Act contains recommended changes to new animal drug application approvals to provide the Food and Drug Administration with greater flexibility to determine when animal drugs are effective for their intended uses. The Act would establish streamlined approval requirements for new individual animal drugs or active ingredients sought to be used in combination. Currently separate tests are required for approval of these drugs.

This section also would require the Food and Drug Administration to consider legislative and regulatory options for facilitating approvals of animal drugs for minor species and minor uses, and to announce its proposals for legislative or regulatory changes within 18 months of the date of enactment. Currently, the Federal Food, Drug and Cosmetic Act does not address animal drug approvals for minor species or uses.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we, of course, will take a careful look at this

amendment. It is on a subject of which this Senator is well aware, as a member of the Commerce Committee, of which the Senator from South Dakota is chairman. It does address a very real need. On the other hand, Mr. President, it obviously has nothing to do with an appropriations bill for the Department of Interior and related agencies.

The distinguished senior Senator from West Virginia and I have, as a policy, determined that we will not be friendly toward amendments which are entirely nongermane or entirely nonrelevant to issues before this bill. If we do, if amendments like this begin to pass, it is almost certain that the bill itself will be taken down. The sponsors of the amendments likely will not be successful in reaching their policy goals, and we will have frustrated the appropriations process.

So I express the hope, and subject to what I hear from the distinguished Senator from West Virginia, that the Senator from South Dakota will be able to make a very important point, as he has, and as he has done eloquently, without opening up this bill in a way that has frustrated and perhaps destroyed some other appropriations bills, including the one that preceded this as a matter of debate. With that, as we do not have any votes to take place today, I suggest that we set the amendment aside and move forward to another subject.

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

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. The pending amendment has just been laid aside.

Mr. WYDEN. Mr. President, I ask unanimous consent to lay aside the pending committee amendment.

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

Mr. WYDEN. Thank you, Mr. President.

AMENDMENT NO. 5352

(Purpose: To authorize the Secretary of the Interior to enter into cooperative agreements for the restoration and enhancement of biotic resources on watershed land)

Mr. WYDEN. Mr. President, I have an amendment at the desk involving a voluntary watershed restoration effort on private lands. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN] proposes an amendment numbered 5352.

Mr. WYDEN. 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:

At the appropriate place in title I, insert the following:

SEC. 1 . WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.

(a) IN GENERAL.—For fiscal year 1997 and each fiscal year thereafter, appropriations made for the Bureau of Land Management may be used by the Secretary of the Interior for the purpose of entering into cooperative agreements with willing private landowners for restoration and enhancement of fish, wildlife, and other biotic resources on public or private land or both that benefit these resources on public lands within the watershed.

(b) DIRECT AND INDIRECT WATERSHED AGREEMENTS.—The Secretary of the Interior may enter into a watershed restoration and enhancement agreement—

(1) direct with a willing private landowner; or

(2) indirectly through an agreement with a State, local, or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) TERMS AND CONDITIONS.—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other biotic resources on public land in the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner, and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on private lands, provided such terms and conditions are mutually agreed to by the Secretary and the landowner.

Mr. WYDEN. Mr. President, at the beginning, I want to thank my friend from Washington, the chairman of the subcommittee, Mr. GORTON. He has been very helpful, both the chairman and his staff, in our preparation of this effort. I want him to know that I very much appreciate all his help. Senator BYRD is not here, but he, as well, has been very helpful to me. I want to thank both Senator GORTON and Senator BYRD at this time for their assistance.

As Senator GORTON knows, in particular, the natural resources questions in the West are especially polarized. They are ones where so often there are very heated and controversial fights between groups, particularly industry groups and environmental groups.

I and others, and I know the Senator from Washington is interested in this, are continually making efforts to look at new models, in effect, new paradigms, for resolving some of these natural resources questions and trying to bring people together. It is for this reason that I offer this amendment, Mr. President.

My sense is some of the most exciting work being done in our country, particularly in our Pacific Northwest, involves voluntary, purely private efforts, where people look to try to get beyond some of the old controversies, some of the old battles, and come together to resolve natural resources questions in a balanced way.

What our history in the Northwest has always been about is protecting our treasures, protecting our natural resources, while at the same time being sensitive to economics. It is my sense that some of the voluntary watershed restoration projects on private lands give us the chance to accelerate the effort, to find these new models for resolving natural resources questions. It is for that reason that I offer this amendment today.

This amendment would make it possible, Mr. President and colleagues, for willing private landowners to work on cooperative efforts with the Bureau of Land Management to restore damaged watersheds so they can provide habitat to salmon and other species. It is going to make more effective the Bureau of Land Management's watershed restoration efforts in a fashion that involves no extra costs to our taxpayers while at the same time protecting the private property rights of citizens in our country.

I got particularly interested in this issue, Mr. President, when I met with a watershed restoration group in Coos Bay on our south coast. They had been working with a number of the natural resources agencies, getting some funding from the U.S. Fish and Wildlife Service to work on projects that involve private landowners. The group was also interested in working in a cooperative effort with the Bureau of Land Management but had been unable to do so.

This watershed restoration group, which involved environmental leaders, industry leaders, fishermen, a cross section of people, approached the Bureau of Land Management and were told by the Secretary that the Bureau of Land Management interprets its authority to work on projects involving private landowners as limited to what they describe as planning activities. The Bureau of Land Management said at that time to this group on the south coast in Oregon that they did not think they had the authority to actually go out and fund improvements on private lands.

It is my view that the Bureau of Land Management ought to have the clear authority to work with willing private landowners on cooperative watershed restoration efforts. In many cases, the only way to solve a watershed problem or restore species habitat is to target both public and private lands in the watershed. You cannot solve the problem if you focus just on the public lands.

This is the most biologically responsible approach to species management. It recognizes that many species frequently cross property lines, moving

from public to private property and back the other way. As a result, restoring habitat on private lands may in certain cases be the most effective investment for survival of species also found on Bureau of Land Management and other public lands.

For a moment, let me take an example where 90 percent of the land in the watershed is owned by the Bureau of Land Management but the source of the watershed problem is the 10 percent that is privately owned. In this case, the problem is most likely not going to be solved if the Bureau of Land Management can only spend money for improvements on the BLM land. The result will be that the watershed problem is either not going to be solved, or else the Bureau of Land Management is going to end up wasting money funding improvements only on the Bureau of Land Management lands.

There is a simple and straightforward solution: Give the Bureau of Land Management clear authority to work with willing private landowners on cooperative watershed restoration projects in cases where this will do the most good for the whole watershed. This way, the public's and the watershed's concerns—taxpayers', industries', and environmental concerns—all get addressed.

To be eligible for funding under this legislation, the project site on private land must be in the same watershed as the Bureau of Land Management lands. But the private land does not have to border directly with the Bureau of Land Management lands. The key consideration ought to be the biological and ecological connections between the private lands and the Bureau of Land Management lands.

Taking for a second what happens if salmon use both forks of a river in a single watershed, but only one of the forks contains public land, this legislation would allow the Bureau of Land Management to spend money on private land in the other fork where this would benefit the survival or recovery of the species as a whole in the watershed. The Bureau of Land Management would also be authorized to spend money on private lands where this would provide for immediate protection to the threatened or endangered species found on the public land or where spending the money on private land is more beneficial to the overall recovery of the species.

Now, at the same time, we do not want the Bureau of Land Management spending taxpayer money on projects that benefit only the private landowners. To ensure that this does not happen, the amendment requires there be a benefit to fish, wildlife, or other resources on public lands. The Secretary must also determine that the project is in the public interest in order for the Bureau of Land Management to purchase them.

Finally, Mr. President, my amendment provides important protections for private property owners participating in cooperative watershed restoration efforts. From start to finish, the process is completely voluntary. Under the amendment, the Bureau of Land Management can only enter into watershed restoration agreements that are mutually agreed to by the Secretary, as well as by the private landowner. If there is any part of the agreement that the private landowner objects to, that landowner can simply say no to the agreement.

What we have, Mr. President, is an amendment that, in my view, will be good for watershed restoration efforts. It will be good in terms of maximizing taxpayer funds during these tough times, and it fully protects the rights of private landowners. I hope this will be adopted.

I thank the Senator from Washington. Both he and his staff have been very helpful, as well as the Senator from West Virginia, Senator BYRD.

I yield the floor.

Mr. GORTON. Mr. President, this amendment proposed by the Senator from Oregon is, indeed, relevant to the subject matter of this bill. It is one, as he has already eloquently pointed out, that attempts to bring people together, people who have differing views often, and not only individuals with differing views but Government agencies, especially the Bureau of Land Management, and private landowners, in a way that benefits fish and wildlife, in a way that benefits the environment, and in a way which is entirely voluntary.

He has worked with me and my office on all of the details of this proposal. I am delighted to say from the point of view of this Senator and the managers of the bill, the proposal is not only acceptable, but one for which I have an enthusiastic response and full support.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. GORTON. 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. GORTON. Mr. President, I am informed that this amendment has been cleared by the manager on the other side of the aisle. Under those circumstances, from my perspective, it is ripe for a vote and for acceptance.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5352) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, it is obvious that the Interior appropriations bill is open for amendment. We are open for business. We have now heard an amendment proposed by the Senator from South Dakota. We have accepted one by the Senator from Oregon.

For the information of Members, under the previous order, at 3 o'clock, the Chair is to recognize the Senator from Arkansas to introduce an amendment on grazing fees, which, obviously, will be a very controversial amendment. I hope there will be a full and complete debate on that amendment this afternoon so that it is ready for a vote tomorrow. It will not, under the unanimous-consent agreement, come to a vote today, but we can move this bill forward and make progress on this bill by having a thorough debate on that issue, one that, while it is controversial, is certainly relevant to this appropriations bill.

In the meantime, the floor is open for any other Member who wishes to introduce an amendment to begin discussion, and perhaps conclude it if the amendment is not a controversial one. I invite other Members of the Senate who are within the sound of this debate to bring those amendments to the floor and we will deal with them as expeditiously and fairly as we possibly can.

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

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

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak for 4 or 5 minutes as in morning business.

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

Mr. MURKOWSKI. I thank the Chair and thank the floor manager, my good friend, the senior Senator from the State of Washington.

AMERICA'S DEPENDENCE ON MIDEAST OIL

Mr. MURKOWSKI. Mr. President, my purpose in rising is to simply draw some attention to what is certainly evident to this Senator from Alaska; and that is, our increasing dependence on Mideast oil sources. As we have seen within the last few weeks, there has been a crisis as a consequence of the efforts of Saddam Hussein to once again provide the world with a reflection on how we have become more and more dependent on imported oil from the Mideast. We had United States cruise missile attacks against Iraq again, highlighting the crucial dependence that the United States has become accustomed to in its dependence on imported oil.

I think it is fair to say the administration's policy is one that is really absent. It is difficult to identify just what our policy is, as far as energy is concerned. Back in 1973 when the United States was approximately one-third dependent on imported oil, we entered into a national security analysis because we were concerned that that increasing dependence would lessen U.S.

leverage in dealing with our neighbors in the Mideast. As a consequence, Mr. President, we established the strategic petroleum reserve. That was in response to the Arab oil embargo of 1973.

Again, I remind my colleagues that in 1973 we were approximately one-third dependent on imported oil, so we authorized the creation of SPRO, the strategic petroleum reserve, in Louisiana in salt caverns, where there was the commitment by this Nation to have an emergency supply of oil on hand, approximately a 90-day supply. We filled SPRO with some 600,000 barrels, which cost us about $17 billion, because we were paying a relatively high price for oil at that time, about $27 per barrel.

Today, Mr. President, we are 50.4 percent dependent on foreign oil. The Department of Energy, Mr. President, predicts that by the year 2000 this country will be 66 percent dependent on foreign oil. I do not think there is any question about the stability in the Mideast. It remains one of the most unstable areas in the world. We had sent up to half a million troops over there in 1991 and 1992 during the gulf war to protect—protect what, Mr. President—protect the international oil supply stream because it was crucial to the Western World.

We have seen earlier this year our troops bombed in their barracks in Saudi Arabia. We have seen Iraqi missiles shoot our planes down. We have seen F–117 stealth fighter bombers en route to the area. They are there now.

What is the administration doing about it? Well, they are after Saddam Hussein, but they are not doing one single solitary thing to lessen our dependence on imported oil. As we attempt to negotiate with the Mideast, we see a certain reluctance by our neighbors in the Mideast to rally with the United States to take appropriate action against Saddam Hussein, whether it be Saudi Arabia or whether it be Kuwait. It is rather noticeable that as we attempt to address this renegade, we are doing it pretty much alone. Oh, surely the thoughts of the other countries are with us, and their good wishes are with us, but they do not stand with us with personnel or an open commitment. I find that rather ironic.

Earlier this year, Mr. President, we were looking at Saddam Hussein to relieve our dependence on imported oil. When we were in conflict with Saddam Hussein back in 1991 and 1992, I think we were looking at roughly $1 billion worth of oil coming from Iraq each quarter. So here we are at one time committed to try to put him in a cage, and a few years later we are looking at Iraq under the regime of Saddam Hussein to relieve our dependence on other Mideast countries.

The point that I want to make, Mr. President, is that on one hand we seem to have the inconsistency of creating the strategic petroleum reserve at great expense when we were 33 percent dependent on foreign oil, and now we are talking about selling a portion of it. We are talking about selling a portion of it. Perhaps that will come up in some of the debate on the Interior appropriations bill relative to generating revenues, but we have already seen our President in his budget proposal, in the outyears, in the year 2002, propose to sell $1.5 billion worth of SPRO in order to meet his budget projections.

So, Mr. President, one can say that SPRO is now being used, to some extent, as a piggy bank in order to meet budgetary requirements. While much of that oil was paid for when prices were prevailing at $27 a barrel, it is interesting to note we are selling it at somewhere in the area of $18 or $19.

So on one hand, Mr. President, we have a situation where we continually fail to recognize our increasing dependence on Mideast oil; on the other, we sell down the oil that we have put aside to take care of whatever energy supply disruption may occur, and we fail to recognize the prediction by the Department of Energy that by the year 2000 we will be two-thirds dependent on foreign oil.

We produce less crude oil now in the United States than we did in 1955. Imports of foreign oil significantly affect our economy. It has been estimated that we spend approximately $150 million per day on foreign oil. That is more than $50 billion per year. One looks at the trade deficit. Nearly half of it is the cost of imported oil. The other half is with our trading partners, to a large degree, Japan and others.

But three times we have seen international oil supply interruptions affect U.S. economic and national security interests. We saw it in 1973 in the Arab oil embargo, in the 1979 Iraq-Iran war, and, of course, in the 1991 Iraqi invasion of Kuwait. Is the Middle East, the Persian Gulf, any more stable today than it was in 1973? Of course it is not. And the response of the administration toward opening up domestic fields here in the United States, to spur employment, keep our dollars home and lessen our dependence, is sorely lacking.

In conclusion, Mr. President, to suggest that the most promising area in ANWR cannot be opened safely, with the advanced technology we have, is clearly selling American ingenuity and technology short. I recognize my time is limited. Other Senators are here to proceed with debate. But I remind my colleagues to consider the merits of just where we are going relative to our increased dependence on imported oil. One of these days we are going to have a crisis in the Mideast, and the public is going to blame this body. They are going to blame this Government. They are going to blame this administration for not having the foresight to decrease our dependence on foreign oil by taking the necessary measures at home to stimulate resource development protection, which we can do safely with ANWR.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

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

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with consideration of the bill.

AMENDMENT NO. 5353 TO COMMITTEE AMENDMENT ON PAGE 25, LINES 4–10

(Purpose: To increase the fee charged for grazing on federal land)

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

Mr. GORTON. Would the Senator from Arkansas withhold?

Mr. BUMPERS. Happy to.

Mr. GORTON. Do we have a special order to proceed to a particular amendment?

The PRESIDING OFFICER. It is the amendment of the Senator from Arkansas.

Mr. GORTON. Mr. President, I ask unanimous consent that the committee amendment found on page 25 be laid aside and the amendment from the Senator from Arkansas be considered.

Mr. BUMPERS. We object.

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

The PRESIDING OFFICER. The regular order is for the clerk to report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. GREGG and Mr. KERRY, proposes an amendment numbered 5353 to the committee amendment on page 25 lines 4–10.

Mr. BUMPERS. I ask unanimous consent 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 pending Committee amendment ending on line 4 on page 25, add the following:

SEC. . GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985).

(b) DETERMINATION OF FEE.—(1) Permittees or lessees, including related persons, who own or control livestock comprising less than 2,000 animal unit months on the public rangelands pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees, including related persons, who own or control livestock comprising more than 2,000 animal unit months on the public rangelands pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a) for the first

2,000 animal unit months. For animal unit months in excess of 2,000, the fee shall be the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands;

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee; and

(3) related persons includes—

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the holder of the permit or lease; and

(ii) a person controlled by, or controlling, or under common control with the holder of the permit or lease.

Mr. BUMPERS. Mr. President, grazing fees have been the subject of many hot controversial debates in this body. The reason is that our grazing fee policies are highly controversial. When I think about the farm bill that we passed last year and the proponents of the farm bill said that it was going to take the farmers off of welfare—they have been receiving these commodity payments since the memory of man runneth not, so we are going to give them some money each year for 7 years and then that is the end of all farm subsidies. All farmers will be on their own after that. No more welfare state for the farmers of this country.

Mr. President, I have absolutely no objection to grazing on Federal lands. What I object to is the amount of money we receive from the people who graze livestock on public lands. Let me just start by saying that we have about 27,000 permitees in this country who graze cattle on public lands. That is on both Forest Service lands and Bureau of Land Management lands. How much land is involved? It is 270 million acres. What do we get? What does the United States Treasury get for the 270 million acres? We get $25.2 million—$25.2 million a year for 270 million acres of land.

I am not quarreling about how much land is grazed. I am not quarreling with the permitting system where we grant permits to ranchers so that they can graze cattle on it. I am not even quarreling all that much about how little money we get out of it. My amendment will only add $8 million a year to that $25 million. What I am quarreling about is the welfare system that exists in the way we handle our Federal grazing lands.

In short, we have 27,000 permits—I want my colleagues who are sitting in their offices or in the Chamber to listen to these figures—27,000 permits in this country. Some people have more than one permit, so we actually have 22,350 operators who hold permits. Here is what I object to and this is what my amendment is designed to correct: some of the biggest corporations in America, corporations from the Fortune 500, people who are billionaires—pay $1.35 per AUM [animal unit month] to graze cattle on public lands. Mr. President, I am talking about 9 percent, look at this figure on this chart, 9 percent of the 22,350 permittees, 9 percent of them hold 60 percent of the 270 million acres of land that we allow to be grazed.

What does that mean? Mr. President, 91 percent of the remaining permittees control 40 percent of all of the AUM's. You do not have to be a rocket scientist to look at this chart and know that we are being grossly unfair to ourselves and we are allowing a form of corporate welfare in this country that we should never permit. What would I do? My amendment focuses on this 9 percent, the permittees controlling 60 percent of all of the AUM's. Let me digress a moment to describe what that is. An animal unit month is the amount of forage needed to graze one cow and her calf for 1 month, or one horse, or five sheep or five goats. We will talk about cows because virtually all Federal lands are grazed by cattle.

Nine percent of these people, many of whom are billionaires and the largest corporations on the Fortune 500, control 60 percent of all of this land. My amendment would require these 9 percent to pay the rate that the State charges for grazing on State lands for any AUM's in excess of 2,000. My amendment allows all permittees to pay the current fee of $1.35 on the first 2,000 AUM's.

Today we charge, per AUM, $1.35 a month. You can graze one cow and her calf for 1 month for $1.35 on public rangelands. Look at this. In 1981, that figure was $2.31. In 1995, it was $1.61. In 1996, it is $1.35. My amendment would require that, if a permittee controls more than 2,000 AUM's, that permittee must pay the average that the State charges for State lands for all AUM's in excess of 2,000.

What's wrong with that? Somebody tell me, what's wrong with that? Why is it that Colorado leases their lands for $6.50 an AUM and poor old ''Uncle Sucker'' gets $1.35? Why is it that even Arizona gets $2.18 per AUM and poor old ''Uncle Sucker'' gets $1.35? Look at this—Nebraska. Nebraska gets $15.50 per AUM, and ''Uncle Sucker'' gets $1.35. South Dakota gets $7 per AUM on State lands in South Dakota, and the State of Oklahoma gets $10. Washington State gets $4.55. The average for all of these States where Federal lands exist—the average charged by all of those States is well over $5, or between $5 and $6. That is the average. ''Uncle Sucker'' gets $1.35.

I see my colleague, Senator GREGG, who just came on the floor. He is my chief cosponsor on this amendment. Our amendment allows every permittee to pay the current rate of $1.35 on their first 2,000 AUM's. We are not trying to change the basic rate. However, if you are Anheuser-Busch, or Newmont Mining, or Hewlett of Hewlett-Packard, and you have thousands of acres of land you are grazing, anything above 2,000 AUM's, you ought to be willing to pay what the State charges.

Mr. President, I was discussing this amendment with my staff in my office this morning, and I said, ''You know, I used to be a trial lawyer, and I know something about juries. Sometimes I got fooled about what a jury would do. But I would not be fooled on this.'' If I were arguing this to 12 jurors, peers of mine—12 jurors, tried and true—they would not be out to deliberate this issue in minutes. Why do you think people are always saying, ''What on God's green Earth is Congress thinking about? Why do they permit things like this?'' I will tell you why they permit it. The same reason we permit a lot of other things: They have a lot of clout.

Do you see these States right here on this chart? I would hope to get a Senator or two from one of those States. However, right now I don't know who it would be. These people who control these grazing permits have a lot of political clout. I don't blame them. If I were out there running cattle on Federal lands for $1.35 a month, I can promise you I would have some strong feelings about changing the law, too.

Look what has happened, Mr. President, since 1981. I invite all of my colleagues to look carefully at this. In 1981, this green line represents the average fees in these States charged to private persons. If you rent land from me—incidentally, Mr. President, until 2 years ago, I had a 400-acre farm, and I leased it for cattle grazing. From the time I was elected Governor in 1970, I never farmed again. I leased my land every year. That is a private lease, and the average is $7.88 an AUM in 1981. But in 1995, look at the trend. Private lease rates now average $11.20, which is the amount a rancher pays if he or she leases these lands in the private sector.

If a rancher leased State lands in one of these States right here in 1981, he or she paid $3.22 per AUM. In 1995, he or she would have paid $5.58. That is the average of what all these States charge. But if a rancher happened to be one of those lucky people that held a permit from the Bureau of Land Management, in 1981, he or she paid $2.31. The Federal fee was decreasing. In 1991, a Federal permittee paid $1.97. In 1995, a Federal permittee paid $1.61. In 1996, it is $1.35.

Here are lands being leased in the private sector, going up dramatically in the last 16 years. The grazing fees charged on lands leased in the private sector, going up dramatically since 1981. And grazing fees on lands that poor old ''Uncle Sucker'' lets out have gone down. I don't have this carried out, but it would be down about here, $1.35 an AUM.

Even Senator DOMENICI's bill, which passed the Senate but which did not go anyplace—nor is it going anyplace—even that bill would have taken the price of AUM's up to $2.18. Now, of course, you understand that is 9 years

from now, in the year 2005. No big deal. But at least Senator DOMENICI would recognize that $1.35 per AUM is outrageous.

Here is an average of the 1995 fees. I mentioned this a while ago, but I did not show you the chart. Today, this figure is not $1.61; it is $1.35. Senator DOMENICI's bill was $1.97. In the State lands, the average is $5.58.

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

Mr. BUMPERS. Yes.

Mr. DOMENICI. I was in the cloakroom, and I saw something fall down; did it hit you?

Mr. BUMPERS. I am going to put it back up.

Mr. DOMENICI. But you are all right?

Mr. BUMPERS. That is about how important this debate has been considered around here for the last 20 years.

For private lands, $11.20 is the average of what people are paying private landowners to graze livestock on private lands. You are going to hear a lot of people state, ''Senator, do you realize cattle prices are awfully low right now?'' Yes, I know cattle prices are currently low. I used to be a cattle farmer myself. Cattle prices got so low one time in the late sixties, I heard a farmer say, ''I have already lost $100 this morning.'' I asked, ''How come?'' He said, ''One of my cows had a calf.'' I know that prices of cattle are not at an all-time low, but they are very cheap right now. But they are not as cheap as this bargain ranchers receive from the U.S. Government. Look at this. You are going to hear the argument that the States—because I am saying we should charge these wealthy corporate farmers who are getting this big ripoff from the Bureau of Land Management, they are going to say, ''Well, prices are so low now. This is no longer a big bargain.''

However, remember that the private land lease rates and the State land lease rates have continued to rise over the last 16 years. You cannot argue with the trend. In addition, how many landlords have you ever known who have said, ''I will put 50 percent of all the rent you pay me back into your apartment. You pay me $500 a month, and I will put $250 a month back into renovating your apartment and keeping it up, buying new appliances, and so on.''

But that is what we do. That is what the Federal Government does. If we received $1.35, that would be an outrage, but we turn around and put improvements, fences, everything under the shining sun back into the land. Fifty percent of $1.35 goes back onto the land. What a deal.

The Government only gets 37.5 percent and the States get 12.5 percent.

Mr. President, I am going to put a few charts up here to show you why I am offering this amendment. There are some people who ought not to be permitted to have huge, thousands and thousands of acres of grazing permits for $1.35 an acre per cow. As I said, my amendment would let them control 2,000 animal units at the $1.35 rate, and that is what it is under the Public Rangelands Improvement Act right now.

I ask you, is a small fee increase which amounts to $8 million for all of them—I am talking about 60 percent of the lands, 60 percent of the 270 million acres of land we lease—is it too much to ask those people to pay an additional $8 million a year? And it is not the money. It is corporate welfare. How many times do you hear that term used around here in the Tax Code. So I ask you, is this small fee increase I am talking about really important to these people?

Anheuser-Busch, I understand they make a good beer. I am not a beer drinker so I cannot attest to that. But in 1994, they were ranked the 80th biggest corporation in America—not just on the Fortune 500, the 80th biggest corporation in America. And what do they have? They have 8,000 AUM's, and under my amendment they would pay the State fee on the additional AUM's above 2,000, or 6,000. They would have to pay a small additional fee on the extra 6,000 above 2,000.

I do not believe that would bankrupt Anheuser-Busch. You are probably talking about somewhere between $6,000 and $60,000 a year, or the equivalent of a 15-second spot on Sunday afternoon at the football game.

William Hewlett, who in this body never heard of Hewlett-Packard? William Hewlett, 100,000 acres. My guess is that he is easily a billionaire. William Hewlett is probably embarrassed to pay $1.35 an animal unit month. He has permits for 100,000 acres. Why do I have this nagging suspicion that this bill would not bankrupt him?

Newmont Mining Co., probably the biggest gold mining company in America—British owned, if that matters to you. I do not believe Britain would lease lands to run 12,000 cows on any of its land. I am not making the case. I love England. They have been a steadfast, reliable ally for almost 200 years. They have 12,000 animal unit months, and I am saying that is 10,000 too many without paying something extra.

J.R. Simplot, the Idaho potato billionaire—billionaire—50,000 AUM's. Think about 50,000 AUM's. That could run as high as 4,000 head of cattle for 12 months at $1.35 a month.

And here is another corporation, Zenchiku, 6,000 AUM's and 40,000 acres.

Mr. President, I am not going to belabor this any further. I have just made the case that we are allowing the biggest corporations in America to run thousands of cattle on Bureau of Land Management and Forest Service lands.

You know something else. If a rancher leases lands for grazing on the Ouachita National Forest in the great State of Arkansas, from whence I come, you have to pay almost twice that much. If you lease grazing lands on any of the eastern forests of the United States, you have to pay $2.50 per animal unit month. They are not a big item in my State so I do not really have a dog in the fight. All I am saying is this is very little money, $8 million.

It is not right for 9 percent of the wealthiest people in America to control 60 percent of all the grazing lands the Bureau of Land Management and the Forest Service permit to be grazed. That means the other 91 percent, whom everybody here is going to stand up and defend—people from the Western States are going to get up and say, ''Isn't this terrible. Think about it. All these poor little old people out there trying to graze.'' I do not touch them. This amendment has nothing to do with them. They will still run cattle for $1.35 an animal unit month. I am not talking about 91 percent of the permittees. I am talking about the 9 percent who control 60 percent of 270 million acres for a ravaged price of $1.35 an animal unit month.

Madam President, this amendment is favored by the Taxpayers for Common Sense, Friends of the Earth, U.S. Public Interest Research Group, Trout Unlimited, Southern Utah Wilderness Alliance, the Wilderness Society, the National Wildlife Federation, the Natural Resources Defense Council, and the Sierra Club—and almost 260 million people. I have not talked to all of them, but I can speak for them. They favor this amendment, too.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Madam President, I feel like we are coming back into a familiar discussion. I do not know how many times just in the last 2 years I have heard the same thing. Fortunately, the Senator can use the same charts, and that is good. That is a saving.

Let me tell you a little bit about the Sun family, ranchers in Wyoming. There are about 20 members of this family. They have several places they live on. They run more than 2,000 AUM's. However, when you divide it up by the number of family members, they run about 168 head of cattle per family. That is hardly the millionaires the Senator talks about; characterizes as the West being full of corporations. I want to tell you, come to Wyoming, come to Wyoming and show me all those corporations.

Let me tell you a little bit about the Red Desert Grazing Association. These are a number of ranches that go together in association and their lease is one lease; and they have more than 2,000 animal units. But when you divide it up by the families involved, what you are talking about are families, who make up the bulk of this industry, trying to make a living with public lands. This idea of trying to characterize it as being all these big corporations simply is not accurate. It is not accurate. We have been through this before.

Let me tell you, No. 1, this is an appropriations bill. We talked about this

when we talked about the bill of substance, the grazing bill, which raised the price, which the Senator opposed. We talked about that in the authorizing committee. That is where it is supposed to be discussed. And the grazers—we were willing to raise the price when you change some of the conditions under which grazing takes place. No, now we are going to do it on the appropriations bill, where we do nothing to change the conditions, but we will raise the price; raise the price on family ranchers who make a living in this country.

Quite different than in the Senator's State, these lands were homesteaded. The homesteaders took up the river bottoms, they took up the water, they took up the shelter, they took up the winter feed. What we are talking about here are the residual lands that were left, the residual lands left out, away from the creek, the lands they can use in the summer only if they develop the water, which is not true on your land, Senator. So you cannot compare this with the private land in Arkansas.

Come out to 7,200 feet in Laramie, WY, and take a look at it. It is a little different, a little less valuable. Come out and see who takes care of the fences. Do you take care of the fences, Senator, on your farm? I think so. You do not take care of the fences on the public land.

Do you provide water on your farm, Senator? I think you probably do. You do not provide the water in the West. The guy who leases it provides the water. It is not the same. It is not the same.

The Senate already voted on a very similar amendment earlier this year; same thing. We are back on it again. Grazing on public land and private land cannot be compared. Productivity—there are places in my State where it takes more than 100 acres, for 12 AUM. It is very unproductive land. It takes transportation there; you have to take care of the livestock when it is there, you have to ride, you have to take care of predators. Those are differences. Those are differences, and they show up in the costs. Obviously, the price of cattle is very low. These rates that you refer to, which we wanted to raise, are tied to the price of cattle. That is why they are as low as they are. They were higher than that when the price was higher, and they will be higher again. They will be higher when our grazing bill passes.

You indicate the grazing bill is done. It is not necessarily so. The things go together. You cannot pick out the price and say let us leave the rest of this stuff, leave it the way it is, but we will raise the price. I do not agree with that. I think it is wrong. There is a major difference between private and public land. Private land pastures tend to be self-sufficient. They have water, grass, fences. They are close enough so everyone can watch them. There are no predators there.

Public lands are quite often dependent on privately-owned water. They are not year-round pastures. You have to have private land to take care of them in the winter; you have to have feed, you have to the water, you have to have all these things.

You cannot compare that with private lands. Private lands tend not to be intermingled; public lands quite often are. They are also multiple use, you have to provide for hunters—and you should. There is access for hunters, gates are left open. It is not the same.

There is a report that was put out by Pepperdine University, which is not exactly a bastion of western grazing, that said a number of things. They concluded at the university:

> Montana ranchers who rely on access to Federal grazing and forage do not have a competitive advantage over those who do not. Livestock operators with direct access to Federal forage do not enjoy significant economic and financial advantages by using that.

As a matter of fact, the Pitchfork Ranch in Meeteetse, WY, has some grazing. What do they get in return? They also run their pastures in the winter, their hay in the winter. That is something of a tradeoff. It is not unusual. They are not the same as private lands.

The study also showed that these Montana operators, compared to those who used all private lands, realized less gross revenue per animal unit month, incurred virtually the same operating costs, are subjected to the higher costs of borrowed capital.

There are a number of other differences between public lands and private lands. A lot of the public lands have very burdensome Federal requirements, NEPA requirements, land use planning processes. Basically, the States are quite different as well. They look to the lessee to manage the land. It simply is not accurate to say these lands should be the same. They are not the same. There is a good deal more flexibility in private lands or State lands in terms of the management than there is on Federal lands. On Federal lands they tell you how many you can graze, when you can graze, when you are off, when you are on, how many head of livestock we will run. There is an additional fee if you happen to run leased livestock. It is not the same.

So, even disregarding the price level, I tell you there are a couple of things that are not accurate. No. 1 is these are not corporate ranchers by and large. No. 2, it is not fair to compare private land leases with public land leases.

There are a number of things that ought to be changed. We worked very hard this year to make some changes in Bruce Babbitt's grazing requirements. I want to tell you something. Grazing is part of western agriculture. Livestock is the largest endeavor in Wyoming as it is in most of the Western States. Very many of the ranches there are not independent, without public lands; nor are the public lands able to produce without the private lands that go with it. It is not a matter of just saying we will lease this, we will lease this—these lands are interlocking. These lands do, in fact, go together. We have tried very hard and will continue to try, and we will succeed, in making some changes in grazing. But this is not the way to do it. This is the annual ritual, going through this idea of corporate welfare. I suppose the thing to do would be to start through everybody's corporate welfare. I think there are a few instances that could be talked about most everywhere. I do not think this is corporate welfare. I cannot imagine that term being used in this instance.

Madam President, there are an awful lot of things that need to be talked about, but we have talked about them many times. I am not sure it is productive to continue to go on and on about the same things. Let me just make a couple of points in closing.

No. 1 is that if we are to talk about grazing and grazing fees and grazing regulations, we ought to talk about the package so that we can make those changes that do need to be made. And almost everyone agrees that they should.

No. 2. If you are going to make price comparisons, price comparisons need to be made on the relative value of the product and not on a comparison to something that is not comparable, and that is what they are seeking to do here.

No. 3. We ought to deal with it in a committee of substance, a committee that has jurisdiction. The Senator is on that committee. He has been through this argument in the committee and is unable to get support. He has been through this argument on the floor and unable to get support, but we keep coming back. It is the fall ritual.

Finally, if we are going to try to deal with family farms and family farmers—that is what we are in Wyoming, that is what we are in the State of Texas, somewhat different in some places. Fifty percent of our State belongs to the Federal Government. Arizona is even more; Nevada, 87 percent. I don't think that is the case in Arkansas.

So you need to take into account the fact that our economy depends on the kinds of decisions that are made with respect to policy of public lands. Bruce Babbitt has more to do with the future economy of Wyoming than any person living in the State. That is a shame. I am sorry for that.

So when we talk about changes we want to make, I hope you will take into account these are family farmers, these are ranchers just like yours, just like New Hampshire, trying to make a living, not wealthy, not corporations, but trying to have multiple use of those resources so that they do yield not only for them but for the communities that they support.

I urge my colleagues to reject this amendment, as they have in the past, and continue to work for better ways of multiple use of resources, but keep in mind they should be multiple use.

Madam President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, first, I wish to recognize the fine statement given by the Senator from Wyoming who expresses well his thoughts and purposes on this issue. I am not in agreement, but I have the highest regard for him as a Senator and respect the fact his position is one sincerely and thoughtfully reached.

However, I join with my colleague from Arkansas in supporting his amendment and my amendment to address this issue of how we bring into balance the cost of grazing on public lands relative to the needs of the cattlemen and the needs of the taxpayer. First of all, it should be stressed that this is not a local issue solely. It is a national issue. It is not even a western issue. It is a national issue. The 270 million acres of land that are subject to grazing permits belong to all Americans. They are America's heritage, all Americans' heritage.

The current grazing fee formula produces a fee that covers only a small part of the costs of Federal grazing programs and is far below the rate charged by Western States and private lessors. The current Federal fee, as has been stated, is $1.35 animal unit month, AUM. This level mirrors the floor set by Executive order during the Reagan administration. The Department of Agriculture's Economic Research Service predicts the $1.35 fee will remain the fee charged by the Federal Government through the year 2005.

The current fee, $1.35, means it costs less to feed a 600-pound cow on public lands than it costs to feed your pet dog, your pet cat or even your parakeet, thanks to the subsidy paid for by the American taxpayers.

Two percent—2 percent—of the 22,000 permittees control 50 percent of the BLM acreage that is grazed. Two percent control 50 percent. So we are not talking here about the small farmer, which was referred to by the Senator from Wyoming. We are talking about the large cattlemen.

Additionally, it should be pointed out that the wealthiest 9 percent of the ranchers graze cattle on public lands controlling 60 percent of the grange land. So what this amendment does is try to address that disproportionate allocation of assets to a very small number of ranchers.

According to the Department of Agriculture, the Economic Research Service again, under S. 1459, the Public Rangelands Managements Act, which passed the Senate but unfortunately has stalled in the House, the fee paid by ranchers would have increased to $1.63. I heard it mentioned by the Senator from Arkansas that it actually might have been $2.18. Whatever, it would have increased, and that is, obviously, a significantly higher number than the $1.35 which is being paid this year.

This increase, however, is still less than the Federal fee paid between the years 1989 and 1994. We are actually working at a fee base which is less than what was paid to ranchers back in the period 1989 to 1994, and even if the increases were put in place, it would still be less than those fees that were charged just a few years ago.

The amendment which has been offered is a very simple amendment. It raises the fee charged by the Federal Government to the country's wealthiest ranchers—and I think this is important to stress—we are talking about 9 percent who own—control—60 percent of the range. They don't own it, it is owned by the taxpayers, those who graze more than 2,000 AUM's on Federal lands. It also maintains the current fee—and this is important—the current fee which, remember, as we just mentioned, is less than was charged a few years ago for a 5-year period. It maintains that current fee for ranchers who have less than 2,000 AUM. So, for the smaller and the moderate-size rancher, he stays the same, $1.35. For the larger rancher, it grows to a reasonable number.

Under this amendment, therefore, 9 percent of the ranchers, those operating 2,000 or more AUM's, would see an increase in the fee paid to graze cattle on public lands, while 91 percent of the family ranchers, the ones referred to by the Senator from Wyoming, their livestock fee on Federal lands would remain the same, $1.35 AUM's.

Those companies and corporations which would be impacted are significant, and the Senator from Arkansas went through a long list of some of them. There is the billionaire rancher who owns more than 50,000 AUM's in Iowa, Oregon, and Nevada. There is Newmont Mining Co., a wealthy gold mining company, which controls 12,000 AUM's, and there is Anheuser-Busch which controls 8,000 AUM's, the Japanese company, Zenchiku which is involved here. It is ironic, the American taxpayers end up subsidizing a Japanese company which owns Japanese farming rights in the United States to ship beef back to Japan when we are already running a significant trade surplus with Japan. That is the way it works.

Remember, this amendment does not impact the small or moderate-size family farmer, it impacts the big guys, that 9 percent that controls more than 2,000 AUM's.

This amendment cannot and should not be construed as being a threat, therefore, to the small rancher.

Under this amendment, small ranches, whose operating AUM's are less than 2,000, will continue to have this $1.35 fee. Under the amendment, these small ranchers will pay 43 percent less per AUM in 1997, and each year thereafter, than they paid if they were ranching back in 1980. Remember this, under this amendment, those small ranchers, medium-sized ranchers, in fact, will be paying 43 percent less to ranch on Federal lands than they paid in 1980. The point, however, is that the large ranchers should not also be paying 43 percent less.

Thus, this amendment assures that the wealthier ranchers, those with more than 2,000 AUM's, that billionaire rancher up in Idaho, Anheuser-Busch, that Japanese company, will pay a fair fee for the right to ranch on what is public land.

This chart I have here, ''Public Land Grazing Fees, 1980–1996,'' highlights a point I have just been making, that those ranchers on Federal land in 1980 were paying $2.36. And with an inflation-adjusted rate, it would have been $4.60, but actually today they are paying $1.35. So, the difference between these two prices, if you have it adjusted for inflation, would be the real difference in what we are now spending to subsidize people on Federal lands as versus the 1980 rate.

What we are saying is that the small rancher can keep paying $1.35, which is almost $1 less than what they paid in 1980, and we are not suggesting that even the large ranchers should pay the inflation-adjusted rate, $4.60; we are just saying that the larger ranchers should have to pay a fairer rate. In many instances, that fair rate would be significantly less than the $4.60 that should be charged if there was an inflation adjustment from the 1980 rate.

The argument is often made by individuals who oppose this amendment, the Federal Government should be able to set such a low rate with regard to the use of Federal land for grazing due to the low quality of the Federal land, if the Federal land on which the sheep and cattle are grazing has little or no investment value and is of little value generally.

I have another chart which I think pretty much dispels that argument. This chart shows exactly the opposite. In 1996, the Federal Government collected receipts worth $14.5 million based upon $1.35 AUM paid by all ranchers. However, according to the Bureau of Land Management, the Federal Government spent—spent—$58 million on rangeland management and improvement. That is a net windfall of $43 million for all ranches using the public lands.

This funding for ranchland management improvement has a direct effect upon the land improvements. Improvements that are involved here include the seeding, weeding, fencing, water collection on public land used by wealthy ranchers. These are very conservative numbers taken straight from the BLM. Some estimates of the annual loss to the Treasury, using the current fee system, range up to $150 million. In fact, there was one estimate of $400 million done by the Cato Institute.

But the practical implications of this is, if the land were worth less, it has clearly got to be worth at least what you are investing. If you are investing $58 million in it and you are only getting $14 million for that investment,

first, you are not doing very well on your return for investment, but, second, it is fairly obvious that the value of the land is approximately 4 times, 3½ times the value that is being charged for it.

So the argument that this is valueless land or land of less value than States' lands or private lands simply does not hold up to the numbers, to the very simple numbers which come from the BLM. Grazing fees are decreasing, even though the Federal Government collects only a fraction of the moneys spent for rangeland improvement.

This chart here, which was referred to, I believe, by the Senator from Arkansas, illustrates that only about 25 percent of grazing fees' receipts collected go to the General Treasury. In fact, 50 percent of these funds go back to rangeland improvement. That was mentioned extensively by the Senator from Arkansas.

So not only do farmers, cattle ranchers receive a subsidized rate, the fee does not even cover the cost of the Federal upkeep. These ranchers pay much too little, causing the rest of the American taxpayers to pick up the price, which is much too high.

The average private land fee charged per AUM since 1981 has increased 32 percent. I have another chart which shows this. The average private land fee charged per AUM since 1981 has increased 32 percent, from $7.88 in 1981 to $10.30, in 1995. The average State fee charged for people to put cattle on State land has increased 49 percent, from $2.53 to $3.76.

The payment for leasing Federal land during this same timeframe, 1981 to 1996, has, as I mentioned before, decreased—decreased—43 percent. That, simply, is not fair to the general taxpayer. Private grazing land lease rates continue to remain substantially higher than the price charged by the Federal Government, and, as I mentioned before, this is not necessarily a function of the land being more valuable. Or, if it is a function of the land being more valuable, it is not the fact that the Federal land has not had a significant amount of investment put into it—in fact, an investment which is about 3½ times the amount of the fees raised.

This chart here shows the difference between the private and the public grazing fee rate. The chart shows the amount of money the Federal Government receives in grazing fees receipts over the last 6 years, $178 million, versus the amount of money the Federal Government will receive in the grazing fees over the next 6 years. That is $178 versus $133 million. The Federal Government is estimating that it will receive $45 million less, therefore, in grazing fee receipts over the next 6 years than it received over the prior 6 years.

Is this for less grazing? I do not think so. It is because, for a period in there, we were charging a rate that was much closer to what is reasonable, and that rate has been cut.

Obviously, again, the taxpayers are taking the short end of the stick. This makes absolutely no sense. In a time of tightening budgets and higher deficits, we are on a pattern to collect less money from these huge ranchers, and, unfortunately, the giveaway to the wealthy ranchers is growing.

Why should the American taxpayers continue to subsidize only a select few? Three percent of the Nation's cattle operators and 5 percent of the sheep producers have Federal grazing permits. So 97 percent of America's cattle operators, 95 percent of America's sheep producers do not use Federal lands, so they are not getting the benefit of this subsidy. Every other rancher, except those grazing cattle on public lands, has had to keep up with the cost of inflation, paying higher prices for corn, for grain used to feed their cattle. But the cost of using the taxpayers' Federal rangeland is estimated to remain at an all-time low, $1.35 per AUM, through the year 2005.

This chart, which is another way of stating the chart table that the Senator from Arkansas displayed, shows the difference between what is paid on private land and State land fees versus the $1.35 AUM's. While the Federal Government allows ranchers to graze for $1.35, this chart shows the Western States breakdown of the fees charged, and in every case it far exceeds what we get at the Federal level.

Again, we heard the argument that is because this land is better land; maybe it is better land. But the fact is, this chart shows beyond any question of logic or debate, when you are putting $58 million back into the Federal land for the $14 million you are taking out, you clearly have an investment in the land which far exceeds the value that is being charged for the lands, and thus you should at least try to return a better investment of that for the taxpayer. The land may not be as good for grazing, but at least from a standpoint of investment, the dollar figure is 3½ times that rate.

This amendment seeks to increase the fee charged by the Federal Government, to bring it in line with what the fair market value of land should be. Under this amendment the largest ranchers—remember, we are dealing with just the largest ranchers, that 9 percent of the ranchers who control the large acreage, who control more than 2,000 AUM's—will be charged the higher of the average State fee in which the Federal Government is located or the Federal fee plus 25 percent. Small ranchers and moderate-sized ranchers will continue to get the $1.35 rate, which rate remains 43 percent less than what they were paying.

This amendment is done on a sliding scale, meaning either the large ranchers—the billionaire cattlemen, Anheuser-Busch, and the Japanese corporation—get the first 2,000 AUM's at a lower rate, $1.35, and they do not start to pay more until they exceed the 2,000, so if they have 2,050, only the last 50 will be charged the increased fee, which of course will be some additional money. In the instance of Anheuser-Busch where they have 8,000 AUM's, 6,000 of those additional AUM's exceed the 2,000, and will be subject to the higher fee.

Is that unfair to Anheuser-Busch? No, it is not, because the taxpayer, as has been pointed out on a number of occasions, is already dramatically subsidizing the cost of Anheuser-Busch running its cattle on public land or that Japanese company which has the 6,000 AUM's. Yes, on the additional 4,000 AUM's they will have to pay a higher fee. Is that unfair to the Japanese company? No, it is not, because the taxpayer is already substantially subsidizing that Japanese company's running of cattle on Federal lands.

What we are suggesting is that the taxpayer receive a percentage of a better return on the investment that it is making in that public land for the benefit of those cattle. It is not asking that a better return come from the smaller or moderate-sized company, but is only asking that the better return come from the larger—the millionaire cattlemen, actually the multimillionaire cattlemen in this instance—and the international companies. Some of the other companies that are involved in this are Texaco, Hewlett-Packard, Getty, Union Oil, Hunt Oil, and the Newmont Mining Corp.

The amendment is estimated to save the American people about $8 million in 1997 and $40 million over 6 years. By Federal standards in this Senate that is not a dramatic amount of money. It is a lot of money in New Hampshire. In fact, we could run a State government for a considerable amount of time on $48 million.

The fact is it is important that we make this statement. These are public lands. The taxpayer does have a right to expect a reasonable return on their investment in these public lands. The fact that we have targeted this amendment so it will just affect the wealthy, those who have the wherewithal to pay the higher fee, does, I think on its face, make it a fair amendment.

Thus, I join with the Senator from Arkansas and hope that the Senate will favorably consider this amendment. I yield the floor.

Mr. DOMENICI. Mr. President, I understand there is not a request for any time this afternoon beyond what I use unless the distinguished Senator from New Hampshire wants to speak again this evening. I want to state to the Senator from the standpoint of this Senator, and I have not talked with Senator GREGG, I do not need a lot of time tomorrow before the vote. I told the managing chairman 15 or 20 minutes on our side tomorrow, 30 minutes max, is all I need before the vote. I want to proceed with some dispatch.

First of all, fellow Senators, you all voted on this amendment last year and you voted it down. I do not believe anything has changed, at least not in the

general intent of the amendment. It is obvious to everyone that in the West those who are engaged in cattle ranching have gone through the worst of all possible times. Not only have they suffered a great drought which is still affecting what they will graze and how they can graze for the next 2 or 3 years, but cattle prices for some reason have gone into the tank.

As a matter of fact, I was out in rural New Mexico and somebody looked out at a ranch and said if you were here 2 years ago and there were 500 head out there grazing, each one on average in gross receipts would be worth $1,000. Today, you have 500 out there and they are worth $500 each—the very same cow, the very same beef, the very same market but it is only half of the price. So that cow that would have been worth $1,000 in gross receipts is now worth half that amount, as you drive through rural New Mexico where many, many, hundreds of small ranches exist.

The second point, those who propose the amendment speak of 2,000 animal unit months and speak of those as if that is a very big rancher. Let me suggest in the State of New Mexico and a few other States—we are not alone—you graze cattle on the public domain and your own fee simple land and any State land you might have, and you do that for all 12 months in a year, not for 3, not for the summer months, or not for the fall months or not for the winter months, but all 12, so let us put this in perspective. For my State, this means 167 head of cattle for one year. That is what 2,000 animal unit months mean.

When they speak today of large ranchers, make sure everybody understands in a State like New Mexico, 12-months a year of grazing is a necessity because we have a great deal of public land that is available on a yearlong basis. We are a water-based State. That is, the water-on the ranch often, times serves as the base property. You graze them there, and you keep them there—you do not graze them on your land for 9 months and take them to the high country for 3 months where you graze them on public domain or permits. Two thousand animal unit months is 167 head of cattle grazed year round on a ranch in New Mexico or a ranch in Arizona where you graze them 12 months a year. Is that a large ranch? I assure fellow Senators there is not a rancher who can even make a living on 167 head. These are small ranches, run by families who for decades have had a small amount of acreage for their permits, and they graze 100 to 167, 180, some of them only 50, to supplement their incomes and stay close to the land and keep a culture alive.

Make sure we understand that while big corporate names are thrown around, in a year-round grazing area we are talking about hundreds of small ranchers who happen to be included in the definition that are being discussed here on the floor as very large corporate ranches.

Second, my good friend from New Hampshire had a chart. I am sorry I do not have any charts today. I will just recollect one. There was one up there that says you only get about $14 million from grazing permits on the public domain and that we spend in excess of $48 million—if that is the number—and the Senator concluded, is that not a shame, is that not a shame. We ought to collect more money for grazing because we are spending $48 million on the public domain but that bridges one gap that should not be bridged. For that conclusion assumes the $48 million of taxpayers' money being spent on the millions of acres of public domain, that it is all being spent for grazing permits. Quite wrong.

There are many other activities that yield money. In fact, timbering yields money, recreation yields money for the Bureau of Land Management, which has the weakest kind of land, since it was generally the leftover lands. I contend that in almost every Western State the total receipts from the public domain exceed what is paid out for the purpose of land and resource management, and one of the only exceptions is California where they have to spend a lot more money, and much of it is not spent on grazing, incidentally, but rather maintaining other kinds of activities on the public domain.

So while it sounds nice that we ought to raise the fees for grazing so we will get closer to $48 million, which is the expenditure for public domain, we must ask the question, how much does the public domain actually spend on grazing, which may benefit other resources, and how much does it collect from all sources? It comes much closer to a break-even situation on what we spend versus what we take in when you consider all receipts from the public domain.

Now, once again, the chart as it appeared, would imply that there is automatically and of necessity and in some rational way a relationship between private land and public land. Mr. President, there is nobody who will tell you in the Bureau of Land Management, that their millions of acres in all our sovereign States in the West are choice lands. In fact, they will tell you, by a process of selection they are among the least productive of lands.

The private lands, on the other side, are among the best of lands. As a matter of fact, to compare what you pay for a 1,000 acres of Bureau of Land Management land with what you pay for a thousand acres of private land, is not reasonable. The best analogy I have been able to come up with is something like this: What you pay for an apartment that has no utilities, no furniture, no telephone, just a stripped-down apartment, compared with the next guy over is renting a fully furnished apartment, that has all utilities, and a telephone in it. Is the price even because the size of the buildings are the same? Of course not. One is without any add-ons that come from the landlord or owner, and one has many, many positives added. Most private land is well-fenced, at the cost of the owner, has water on it, at the cost of the owner, is heavily vegetated by the very nature of it being private and part of a homestead.

Let me go through, for a couple of minutes—I believe I tried my best to account for what a 2,000 animal unit month ranch really is in my State. It is a very small ranch. There may be some that are 10,000 and 20,000, but I guarantee you the overwhelming number of ranches in my State are somewhere between 50 and 500, in terms of the number of head that are raised on the public domain. Yet, many of those would exceed the 2,000 animal unit months being referred to here because they must graze all year round.

Having said that, let me give a little history of what is going on. On May 25, 1995, I introduced S. 852, the Livestock Grazing Act. On June 22, 1995, the Committee on Energy and Natural Resources held a hearing on that bill. On July 19, they favorably reported the bill, with modifications, for consideration by the Senate. Following that markup, the cosponsors determined that there was not enough bipartisan support for the legislation and that there ought to be some additional changes. We initiated a number of discussions, exchanges and meetings among Democrat and Republican Senators and the staff, trying to find some common ground.

On November 30, 1995, the Energy Committee again took a look at the grazing reform legislation and reported out as an original bill, S. 1459. On March 20 and 21 of this year, the Senate debated the issue of grazing reform and ultimately passed a bill that would have increased the grazing fee by about 40 percent, as well as to set new parameters by which grazing would be administered on the BLM and Forest Service land. During that 2-day debate, the Senate considered a Bumpers amendment that was identical in concept with the one we are considering today. The Senate wisely, in my opinion, rejected this amendment when we were debating grazing legislation in its own right.

Mr. President, that grazing bill is still in the House. Negotiations are taking place. It has a grazing fee increase, and it does not attempt to set grazing fees based upon whether you are a little rancher or a big rancher. As a matter of fact, even the Department of the Interior, which has been heavily engaged in trying to get more regulation of the public domain, has regularly been against a two-tiered grazing fee for a number of reasons. Not the least of which is that they contend it will be difficult to manage from an administrative standpoint.

With this history, I see no reason for us to approve a rider on an appropriation bill which is similar to an amendment which has been turned down here in a debate on the floor of the Senate.

There is before us now an amendment which, once again, tries to draw comparisons between the public domain, which belongs to the United States, some of which is under lease, and State-leased land, and in some cases the Bumpers amendment would set a fee for some ranchers at the level of the fee charged for State lands in that State.

I want to call to the Senate's attention a Congressional Research Service report entitled ''Survey of Grazing Programs in Western States.'' In this report, Senators can see for themselves the diversity of grazing programs and regulations that the States have employed on State land. For example, in some States, a holder of a grazing permit has the right to control public access to that tract of State land. So in some States, if you hold a State permit, you can deny access to everyone because your permit grants you exclusivity in all respects.

In others, all improvements constructed on State land are allowed to be owned by the permittee. Still in others, State land under grazing permits are dedicated solely to livestock production, and there are no allowances made for the benefit of wildlife on those lands.

All of these conditions add to the value of the leased land from the standpoint of a livestock producer, and these regulations are in stark contrast to those on Federal land. We cannot expect a rancher to pay the same for State and Federal grazing permits, if we are not willing to allow the same regulations to be enforced.

So I would say perhaps the proponents of this amendment ought to add—in the event we are going to charge the same fee—then we ought to give the ranchers the same benefits and the same set of regulations that the State land is governed by. I would think that is logical and fair.

I can tell you for sure—and my good friend, Senator GORTON, would agree with me—that you could not grant exclusivity to the public domain for a rancher. They would talk about hunting, fishing, and recreation. Yet in some States, the State property is leased for grazing, and that is all it can be used for. They would like us to pay that for the Federal land. I would merely say, let us add to it, that all the State regulations would apply, or in other words, inhibitions will apply to the Federal domain which couldn't pass muster here, the Department of Interior, or anywhere.

For instance, in the State of Nevada, they set their fee on State land by bidding it, meaning they are giving different values to different forage, a different value of the grazing land. We have never done that in the United States on the public domain. We have never gone out and said, you ought to pay this much in the State of Oregon because it is a little better grazing than you pay for in New Mexico, for we would have a devil of a job trying to figure that out. Yet, that is the way they figure it out on State land in the State of Nevada, which would certainly not be relevant, nor would it work on the Federal public domain.

I believe that this amendment was not a good idea when I alluded to the dates that it was debated in the Senate earlier this year, and it is no better today. When the Senate considered this amendment in March, the Senator from Arkansas indicated, as he has today, that the amendment was not intended to adversely affect small- and medium-sized ranches. He indicated in his amendment that it would only impose higher fees on ''corporate ranchers.''

Frankly, I do not see any difference between a corporate rancher that is big and a sole proprietorship that is big, nor between a corporate ranch that is small and a noncorporate subchapter S partnership that is small. He indicated in March corporate ranches only, and the big ones are the only ones that would get an increase. As we explained in March, he has missed his intended mark, and for that reason, and that reason alone, the amendment should be defeated. The Bumpers amendment would set an arbitrary number of 2,000 animal unit months as a definition of a corporate ranchers.

In New Mexico, for instance, an example comes to mind as to how it would work exactly opposite from what is intended.

Among the top five property owners in my State is Ted Turner, hardly someone who could be considered a family rancher. In New Mexico, Mr. Turner owns a large ranch made up primarily of deeded land. It surrounds an area of Federal land for which he holds grazing permits. Under current grazing regulations, he can easily arrange his allotment such that he would use only 1,999 AUM's on Federal land. This means that he would qualify for the family rancher's fee, because he would not meet the 2,000 animal unit month threshold. He could do this because his ranch is made up mostly of deeded land, and he has the flexibility to move animals from public to private without a major impact on his operation.

Let me tell the Senate about another situation that is far more common than Mr. Turner's. This side of the story involves smaller ranching operations that actually do provide the primary source of income for real families struggling to make ends meet. These ranchers are more reliant on forage that is grown on Federal land, and some for almost all of their forage. These ranches involve small amounts of fee land, small amounts of State land, and large amounts of Federal grazing land.

Additionally, a large number of these family ranchers graze their livestock on Federal land 12 months out of the year. In other words, they are not seasonal permits that are common in some other States. Under this amendment, however, if a family owned and operated a ranch that runs 167 cows on Federal land, it would be considered a corporate ranch and subject to the higher fee. Actually, we have hundreds of these kinds of ranches in the State of New Mexico. I do not know about other States. Certainly, I do not know about Arkansas. But in New Mexico, it is impossible to support a family on the income derived from 167 cows even if grazing fees are zero.

So I opposed this fee in March, and today my concern is still as strong as it was, principally for family ranches in the State of New Mexico. These concerns are compounded by the lasting impacts of severe drought, from which they are beginning to recover, continuing low cattle and wool prices, which do not seem to be moving, and continued high feed costs. Many of the ranchers I described that would be considered corporate ranchers under the Bumpers amendment would simply be forced off the land where they have struggled to make a living for generations.

Mr. President, I would also conclude by suggesting that it is very easy when you have such a broad expanse of Federal land, with millions and millions of acres, between the Departments Agriculture and Interior, which are leased for grazing, and that have been leased for years, it is easy to come to the floor and pick out some that are really owned by giant American companies. But I believe that it is very difficult to make the case that in this country we ought to treat them differently than we treat others with similar acreage under lease. Maybe we want to, but I believe we should not.

I believe you ought to treat a family corporation the same as you would treat Budweiser in terms of a ranch that involves Federal grazing permits. But, most importantly, I want to make sure that we do not use this kind of tactic to inadvertently attack small and medium sized family ranches in our States and which to some extent provide families with a living, but for the most part are part of a tradition. The family must stay with it. They get other jobs. They survive, and they keep a culture alive.

I, for one, believe we should not let ourselves get carried away with these ''Uncle Sugar'' checks that are shown on these diagrams. We ought to look at the big, broad picture, and treat everybody the same. If we want to change the law, change it for everybody.

We have about 5,000 permits in my State. I am far more concerned about the fact that many of them are borderline right now in terms of not being able to hold the permits because they cannot make a living and make ends meet. That is really the case, if they borrowed money on their home to stay on their ranch during these rather terrible times in terms of prices and costs. To add to that an increase in fees, at this point, seems to be an invitation to more and more bankruptcies among them.

Frankly, the bill which would increase the fees 40 percent is still pending in the House. It passed the Senate. It has been before the committees in the House, and we are still working on trying to get that out. If we get it out, we will have a chance to vote yes or no on the increased fees that the Senate passed, but combined with a reform of the grazing regulations. It should not this fee which the Senate has already rejected.

It seems to me that we ought to give that normal process a chance. If it does not work this year, it is obvious that a lot of work has to be done next year and the year after. But I hope we do not burden an appropriations bill with a change in the grazing fee this year under the circumstances I have outlined and discussed with the Senate here today.

I thank the Senate for yielding me time, and I thank the manager of the bill—for I am not sure I will get a chance in the future—for the excellent work he has done overall on this bill. I want to say that I hope, and will work with him and others, to see if we can't get this bill put into a final form and get it passed this year. I hope it is not part of a continuing resolution. But if it is, I hope we are able to get most of the work done so the continuing resolution will carry a number of changes, and we will not simply be adopting last year's appropriations.

I thank the Senate, and I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Washington.

Mr. GORTON. Mr. President, I assume the Senator from North Dakota is here on a different subject. Is that correct?

Mr. DORGAN. No.

Mr. GORTON. Then I will yield.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, it is an unaccustomed role for me to come to the floor and speak in opposition to an amendment offered by the Senator from Arkansas. I find so often I come to the floor to support a number of his amendments, but I oppose this amendment. I think it is not only bad timing but an inappropriate remedy to what the Senator describes as a problem.

I would like to give some context for my feeling about this. I grew up in southwestern North Dakota out near the Badlands in ranching country. My father raised some livestock. We had some cattle. We did not ever run cattle on public lands. We have never been a family that had access to public lands and therefore the grazing fees that exist on public lands.

I know something about the cattle business but not nearly as much as those who are ranching full time in parts of North Dakota today. I know a little about calving, about what ranchers go through. I understand what the ranch families go through in the spring; 4 o'clock in the morning, with it snowing and cold and running across muddy fields trying to deal with a difficult calving situation to save some calves and save some cows.

It is not an easy life. A lot of these ranchers have discovered, with the bottom falling out of cattle prices in recent months, it is pretty hard to make a living doing something they love to do.

The question today is not about whether ranching is a wonderful lifestyle for those many hundreds of ranchers. In North Dakota, these are really people who are the salt of the earth. These are wonderful people who do it on their own and battle the elements and battle the markets that they cannot control but try to control what they can on their family ranch and try to make a living out of it all. They would be, I suppose, perplexed about a lot of this public debate.

What has been offered is a discussion about what should the appropriate grazing fees be on public lands. We see proposed a schedule of what the private lands rent for, what the State would rent its lands for, what grazing fees would be on State lands compared to what grazing fees would be on Federal land.

I should start by saying we do not have much Bureau of Land Management [BLM] land in North Dakota. Most of the grazing in North Dakota is on the grasslands and that, of course, is managed by the U.S. Forest Service. We do not have giant ranches. We do not have big corporations that are ranching in my State. We do not have giant ranchers that control land as far as you can drive in a pickup truck with two tanks of gas. We do not have any of that. We have a bunch of families out there who are struggling trying to raise some cattle and make a living.

When these folks pay a grazing fee and have a permit to graze their cattle on public lands, you cannot, in my judgment, appropriately compare that to what private rent is on private lands or what the State is proposing for grazing fees or charging for grazing fees on State lands.

Now, why is that? Because if you are raising cattle, paying a grazing fee on the grasslands in North Dakota, it is not just you paying some rent on some land on which you are going to raise your cattle. That is not what the transaction is about. It is true, these ranchers have paid a fee then to put those cattle on that land to graze, but they have other responsibilities too.

Those are multiple-use lands by law so there are recreational responsibilities those lands have to bear. Somebody wants to come hiking on those lands. Do you think someone is prevented from hiking on the grasslands? Oh, no. The fact that someone else is grazing their cattle does not prevent the multiple-use responsibility for recreation on those lands.

What about mineral development? Is there an opportunity for mineral development even though some rancher is grazing cattle on that land? Of course, because that is part of multiple use.

What about the requirement for that land to be productive for the raising of deer, whitetail deer, upland game? Well, that is part of the responsibility under multiple use as well.

If that rancher wants to put a water tank on that land, the question of where that rancher locates that water tank, is that up to the rancher? It is on private lands, not on public land. That has an impact. And that land is multiple use. It might be that water tank has to be located near a woody draw where it is going to have a more favorable impact on the production of certain kinds of animals, provide a better habitat.

So these are lands with multiple-use responsibilities, and that is not just a concept. That is in law. Every one of the users—minerals, mining, oil, hikers, hunters, all of the users—impose their right to the multiple use on these lands.

So are these different lands than the other lands that are being compared? Of course they are. Do you think if you rent private pasture land, you have to say, well, now, I have paid to rent this land and now I have responsibilities with respect to where I put this water tank and its effect on the production of deer? Do you have to think about the fact that you have responsibilities to a mineral company, or I have responsibilities to hikers? Simply not the case with private land. I just make the point that I think these comparisons that we see are not fair or accurate.

Let me make a couple of points about the specific amendment. This amendment creates a threshold of 2,000 animal unit months. The formula for AUM's does not mean much to people, I suppose, unless they are involved in AUM's computations with the BLM or Forest Service and are running cattle on public lands. But we are not talking here about big operators or big ranchers when you talk about 2,000 AUM's. For someone who is grazing cattle 12 months a year, you are talking about running 160, 170 cows, at which point you have used the 2,000 AUM's.

That is not a large ranch. That is not going to make much of a living for someone out there struggling to make a decent living. So this threshold of 2,000 AUM's and the implication that above that we are talking about large ranchers, corporate ranchers, is simply not the case. I know a number of people, a good number of people in North Dakota who have more than 2,000 AUM's, and they are struggling, family-sized ranchers desperately trying to make a go of it.

Cattle prices have fallen through the floor on them. Many of them are hanging on by their financial fingertips. I think they would be most surprised to hear that someone judges them to be anything more than a small family rancher out there somewhere in western or central North Dakota trying to make a decent living.

I mentioned that, in my judgment, we have discussed, debated, and massaged this issue in several different ways over the last years, and I suspect we will continue to do that. The Senator from New Mexico in his recent discussion pointed out that the Senate has passed legislation which does in fact increase grazing fees, and that it is now awaiting action by the House.

It is not the case that those of us from areas where the Federal Government has lands for which a grazing fee is charged have said there shall be no increase in grazing fees. That is not the case. In fact, legislation that has increased the grazing fees has been supported by many of the people who have spoken today in opposition to this amendment.

That is not the issue. The issue is whether this kind of amendment offered today on this piece of legislation makes sense for the Senate. And the answer is no. There perhaps should be from time to time a review of exactly what should the grazing fee be, and when we have that debate or review, I would always encourage us to compare apples and apples, and it is not comparing like quantities by comparing private rent for private lands and grazing fees on public lands. It simply is not comparing like amounts.

So, we will go through this debate, and we will have a vote today. This is a proposal on an appropriations bill offered now during the last couple of weeks in the session. I think it is probably useful to have the discussion once again, but I hope my colleagues will, as they have on the previous occasion, decide to turn down this amendment.

There are other ways for us to productively debate, in a thoughtful way, what should be the specific grazing fee that is appropriate for all Federal lands in this country. We may even have some disagreement about whether one rate ought to be charged for the largest corporation in America and another rate for the smallest rancher in the country. That is not something we will, perhaps, have agreement on generally across all the political confluences in this Chamber.

But I think there will be a majority in this Chamber who believe that this amendment is an amendment that purports to do something that it would not accomplish. It purports to say it will increase the grazing fee only for the largest corporate ranchers in our country when, in fact, this will precipitously increase grazing fees for family ranchers who are raising, in many cases, under 200 cows a year, grazing them the full year, and who would not be expected, given the definition of this amendment, to be included in it.

For those reasons I hope the Senate will turn this amendment down and we will have, at another time on another occasion, further debate about grazing fees. When we do, I hope we will compare, as I have indicated, apples to apples, grazing fees on public lands to similar circumstances in other areas. I think you will find the allegation that is made that there is an enormous public subsidy on grazing fees is simply not true, based on fact.

I yield the floor. I thank the Senator from Washington for his courtesy.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, in turn I wish to commend the Senator from North Dakota on a very thoughtful analysis of a problem which he understands from firsthand experience. I agree with him in feeling this proposal ought to be dealt with under different circumstances and trust that will be the decision of the Senate.

Now, Mr. President, I do not believe that any other Member is going to come to the floor this afternoon to propose an amendment to this bill. If I am in error, I hope contact will be made with the appropriate Cloakroom promptly. I also hope that, having thoroughly debated this grazing fee amendment, we will be able to bring it to a vote promptly tomorrow morning.

I understand the majority leader wants to call the Senate into session at 9:30 tomorrow morning, or at least to return to this bill at 9:30 tomorrow morning, and would like to vote at about 10 o'clock. That proposition is still being cleared. I expect the leader on the floor when the Senator from Arkansas has completed his remarks on this bill, and we will determine between now and then whether or not we can have a brief additional debate on this proposal tomorrow morning, vote on it, and move on to another subject relevant to this bill.

Seeing the Senator from Arkansas here and knowing he wishes to speak again on this subject, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, it would be my hope, as far as voting on this is concerned, that we could vote immediately after the caucus tomorrow. I do not know what other amendments Members may wish to offer on this bill. I assume, based on what I am hearing, there are several.

I just have about 5 minutes worth of remarks here and we can move on to something else, if there is something else to be taken up. I hope we will have some more amendments offered in the morning that we can dispose of and perhaps stack votes until after the caucus.

I think it would redound to the benefit of both sides if we could, for example, set the amendment aside, take it up for 20 or 30 minutes of debate at 2:15 tomorrow, immediately after the caucus, 20 minutes equally divided or some such thing as that, or maybe 30 minutes equally divided, and we could vote at 2:45. I think there are several Members who may miss this vote if we do not do that.

Mr. GORTON. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. GORTON. The request made by the Senator from Arkansas seems, at least to this Senator, to be a reasonable one. The only frustration we may suffer is whether or not we can get anyone to come tomorrow morning to use 3 hours that ought to be devoted to a substantive debate on this bill.

So, perhaps with the requests of both of us, we would be able to do exactly that and no time will be lost at all, if there is a serious debate on another contested amendment or, for that matter, if we deal with myriad amendments—I must have 30 or 40 of them here—that I know something about. If we can use tomorrow morning to deal with them, whether they are ones that can be agreed to or ones that will be debated, then we will not have lost any time at all in acceding to the suggestion of the Senator from Arkansas.

He can use such time as he wishes now, and we will see whether we cannot work that proposition out for tomorrow.

Mr. BUMPERS. I thank the Senator for his always generous and thoughtful accommodation of other Senators. As I said, I am willing to set this amendment aside until 2:15 tomorrow at the conclusion of the few remarks I have to make here. That will give the managers and perhaps the majority leader an opportunity to badger and cajole other Members to bring amendments to the floor if they have them. We can take that up in the morning, then, debate other amendments, and come back to this at 2:15 tomorrow and maybe have 20 minutes or 30 minutes, by agreement.

I just wanted to challenge some of the things I have heard from the opponents of this amendment.

No. 1, the Senator from Wyoming pointed out that there are grazing associations which several members belong to under one permit or one name. The association would control more than 2,000 AUM's, and therefore they would lose the advantage of their association. The truth of the matter is, our amendment specifically exempts those people. So the statement of the Senator from Wyoming was totally incorrect. If I may, I will just read the amendment:

> For the purposes of this section, individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

That takes care of that argument.

The Senator from New Mexico said this amendment was precisely the one we voted on in March. That is totally incorrect. The amendment I offered in March on this subject provided for a $2 fee for all permittees on the first 2,000 AUM's. In this amendment, we do not raise the fees for those people who have control of less than 2,000 AUM's one penny. They are not affected at all.

No. 3, the Senator from New Mexico said that people do not just graze cattle for a few months and send them to the high country, they graze them 12 months a year and therefore he concluded that 2,000 AUM's really only

amounts to about 165 head. That is true if you graze 12 months. But the truth of the matter is, more permittees graze less than 12 months than graze 12 months. In the colder climates, ranchers take their cattle off of the lands so they do not have to pay even $1.35 a month for them in the winter months when there is no grass for them to eat. They put them in feed lots. They put them someplace so they do not have to pay $1.35 a month.

Finally, let me just say, the Senator from Wyoming said most ranchers are not corporations—and he is absolutely right. They are not corporations, and we do not bother them. My amendment has absolutely no effect on 91 percent of the 22,350 permittees in this country. We do not touch them. It is designed to protect all these little family farmers that I have heard discussed here this afternoon. As a matter of fact, that is all I have heard from the opponents of this amendment, about how tough these little cattle farmers are having it.

That is true, but that has absolutely nothing to do with this amendment. If you think Anheuser-Busch and Hewlett-Packard and Newmont Mining Co., are family farmers you ought not be in the U.S. Senate. If you cannot distinguish between family farmers and the kind of people that I am trying to reach here and take off corporate welfare, you have no business being here.

I daresay I have heard this grazing fee debated for 22 years. I will have been here, at the end of this year, 22 years, and I have heard this matter debated, I have heard every argument I heard this afternoon in spades, thousands of times. Every single argument is designed to obfuscate the issue.

The issue is not the little farmers who are not affected by this amendment. The issue is the 9 percent of the wealthy people in this country, the big corporations, such as Anheuser-Busch, who control 60 percent. If you think it is right for 9 percent of some of the biggest corporations in America to control 60 percent of the 270 million acres of Federal lands we let out for grazing, vote against the amendment. If that is your sense of equity, if that is your sense of fairness, vote against this amendment. But for God's sake, do not come over here and make these silly, facetious arguments about these little family farmers that we are trying to bankrupt.

Even Hewlett-Packard, even Anheuser-Busch, only have to pay $1.35 for the first 2,000 AUM's under my amendment. We do not even charge anybody an additional fee until you get to 2,000. And what do we charge them then? The same rate that the State charges where the land is located.

The Senator from New Mexico made an argument about how this is designed, about how much more they are going to pay. What would they pay under this amendment? They would pay exactly what they have to pay if they leased lands from the State of New Mexico. If the Senator from New Mexico leased lands from the State of New Mexico, he would pay $3.54 an acre, and you do not get nearly as good a deal you get from the Federal Government, because the State reserves all water rights. In addition, the State does not put 50 percent of the rent they get back into range improvements.

I know what is going on here, and you do, too. The merits of this argument have nothing to do with the way people are going to vote here. The politics of it are what is causing the debate here, and that is the reason politicians of this country have the approval of about 28 percent of the people. They know exactly how we vote and why we vote. You put this debate on national television and I promise you I will get 98 percent of the votes of the American people, but not in the U.S. Senate.

In Oklahoma, you have to pay $10 for an AUM if you rented State lands. I have already shown you what the private sector charges. The private sector charges a lot more than the States do. It is only ''Uncle Sucker.'' And I am not trying to balance the budget. This does not amount to anything, so far as money is concerned. What it amounts to is fairness, and the American people have a right to expect at least minimal fairness on how their land is used.

Mr. President, if I were to change my amendment to 4,000 AUM's, and I may do that, if I changed it to 10,000 AUM's, I would not get one additional vote, and you would hear the same arguments about the poor little family ranchers out there. The poor little family ranchers represent 91 percent of all the permittees. They are not touched by this. Nobody wants to get up here and say, ''I think the Government ought to be subsidizing Anheuser-Busch.'' Nobody is going to say, ''I think the Government ought to be subsidizing Newmont Mining.''

So what do we talk about? The 9 percent of the permittees who fall in that category? No. We talk about the 91 percent of the little family farmers who are not even affected by this. So the whole thing is designed to confuse, obfuscate and give people an excuse for violating their own conscience when they vote.

Do you know how many people are affected in the State of North Dakota? You heard my good friend, the Senator from North Dakota, a moment ago, one of the best friends I have and one of the finest Senators in the U.S. Senate. Do you know how many people in North Dakota are affected by this amendment? Thirty-four, 2 percent; 2 percent of all the ranchers in Montana, North Dakota and South Dakota are affected by this amendment—2 percent—and you would think the world was coming to an end.

Who are they? They are the wealthiest people who graze livestock on Federal lands. In South Dakota, you would have to pay $7 an acre to graze on State lands. I am talking about 2 percent of the farmers in Montana, South Dakota and North Dakota. What did you hear in the debate? Not about the 2 percent. You heard about the 98 percent who are totally unaffected by this amendment.

Oh, it's discouraging. I've got about as good a track record, I guess, at losing amendments as anybody in the Senate. I must say that doesn't bother me much. I get frustrated. Offering an amendment like this—the merits are absolutely undebatable. Oh, you can debate it, but the truth of the matter is the merits of the amendment are unsalable. Just look at the list.

In California, you are talking about 8 percent of the permittees, a total of 53. California, with 33 million people and 53 of them are affected by my amendment.

Colorado, 70 permittees, or 5 percent of all the people who graze on Federal lands, 5 percent of them, 70 of them, and you would think we were debating the welfare bill here.

Oregon and Washington, together, the two States together, Oregon and Washington, 136, 8 percent of all the permittees.

Nevada and New Mexico are the two States that have the most. Nevada has 262 ranchers that would be affected, and then they have about 420 who wouldn't be. But getting back to the merits of the case, we are not talking about enough money. You know what, take the money out. I wish there was some way you could take the money out of it because it doesn't amount to anything. It doesn't amount to an ant hill, $8 million a year. We get $25 million a year from 22,350 permittees, and this would raise an additional $8 million.

That ain't going to balance the Federal budget.

I wish we would take the money completely out of it and just simply say we are not going to give anybody grazing rights on Federal lands that exceed 2,000 AUM's. That will satisfy me. Forget the $8 million. Forget the increased costs. I may offer that amendment, incidentally, something close to it, because I would like to hear people come in here and moan and groan and make the same speeches they just got through making if you set it at 10,000 AUM's.

Mr. President, I have covered about everything I can think to cover. I listened to the debate a while ago of all the various Senators, the arguments made. As far as I am concerned, they are all friends of mine. They are all fine Senators. But the arguments are so specious, I cannot believe it. I will probably lose again. I think we lost by three votes last time. We will probably lose by three to five again.

But I am telling you something else, completely aside from the money, completely aside from the equity. I defy anybody to stand up and say, when they are up for reelection this fall—go back home and make the same argument to the constituents that you made here on the floor, but be truthful

about it. Tell those people that you voted to allow big corporations like Anheuser-Busch and Hewlett-Packard and Newmont Mining, people like Mr. Simplot out of Idaho—he is probably a fine citizen; I have nothing against him; if I were in his position and getting a couple thousand acres for little or nothing, I would probably take it, too—but go home and tell the people that you voted to defend those people on this issue, and tell them what the issue was. Tell them that 91 percent of the ranchers in this country who graze livestock on Federal lands would have been unaffected. The only people who would have been affected would be the billionaires and the big corporations. Tell them you voted to defend those people and to give them lands for $1.35 even though the States they live in would charge exponentially more.

The Senator from Montana just came on the floor. The State of Montana would charge you $4.05 for an AUM in Montana. But ''Uncle Sugar'' will let you have it for $1.35. And if you charge a nickel more than that, for example, what they charge in the State of Montana, the weeping and wailing begins. I yield the floor, Mr. President.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, we are on rewind again. We have been down this little debate before. It never ceases to amaze me how we can compare apples and oranges and oranges and tangerines, and then we compare everything else with rocks.

It is easy for me to go home and explain this vote for the simple reason that the majority of people that live in Montana, that live in the West, where there is a large prevalence of Federal lands, they understand that.

When I first went to the State of Montana, I did not have a real good understanding of public lands and the policies on those public lands and how those policies were developed. I did not have a real keen interest in what is regarded in the West as water rights. Where I was raised in Missouri, we did not file for—if you put a well down, we did not worry about water. It seemed like it came down every river, and our wells were full all the time. We enjoyed anywhere from 35 to 45 inches of rain every year, so water was not a big issue where I came from as a young lad growing up on a small farm. But when you live there for a while, and these issues come up, then all at once your interest grows in it and on the development of that public lands policy.

I do not think we want to get into a class warfare type thing. I know if I was a rancher in the State of Montana, I would like to have the opportunity to grow bigger if I could and do it, and do it the way that most of them did. So whenever we start comparing State lands and private lands and BLM land, it is not even a close or a fair comparison.

I have been to the Senator's State of Arkansas. I would like to have some of the grazing land that they have in their great State. I would like to range some cattle there and graze some cattle there, because I know what it will do and the season it takes. I was raised in Missouri, so I know what the cost is and how much they will gain on the kind of forage that they have. It is a little bit different as you move West, where the soil thins, and so does the forage. In some places there is hardly any forage at all.

The BLM lands are the lands that were sort of left over, because when this country was settled, they did not have the technology or the way to develop water supplies and to deal with everything that you are going to have to have on that range to run livestock. I will tell you something else along with that. In the old days, there was not any wildlife out there either, because everything it takes to sustain wildlife on those ranges it takes to sustain livestock. That is why we have more whitetail and mule deer, more antelope and more elk now than we have had since the Great Depression.

The improvement in those ranges has been done in part by the individual permittee, the person who held the permits, because he was the one that had to lay out the money to build the pipelines, to build the reservoirs, and to create in some places where there has never been water but there is now, to where that resource, that resource called grass, the only way it can be harvested is through the cattle or sheep.

But as our technology grew and our ability to develop those water resources on semiarid to arid land, we made use of more of that country than had ever been used before. Then we all at once started developing another little organization after World War II looking at the ranges and the condition of the ranges and knowing that the future of agriculture, especially animal agriculture, west of the Mississippi is going to depend on how well we take care of our resources. There was an organization that was founded and had as much to do with the improvement of the range. It is called the Society for Range Management [SRM]. They started having neighborhood meetings and they started bringing new practices and they said not only do we have to do a better job in our grazing, but we have to do a better job in our water management and our soil management.

We have to watch out for wind erosion. We do not have to watch out for wind erosion in this part of the country. We have to watch out for water erosion. Sometimes it sounds like it is going to rain here, wash us all right down the Potomac River. That is the forecast anyway. We do not have to worry about that out there. We have to worry about it maybe sometimes in the spring of the year when the runoff goes off, but it does not last very long. But we have wind erosion. In order to prevent wind erosion, you have to keep pretty good forage on that land.

So we had to go to different grazing. We grazed some a long time; we grazed some a very short time. But through those practices and trial and error and with that organization, the range improvements in the West have been phenomenal over the last 50 years. One has to remember, you do not change the direction. You do not improve land, you do not improve anything in just 1 year, put a big Band-Aid on it and it is fixed, because it takes a long time. I will admit, the Homestead Act probably did as much damage in the West to the resources there as any law that we ever had, although it did move our public lands into private hands and started building the farms and the ranches across this country. But they also plowed up some country that should never have had a plow stuck in it. That all had to go back into rangeland. Some of those scars still exist today, but we are dealing with that. It takes time. Mother Earth heals, but sometimes it takes a long time.

Those lands never were held in private hands. They were always in the Government. They were the leftover lands. In the State lands, they lump everything together. In some places, you have great tracts of timber and some sections of State lands and farmland which produces a nice, great profit to the rancher who farms that land. It is either wheat, barley, or grain, and that returns a nice little check to the Treasury without any livestock ever being on it. That is part of that rent. That is part of that scheme of $4 over there.

What we are talking about here, we cannot compare private lands, public lands, and State lands. Take a county like Garfield County, MT. I heard the organizations that are sponsoring this amendment or endorsing this amendment, and they do not want cattle on these lands. This is the bill to move them off the land. To a county like Garfield County, whose tax base for personal property taxes has to be in livestock because there is very little out there to tax, it pays for schools, roads, public safety. All those things are paid for by animal agriculture in the vast amount of the counties east of the mountains in the State of Montana.

The Government does do very well when you take into account all of the multiple uses on that land, grazing included. And I saw the comparison of my friend from New Hampshire. If I am investing $50 some odd million, whatever the figure is, and only get a return on $14 million, I think I would look at how I am operating my business. Maybe the secret is not the grazing fee, maybe it is in the way that we are operating our land or our business. Maybe there is a better way. Also, if I was doing it that way—and some of the hoops that the Bureau of Land Management has to jump through were created by laws here in this body. When I went to Montana, only the BLM managed all the land in Montana, with around perhaps 30 or 35 people, and now there are

500 people there. I would take a look at that. Maybe we have an organization that is a little on the bloated side when it comes to managing our public lands.

Do not be fooled by the comparison of the lands because there is no comparison. We are trying to pass a rangeland reform bill. The cloud of a Presidential veto is over that bill as we work with it here in this body. Now you tell me that is trying to solve some of the problems that we have in developing public lands policy, because if it is not just exactly the way we want it, we are just going to veto it. That does not tell me that this administration or Mr. Babbitt is trying to get along with the folks who are dependent on the use of public lands, multiple use of those lands in the West.

Keep in mind any commercial development, along with the recreation and the access to those lands, is very important to all Americans, all Americans, as they are the benefactor of this, even as we speak today. Not very many of us have a hungry night, for we have a wonderful way of producing food and fiber in this country.

I know we will have more to say on this issue later, but take a look and see what we are doing. The comparisons just are not there. Regarding this, I suggest we reject this amendment. It has been rejected before, and it was rejected basically on common sense—common sense. Sure, we can make a case where maybe it ought to be $10—or, to be fair, go to $20. Take them all off the land. Who needs them? It is just a handful of people. Not very many. America, who needs them? I think we need them. They are very important to my State. They are very important to this country.

Mr. BUMPERS. I wonder if the Senator from Montana would be willing to engage in a short colloquy. I just ask this question: Is the Senator opposed to any limit? In other words, Hewlett-Packard or Anheuser-Busch maybe has 8,000 AUM's. Mr. Simplot has 50,000 AUM's. Do you have any objection to Mr. Simplot paying a grazing fee to run 50,000 animal unit months at $1.35?

Mr. BURNS. I have to say to the Senator that you just cannot single out a few people to say whether you would like that or dislike it. That is the way it is set up for all of us.

Mr. BUMPERS. Senator, we single out rich people with a little higher tax rate than we do poor people.

Mr. BURNS. I wonder some days, I wonder about the wisdom of that on occasion. Every time we try to single out somebody to pay higher fees or put them under a different set of laws, then somebody else who is running under the same conditions—everybody gets hurt. In other words, those people did not get big from being dumb, so there are other ways to get around it. I think it limits a little man growing.

What is wrong with the little guy starting out and wanting to grow? Is that not the American way?

Mr. BUMPERS. The Senator wants Anheuser-Busch to grow?

Mr. BURNS. I sure do not want to lose them as a viable corporation. They do a lot of business in my State. They buy my barley. They are not just a one-faceted company. They pay a lot of personal property taxes in my county, the county government.

I was a county commissioner before I came here. I know about those checks. They foot the bills on a lot of education. They buy a lot of pickups, and they buy a lot of services in counties. Once it leaves or once that has eroded, that business has a hard time coming back. Senator, we cannot live on just tourism or recreation alone on that land, because recreation will not pay for it. They will not pay you $1.36 an AUM.

Mr. BUMPERS. I take it the answer is no, there is not any limit that is too high for the Senator to oppose?

Mr. BURNS. I have to think about that, but I do not think you can single out people and put them in a class over here and have another class over here. I do not think I like that very much.

Mr. BUMPERS. You understand, of course, that some of the biggest corporations, and these billionaires who own hundreds of thousands of AUM's, if they had to pay more or if they gave it up, that would make a little room for some of the little ranchers that I watch all these tears shed for around here.

Would the Senator agree?

Mr. BURNS. I think if it becomes unprofitable for them, it would be unprofitable for a small man, too. I do not think that will open up the availability of more of those permits to a smaller rancher.

Mr. BUMPERS. So the Senator sees no inequity in the fact that the State of Montana leases its lands at $4.05 an AUM and the Federal Government receives $1.35? That doesn't bother the Senator?

Mr. BURNS. If you had some preference, you would rather lease private lands for even more than that, Senator, because we know the services that go with it. The cattle will be ridden and we will get gain on the cattle. That is not guaranteed. Nothing is guaranteed on the public lands. We will get control. The State lands are a little better lands. Like I said, you cannot compare these lands. You are comparing apples and oranges.

I yield the floor.

Mr. BUMPERS. Mr. President, I take it from the Senator's comments that the fact that Montana gets $4.05 an acre and the U.S. Government gets $1.35 an acre, the Senator sees nothing wrong with that. In the private sector in Montana, people who lease private lands to ranchers receive $11 per AUM. The Federal Government gets $1.35, and the Senator sees no inequity in that.

AMENDMENT NO. 5353, AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The amendment (No. 5353), as modified, is as follows:

At the end of the pending Committee amendment ending on line 4 of page 25, add the following:

SEC. . GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provisions of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985).

(b) DETERMINATION OF FEE.—(1) Permittees or lessees, including related persons, who own or control livestock comprising less than 5,000 animal unit months on the public rangelands pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees, including related persons, who own or control livestock comprising more than 5,000 animal unit months on the public rangelands pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a) for the first 5,000 animal unit months. For animal unit months in excess of 5,000, the fee shall be the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands;

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee; and

(3) related persons includes—

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986) of the holder of the permit or lease; and

(ii) a person controlled by, or controlling, or under common control with the holder of the permit or lease.

Mr. BUMPERS. Mr. President, this amendment originally required that anybody who held more than 2,000 AUM's would have to pay whatever the State charged for lands in that State on any AUM's in excess of 2,000. I have the very distinct impression it would not make any difference, as the Senator from Montana just confirmed, how high the limit went. I think he would find it difficult, if not impossible—I detect impossible—to support the amendment. Nevertheless, I will give everybody a chance because they say 2,000 AUM's is only 166 head. So we will get it up to 400 with 5,000 AUM's. That is what my modification does.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Chair. I don't remember, but I believe Yogi Berra says, ''This is like deja vu all over again.'' It really is. I am so saddened that my friend and colleague from Arkansas likes to engage in the typical class warfare game that

his side of the aisle oftentimes likes to play over issues where they project that there is some big evil creature out there profiteering off of what is the public's interest or the public's resource and, therefore, we ought to stop them.

If that were true, I would be standing not only beside my colleague from Arkansas, but I would be supporting his legislation. That has never been the case. What is the case is that the environmental community of our country, for well over two decades now, have tried to find a reason to change the character of the western public grazing lands for a variety of reasons. And through that, they have searched for a variety of arguments that somehow would ring solid with our citizens, that would say that public policy that directs our public lands somehow is misdirected, that the Congress has failed in its responsibility to the American people and, therefore, we ought to change public grazing land policy.

I certainly don't hold the edge on the knowledge on this issue. But I am one of a few Senators on this floor that once leased public grazing lands from the BLM and from the Forest Service. My family ranching businesses did that for years. We are no longer in those businesses. There is no conflict of interest with this Senator. But I represent thousands of cattlemen in my State who do graze. Of our agriculture industry in the State of Idaho, which is the number one total receipts industry in my State, cattle is the largest segment of agriculture. It isn't potatoes when it comes to dollars and cents in total sales; it is cattle. Eighty percent of those cattle have to graze on public land at least some time during the year. The reason is that 63 percent of my State is owned and managed by the taxpayers of this country, the Federal Government, the public domain, the people's estate, however one wants to describe it.

So, in other words, Washington, DC, has more to say about running Idaho than Idaho has. The largest segment of our agriculture industry, therefore, has to rely on Federal public policy to survive. Sometimes it's good, sometimes it's bad. There is one thing Idaho appreciates, though, and that is its large expanse of public lands. We don't want it to be private per se. We have found that there is a tremendous heritage there that speaks to the public lands, that enjoys them, not just for cattle grazing, but for access—hunting, fishing, and for the quality of the environment that my State of Idaho has.

My grandfather, a good number of years ago—a good number of years ago—homesteaded in Idaho—then just a State. At that time there was no BLM, there was no Taylor Grazing Act. He was a grazer, a rancher, a sheep rancher. He found out that the great big interests out of the Southwest, out of Colorado, large ranching combines, that owned thousands of acres and tens and thousands of head of cattle, would sweep across the western lands, including Idaho, grazing them at will. Large sheep operations did the same. He and other ranchers across the West joined together and appealed to the Congress to create the Taylor Grazing Act, to control and limit grazing.

In the late 1800's, a U.S. cavalry officer, stationed in Idaho, wrote in his diaries that the public rangelands and the western rangelands of Idaho were depleted by over 80 percent from overgrazing. That was before the turn of the century. That is when my grandfather and others of western heritage said, ''This had gone too far in an uncontrolled fashion, and we ought to do something about it.'' Congress created the Taylor Grazing Act. Out of that, they directed their interests back to the States and back to the local rancher and not the large national interests or regional interests. They created committees. They created local control, and they began to turn the western grazing lands around.

Now, few remember that history or that heritage. Today's memory doesn't even want to realize that, before the turn of the century, western grazing lands were already in trouble because they had been overgrazed by largely no control whatsoever, until the Congress of the United States stepped into this vast domain of public lands and said we have to do something about it. And they did. And if you will remember a couple of years ago, Mr. President, when Secretary Babbitt was trying to find a reason to change public grazing policy, because the environmental community had wrestled him to the ground and said, ''cattle-free by '93,'' and ''you have to change this policy.'' In his effort to try to find a reason, he asked the staff of the Department of Interior to find worse-case scenarios. In a memo that I divulged on this floor—a secret memo—they said, in essence: Mr. Secretary, that is hard to do because the western grazing lands are in better condition than they have been in 100 years.

So why do you want to eliminate grazing? Why do you want to tighten it down? Well, in a few instances, there are problems. There are some riparian areas critical to wildlife habitat and water quality that need to be administered differently. That is true in my State, as it is true in other public land grazing States across the Nation. There isn't a Senator on this floor that wouldn't suggest that these lands be managed in a responsible fashion, not just for grazing, but for wildlife habitat, for archeological values, for outdoor recreation, for water quality, for all of the reasons that we have in the public domain.

But we in Idaho and the West say that, amongst all of those reasons, grazing should be equal, and it should have, by character of the Taylor Grazing Act that created these grazing relationships with private people, some level of priority.

Why? Because a big chunk of the economy of Idaho depends on access to that land. We have incorporated that for over 100 years into the economic base of our State, and if we had known that the Federal Government was going to sweep in and change the character of local economies, maybe we would have fought over a hundred years ago when we came into the Union to make all of those States private land instead of a large portion of them remaining federally owned public lands. But that didn't happen. It has not happened.

Idaho has a wonderful public land heritage, and we want to keep it that way. But we sure want to try to maintain a working, cooperating, sharing relationship with the Federal land management agencies that says there can be some grazing, mining, logging, water quality, and environmental integrity and all of those combinations of multiple balanced uses that are so critical to the character of the western public land States. That part is what the Bumpers amendment is not all about. It does not understand, nor does it share, that relationship that has existed for well over 100 years.

When we talk about the character of the West and wanting to preserve it, this is an amendment that would dramatically change the character of the West. For the people who come to Idaho today, because Idaho is what it is and has been for so long, part of that which they enjoy is the ranching heritage, along with the great outdoors and the beautiful landscapes and the pristine air. For over 100 years we have grazed Idaho actively, and it is still a beautiful State.

Several years ago, I, along with others who have primary responsibility in the Committee of Energy and Natural Resources for this issue, began to recognize there needed to be some adjustment in grazing fees; that somehow the formula currently being used by the Bureau of Land Management and the Forest Service was not working well. Mr. President, you know the struggle we went through. We offered a variety of amendments and a variety of bills. We passed a grazing reform bill through the Senate this year. Senator PETE DOMENICI, Senator CRAIG THOMAS, certainly Senator CONRAD BURNS, who has just spoken, myself, and others were involved in crafting that. We introduced one that was not liked at all by a variety of interest groups.

We went back to the drawing boards, and we invited all interests—sportsmen, wildlife enthusiasts to environmentalists—to make recommendations for change. Why? Because we didn't like the ranch form regulations that Secretary Babbitt was shoving through because we felt that in the long term it would badly damage the relationship of the grazer to the public land, and after taking information from all of those groups, we made between 27 and 30 changes in our legislation before it passed through the Senate with a bipartisan vote.

Why this amendment, then? I think the Senator from Montana said it well.

It is somehow the big versus the small, and that does not seem to work very well. A blade of grass is a blade of public land grass and ought to be worth the same to anybody who wants to buy it. Certainly, when we sell trees off the national forests we do not say to the great big Weyerhaeuser's or Louisiana Pacific's, or any of the big timber companies, ''You have to pay a premium because you are big,'' and to the small timber operator in my State of Idaho, ''You are small and you are little and you pay less.'' We don't do that. We offer it to up to bid. But in the instance of grazing, because grazing is tied with the ranch, we have said you will pay a fee determined by the Congress. That is what we have tried to do in a fair and equitable way, and I think we have accomplished that, because not only are we trying to get a reasonable amount of money from the public resource for the public Treasury, but we are still trying to reflect the relationship that was crafted back in the teens with the creation of the BLM Act, or the Taylor Grazing Act, when we said that ranches ought to have a relationship to that public land to be able to graze it under reasonable conditions. That kept the local economy together. That kept the main streets of Grand View, or Twin Falls, or Oakley, or Buhl, or any of these small Western agricultural ranching communities, together because they didn't own the vast lands. Those were owned by the public. But there would still remain a relationship between the ranching community, the economy, and the land. For a long time that was the right relationship, but now we have wanted to make changes.

The Bumpers amendment makes the kind of change that dramatically alters big and small, because the one thing that has never been talked about in all of this was all of my small ranchers have been marvelous stewards of the land throughout this time. They are the ones who gave the time. They are the ones that put in the water systems. They are the ones that have largely made the public range what it is today by investing millions of hours of person time and millions of dollars of their own money on public lands to improve them not just for grazing, but for wildlife habitat. Yet, that seems to not be recognized today in this kind of amendment, the big versus the small, the rich versus the not-so-rich, which should never become a factor in the uniform management of and the selling of public resources. Yet, that is what the Senator from Arkansas attempts to do. And it is wrong, Mr. President, it is just plain wrong. We do not treat any other public resource—renewable or nonrenewable—that is up for sale that way.

Let us compare it. You go to a national park. You pay a fee to go into a park. Do they ask you at the time you drive through the park, ''Are you a millionaire,'' or, ''Are you poor?'' If you are a millionaire, you pay $10,000 to enter the national park, and if you are not so rich, you pay the daily fee.

We do not do that when somebody enters the public resource buildings of the national treasures of the Nation's Capital. There is a fee charged, and that happens in some instances but not many. Yet, taxpayers pay millions of dollars annually to keep these beautiful buildings up. Do we say to the rich, ''You pay more,'' and to the poor, ''You pay less''? No, we do not do that. But that is what the Senator from Arkansas does on grazing.

When we provide coal resources, oil resources, they go to the highest bidder, and they go to the finder. Then we have a national fee that we charge per ton or per gallon. Do we say to the Standard Oil's of America, ''You pay more,'' and to the small stripper well producers in Kansas, ''You pay less''? No, we do not. We expect a reasonable and a balanced fee.

I don't know how, Mr. President, to make another comparison that the public would understand. How about two apartments, one side by side, and one is furnished and one is not furnished. That is what the Senator from Montana was talking about. Certainly, the one that is furnished you would pay more for.

So when the Senator from Arkansas talks about State lands, in many instances, the State lands are a better quality grazing land. The services on them are treated differently. Certainly, it is true of private grazing. I know; I used to lease out private grazing. We took care of the cattle. We fixed the fences. We sold to them. We made sure that the water facilities were operating, and the person who put the cattle on the land never came back to see them sometimes until 2 or 3 months later when they wanted to pick them up. So we were able to charge more because we offered a service. But when the rancher leases public grazing land, BLM or Forest Service land, none of those services are offered. You ride for the cattle, and you care for the cattle. You pick up all of those extra expenses.

That is a part of the reason that the formula over the year has reflected some of disparity of difference, and it is unfair to make those comparisons. But I am afraid that some of my colleagues, who have an entirely different mission in mind than just getting for agriculture a fair price for the public resource, want to change the story. And, in changing it, they know that the consequence of their action would be disastrous to the public grazing lands as we know it.

I hope, Mr. President, that Senators will once again join with us in rejecting this amendment. This Senate has done its duty. We have crafted a compromise, bipartisan grazing reform bill with a fee increase in it which is fair and equitable to all, and passed it through the Senate. Now, to have this kind of an end run on an amendment that divides—that says to the rich this, says to the less rich this, that says we create different levels and different fees for different blades of grass grazed by different cattle, it does not make sense.

It will not work. We do it nowhere else when we deal with public resources, and we certainly ought not do it with grazing.

So I hope that the Senate will reject this amendment at the appropriate time and continue to work with the Energy and Natural Resources Committee to accomplish the grazing reform that we need, because there is no Senator who would suggest we need none.

As a Senator who represents a western public lands State, I will tell you that I helped lead the reform this year. We did not stand back, because we wanted to make sure that the reform was reflective of not only national interests but that unique relationship that was crafted with the Taylor Grazing Act decades ago between the public lands State and the public domain and the public resource and the grazing industry and the citizens of the States involved.

That is the issue at hand here. I hope the Senate will honor its historic commitment in these areas to maintain balance and to maintain reasonable return for the public resource.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I believe that debate on this grazing fee amendment has been concluded for the day. I have one short correction from last week that I now ask unanimous consent be printed in the RECORD separately from the debate on the grazing fee amendment.

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

CLARIFICATIONS OF COMMITTEE REPORT

Mr. GORTON. Last Friday, during debate on the Interior appropriations bill, I put a list of clarifying items into the CONGRESSIONAL RECORD. They were incorrectly identified as amendments to the committee report. So that there is no misunderstanding, these were clarifications of, not changes or amendments to, the committee report.

ACID MINE DRAINAGE

Mr. SARBANES. Mr. President, I was pleased to be able to offer this amendment on behalf of myself and Senator MIKULSKI to provide the State of Maryland with the flexibility and additional resources needed to clean up environmental problems associated with acid mine drainage from abandoned coal mines. Specifically, my amendment would allow the State of Maryland to set aside the greater of $1 million or 10 percent of the funds received under the Surface Mining Control and Reclamation Act of 1977 for use in undertaking acid mine drainage abatement and treatment projects.

There are over 450 miles of rivers and streams in Maryland which are contaminated by acid mine drainage.

Much of the north branch of the Potomac River, from its headwaters near Kempton, MD, to the Jennings Randolph Lake is biologically dead. The Kempton mine alone contributes 3 million gallons of acid mine drainage to the Potomac each day and estimates to clean up this problem run as high as $80 million.

Section 402 (g)(6)(B) of SMCRA authorizes States to set aside up to 10 percent of their annual title IV abandoned mine land reclamation allocation into a special interest-bearing account for addressing adverse environmental effects caused by abandoned mine drainage. For a minimum program State like Maryland, which receives only $1.5 million in AML funds a year, 10 percent is clearly insufficient to address our State's acid mine drainage problems.

My amendment will not authorize or appropriate any new money to be expended for acid mine drainage. It will provide greater flexibility for Maryland to use its existing AML funds for acid mine drainage abatement as well as health and safety problems and help address the most serious environmental problem facing the western region of my State.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE CONTINUATION OF THE EMERGENCY WITH RESPECT TO UNITA—MESSAGE FROM THE PRESIDENT—PM 169

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 Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola (''UNITA'') is to continue in effect beyond September 26, 1996, to the Federal Register for publication.

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolution 864 (1993) continues to oblige all Member States to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the Angolan peace process. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to UNITA to reduce its ability to pursue its aggressive policies on territorial acquisition.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 16, 1996*.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 2073. A bill to require the District of Columbia to comply with the 5-year time limit for welfare recipients, to prohibit any future waiver of such limit, and for other purposes.

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–4093. A communication from the Chief of the Programs and Legislation Division in the Office of Legislative Affairs, Department of the Air Force, transmitting, pursuant to law, a notice of a cost comparison study with respect to the grounds maintenance function at Keesler Air Force Base; to the Committee on Armed Services.

EC–4094. A communication from the Assistant Chief Counsel of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, a report concerning a rule entitled ''Lending and Investment,'' (RIN 1550–AA94) received on September 16, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–4095. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to India; to the Committee on Banking, Housing, and Urban Affairs.

EC–4096. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report with respect to the rule entitled ''Truth in Lending; Docket Number R–0927'' (received on September 16, 1996); to the Committee on Banking, Housing, and Urban Afffairs.

EC–4097. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, eight rules regarding the table of allotments for FM broadcast stations (RM6904, 7114, 7186, 7415, 7298, 8719, 8815, 8788, 8645, 8655, 8698, 8552) received on September 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–4098. A communication from the Assistant Attorney General in the Office of Legislative Affairs, Department of Justice, transmitting draft legislation regarding economic espionage; to the Committee on the Judiciary.

EC–4099. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report with respect to a rule regarding Immigration Title II benefits (RIN–1115–AE51) received on September 13, 1996; to the Committee on the Judiciary.

EC–4100. A communication from the Assistant General Counsel for Regulations in the Office of the General Counsel, U.S. Department of Education, transmitting, pursuant to law, a rule regarding student assistance (received on September 16, 1996); to the Committee on Labor and Human Resources.

EC–4101. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the budget request for fiscal year 1998; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 531. A bill to designate the Great Western Scenic Trail as a study trail under the National Trails System Act, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1091. A bill to improve the National Park System in the Commonwealth of Virginia.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2636. A bill to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 608. A bill to establish the New Bedford Whaling National Historical Park in New Bedford, MA, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 695. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 902. A bill to amend Public Law 100–479 to authorize the Secretary of the Interior to assist in the construction of a building to be used jointly by the Secretary for park purposes and by the city of Natchez as an intermodal transportation center, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 951. A bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1127. A bill to establish the Vancouver National Historic Reserve, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1699. A bill to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes.

S. 1706. A bill to increase the amount authorized to be appropriated for assistance for highway relocation with respect to the Chickamauga and Chattanooga National Military Park in Georgia, and for other purposes.

S. 1809. A bill entitled the ''Aleutian World War II National Historic Areas Act of 1996''.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 1844. A bill to amend the Land and Water Conservation Fund Act to direct a study of the opportunities for enhanced water-based recreation, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1921. A bill to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka project to the Burley Irrigation District, and for other purposes.

S. 1986. A bill to provide for the completion of the Umatilla Basin project, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2015. A bill to convey certain real property located within the Carlsbad project in New Mexico to the Carlsbad Irrigation District.

Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 1952) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes (Rept. 104–369).

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. CHAFEE (for himself and Mr. ROCKEFELLER):

S. 2075. A bill to amend title XVIII of the Social Security Act to provide additional consumer protections for medicare supplemental insurance; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2076. A bill to increase economic benefits to the United States from the activities of cruise ships visiting Alaska; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR (for himself and Mr. LEAHY):

S. 2077. A bill to amend the Commodity Exchange Act to improve the act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN (for himself, Mr. KEMPTHORNE, and Mr. CRAIG):

S. 2078. A bill to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire; to the Committee on Armed Services.

By Mr. MOYNIHAN:

S. 2079. A bill to repeal the prohibition against State restrictions on communications between government agencies and the INS; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself and Mr. ROCKEFELLER):

S. 2075. A bill to amend title XVIII of the Social Security Act to provide additional consumer protections for medicare supplemental insurance; to the Committee on Finance.

THE MEDIGAP PORTABILITY ACT OF 1996

• Mr. CHAFEE. Mr. President, last month, the President signed into law bipartisan legislation that provides greater portability of health insurance for working Americans. Today, I join with my colleague, Senator ROCKEFELLER, in the introduction of a bipartisan bill that will provide some of the same guarantees for seniors who buy Medicare supplemental insurance or Medigap policies.

Of the 37 million Medicare beneficiaries, 80 percent, or nearly 30 million, have some form of Medicare supplemental insurance, whether covered through a retiree health plan or a private Medigap policy. Under current law, Medigap insurers must issue these policies without pre-existing condition limitations during the 6-month period immediately after the beneficiary becomes eligible for Medicare. Our bill does three things for seniors who have purchased Medigap insurance.

First, it guarantees that if their plan goes out of business or the beneficiary moves out of a plan service area, he or she can buy another comparable policy. These rules also would apply to a senior who has had coverage under a retiree health plan if their plan goes out of business.

Second, it encourages seniors to enroll in Medicare managed care by guaranteeing that they can return to Medicare fee-for-service and, during the first year of enrollment, get back their same Medigap policy if they decide they do not like managed care. Under current law, if a senior wishes to enroll in a Medicare managed care plan, they have two options. They may drop their Medigap policy, and hope they can get another if they go back to fee-for-service, or they can continue paying their Medigap premiums in the event that they may need the policy again some day—a very costly option for those on fixed incomes.

Third, it provides a 6-month open enrollment period for those under 65 who become Medicare beneficiaries because they are disabled. Under current Federal law, Medicare beneficiaries are offered a 6-month open enrollment period only if they are 65. There are approximately 4 million Americans who are under 65 years of age and are enrolled in the Medicare Program. Currently, they do not currently have access to Medigap policies unless State laws require insurers to offer policies to them.

It is true that this bill does not go as far as some advocacy groups would like. Our bill leaves to the States more controversial issues, such as continuous open enrollment and community rating of Medigap premiums. I believe, however, that this legislation will provide seniors the same guarantees that we provided to working Americans under the Kassebaum-Kennedy legislation. Thank you, Mr. President.

I ask unanimous consent that the text of the bill be included in the RECORD immediately following my remarks.

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

S. 2075

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 ''Medigap Portability Act of 1996''.

SEC. 2. MEDIGAP AMENDMENTS.

(a) GUARANTEEING ISSUE WITHOUT PRE-EXISTING CONDITIONS FOR CONTINUOUSLY COVERED INDIVIDUALS.—Section 1882(s) of the Social Security Act (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking ''paragraphs (1) and (2)'' and inserting ''this subsection'',

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

''(3)(A) The issuer of a medicare supplemental policy—

''(i) may not deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (C);

''(ii) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability; and

''(iii) may not impose an exclusion of benefits based on a pre-existing condition,

in the case of an individual described in subparagraph (B) who seeks to enroll under the policy not later than 63 days after the date of the termination of enrollment described in such subparagraph.

''(B) An individual described in this subparagraph is an individual described in any of the following clauses:

''(i) The individual is enrolled with an eligible organization under a contract under section 1876 or with an organization under an agreement under section 1833(a)(1)(A) and such enrollment ceases either because the individual moves outside the service area of the organization under the contract or agreement or because of the termination or nonrenewal of the contract or agreement.

''(ii) The individual is enrolled with an organization under a policy described in subsection (t) and such enrollment ceases either because the individual moves outside the service area of the organization under the policy, because of the bankruptcy or insolvency of the insurer, or because the insurer closes the block of business to new enrollment.

''(iii) The individual is covered under a medicare supplemental policy and such coverage is terminated because of the bankruptcy or insolvency of the insurer issuing the policy, because the insurer closes the block of business to new enrollment, or because the individual changes residence so that the individual no longer resides in a State in which the issuer of the policy is licensed.

''(iv) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under this title and the plan terminates or ceases to provide (or significantly reduces) such supplemental health benefits to the individual.

''(v)(I) The individual is enrolled with an eligible organization under a contract under section 1876 or with an organization under an agreement under section 1833(a)(1)(A) and such enrollment is terminated by the enrollee during the first 12 months of such enrollment, but only if the individual never was previously enrolled with an eligible organization under a contract under section 1876 or with an organization under an agreement under section 1833(a)(1)(A).

''(II) The individual is enrolled under a policy described in subsection (t) and such enrollment is terminated during the first 12 months of such enrollment, but only if the individual never was previously enrolled under such a policy under such subsection.

''(C)(i) Subject to clause (ii), a medicare supplemental policy described in this subparagraph, with respect to an individual described in subparagraph (B), is a policy the benefits under which are comparable or lesser in relation to the benefits under the enrollment described in subparagraph (B) (or, in the case of an individual described in clause (ii), under the most recent medicare supplemental policy described in clause (ii)(II)).

''(ii) An individual described in this clause is an individual who—

''(I) is described in subparagraph (B)(v), and

''(II) was enrolled in a medicare supplemental policy within the 63 day period before the enrollment described in such subparagraph.

''(iii) As a condition for approval of a State regulatory program under subsection (b)(1) and for purposes of applying clause (i) to policies to be issued in the State, the regulatory program shall provide for the method of determining whether policy benefits are comparable or lesser in relation to other benefits. With respect to a State without such an approved program, the Secretary shall establish such method.

''(D) At the time of an event described in subparagraph (B) because of which an individual ceases enrollment or loses coverage or benefits under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the rights of the individual, and obligations of issuers of medicare supplemental policies, under subparagraph (A).''.

(b) LIMITATION ON IMPOSITION OF PREEXISTING CONDITION EXCLUSION DURING INITIAL OPEN ENROLLMENT PERIOD.—Section 1882(s)(2)(B) of such Act (42 U.S.C. 1395ss(s)(2)(B)) is amended to read as follows:

''(B) In the case of a policy issued during the 6-month period described in subparagraph (A), the policy may not exclude benefits based on a pre-existing condition.''.

(c) CLARIFYING THE NONDISCRIMINATION REQUIREMENTS DURING THE 6-MONTH INITIAL ENROLLMENT PERIOD.—Section 1882(s)(2)(A) of such Act (42 U.S.C. 1395ss(s)(2)(A)) is amended to read as follows:

''(2)(A)(i) In the case of an individual described in clause (ii), the issuer of a medicare supplemental policy—

''(I) may not deny or condition the issuance or effectiveness of a medicare supplemental policy, and

''(II) may not discriminate in the pricing of the policy on the basis of the individual's health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

''(ii) An individual described in this clause is an individual for whom an application is submitted before the end of the 6-month period beginning with the first month as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B.''.

(d) EXTENDING 6-MONTH INITIAL ENROLLMENT PERIOD TO NON-ELDERLY MEDICARE BENEFICIARIES.—Section 1882(s)(2)(A)(ii) of such Act (42 U.S.C. 1395ss(s)(2)(A)), as amended by subsection (c), is amended by striking ''is submitted'' and all that follows and inserting the following: ''is submitted—

''(I) before the end of the 6-month period beginning with the first month as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B; and

''(II) for each time the individual becomes eligible for benefits under part A pursuant to section 226(b) or 226A and is enrolled for benefits under part B, before the end of the 6-month period beginning with the first month as of the first day on which the individual is so eligible and so enrolled.''.

(e) EFFECTIVE DATES.—

(1) GUARANTEED ISSUE.—The amendment made by subsection (a) shall take effect on July 1, 1997.

(2) LIMIT ON PREEXISTING CONDITION EXCLUSIONS.—The amendment made by subsection (b) shall apply to policies issued on or after July 1, 1997.

(3) CLARIFICATION OF NONDISCRIMINATION REQUIREMENTS.—The amendment made by subsection (c) shall apply to policies issued on or after July 1, 1997.

(4) EXTENSION OF ENROLLMENT PERIOD TO DISABLED INDIVIDUALS.—

(A) IN GENERAL.—The amendment made by subsection (d) shall take effect on July 1, 1997.

(B) TRANSITION RULE.—In the case of an individual who first became eligible for benefits under part A of title XVIII of the Social Security Act pursuant to section 226(b) or 226A of such Act and enrolled for benefits under part B of such title before July 1, 1997, the 6-month period described in section 1882(s)(2)(A) of such Act shall begin on July 1, 1997. Before July 1, 1997, the Secretary of Health and Human Services shall notify any individual described in the previous sentence of their rights in connection with medicare supplemental policies under section 1882 of such Act, by reason of the amendment made by subsection (d).

(f) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Care Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1998 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 1998. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 3. INFORMATION FOR MEDICARE BENEFICIARIES.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') is authorized to provide grants to—

(A) private, independent, non-profit consumer organizations, and

(B) State agencies,

to conduct programs to prepare and make available to medicare beneficiaries comprehensive and understandable information on enrollment in health plans with a medicare managed care contract and in medicare supplemental policies in which they are eligible to enroll. Nothing in this section shall be construed as preventing the Secretary from making a grant to an organization under this section to carry out activities for which a grant may be made under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508).

(2) CONSUMER SATISFACTION SURVEYS.—Any eligible organization with a medicare managed care contract or any issuer of a medicare supplemental policy shall—

(A) conduct, in accordance with minimum standards approved by the Secretary, a

consumer satisfaction survey of the enrollees under such contract or such policy; and

(B) make the results of such survey available to the Secretary and the State Insurance Commissioner of the State in which the enrollees are so enrolled.

The Secretary shall make the results of such surveys available to organizations which receive grants under paragraph (1).

(3) INFORMATION.—

(A) CONTENTS.—The information described in paragraph (1) shall include at least a comparison of such contracts and policies, including a comparison of the benefits provided, quality and performance, the costs to enrollees, the results of consumer satisfaction surveys on such contracts and policies, as described in subsection (a)(2), and such additional information as the Secretary may prescribe.

(B) INFORMATION STANDARDS.—The Secretary shall develop standards and criteria to ensure that the information provided to medicare beneficiaries under a grant under this section is complete, accurate, and uniform.

(C) REVIEW OF INFORMATION.—The Secretary may prescribe the procedures and conditions under which an organization that has obtained a grant under this section may furnish information obtained under the grant to medicare beneficiaries. Such information shall be submitted to the Secretary at least 45 days before the date the information is first furnished to such beneficiaries.

(4) CONSULTATION WITH OTHER ORGANIZATIONS AND PROVIDERS.—An organization which receives a grant under paragraph (1) shall consult with private insurers, managed care plan providers and other health care providers, and public and private purchasers of health care benefits in order to provide the information described in paragraph (1).

(5) TERMS AND CONDITIONS.—To be eligible for a grant under this section, an organization shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require. Grants made under this section shall be in accordance with terms and conditions specified by the Secretary.

(b) COST-SHARING.—

(1) IN GENERAL.—Each organization which provides a medicare managed care contract or issues a medicare supplemental policy (including a medicare select policy) shall pay to the Secretary its pro rata share (as determined by the Secretary) of the estimated costs to be incurred by the Secretary in providing the grants described in subsection (a).

(2) LIMITATION.—The total amount required to be paid under paragraph (1) shall not exceed $35,000,000 in any fiscal year.

(3) APPLICATION OF PROCEEDS.—Amounts received under paragraph (1) are hereby appropriated to the Secretary to defray the costs described in such paragraph and shall remain available until expended.

(c) DEFINITIONS.—In this section:

(1) MEDICARE MANAGED CARE CONTRACT.—The term ''medicare managed care contract'' means a contract under section 1876 or section 1833(a)(1)(A) of the Social Security Act.

(2) MEDICARE SUPPLEMENTAL POLICY.—The term ''medicare supplemental policy'' has the meaning given such term in section 1882(g) of the Social Security Act.●

Mr. ROCKEFELLER. Mr. President, I join my colleague from Rhode Island, Senator CHAFEE, in introducing a bill that aims at taking another significant step in extending the kind of health care security we want for all Americans. I believe the recent enactment of the Kassebaum-Kennedy health reform bill confirms that those of us who want to expand health care access, coverage, and quality for Americans have every reason to press on. And the Senator from Rhode Island and I have very deliberately adopted the same principles of bipartisanship and pragmatism in crafting this new bill to take the next steps forward in health reform.

Our bill responds to a clear need among Medicare's beneficiaries, especially the 4 million disabled Americans who rely on Medicare, to be able to count on supplemental insurance when they seek it. As important as Medicare is, it covers less than one-half of beneficiaries' total health care costs. As a result, almost 80 percent of all Medicare beneficiaries buy private, supplemental insurance that gives them extra coverage and financial relief. But it turns out that seniors and the disabled are having all kinds of difficulties in obtaining or holding onto this supplemental insurance. Our bill solves some of these problems, by making Medigap policies portable, more reliable, and more accessible in different situations.

Specifically, our bill requires insurers to issue a Medigap policy to a Medicare beneficiary who loses his or her Medigap coverage because he or she moves out of a plan's service area; because an HMO or managed care plan goes out of business or withdraws from the market; or because an employer drops, or substantially cuts back, retiree health benefits.

This legislation responds to changes we are seeing that are hurting older and disabled Americans, which includes 50,000 disabled West Virginians. For example, more and more employers are cutting costs by cutting back on their retirees' health benefits. Between 1993 and 1995, the number of large employers who provided retiree health benefits dropped by 5 percent. When retirees lose employer-sponsored health benefits, they are forced to go to the private market and purchase individual coverage.

If they have any type of preexisting medical condition, they will be lucky to find an insurance company who will sell them a Medigap policy without a lengthy pre-existing condition limitation. Others will not be so lucky. They won't find an insurer willing to sell them a policy at any price.

Mr. President, our bill gives Medicare beneficiaries an opportunity to try a managed care plan without worrying about losing their ability to return to fee-for-service medicine. Our legislation would give Medicare beneficiaries a 12-month trial period to try a Medicare managed care option. Understandably, many seniors are very nervous about enrolling in a managed care organization if it means losing access to their lifelong doctor.

Our bill lets Medicare beneficiaries see if a managed health care plan suits them and gives them a way back to fee-for-service medicine, if that is their personal preference.

Mr. President, my preference would be to allow continuously insured Medicare beneficiaries to freely switch types of policies—fee-for-service versus managed care—and insurers, on an annual basis. This would allow seniors the ability to switch insurers for customer service reasons or any other personal preference. But because the insurance companies are especially opposed to any type of continuous or annual open enrollment policy for Medigap insurance—even for individuals who are continuously insured—we have to have our bill aim for the more modest improvements in portability that we think we have a better chance of enacting.

Our legislation bans insurance companies from imposing any preexisting condition limitation during the 6-month open enrollment period for Medigap insurance when a person first qualifies for Medicare. This makes the rules for Medigap policies consistent with the recently enacted Kassebaum-Kennedy bill, and with Medicare coverage which begins immediately, regardless of preexisting conditions.

For the disabled, this bill is a big improvement over current law. In 1990, Congress mandated that insurers must sell a Medigap policy to any senior wishing to buy coverage when that individual first becomes eligible for Medicare. The disabled were left out at that time because of insurance company-generated concerns about potentially huge premium hikes for current Medigap policyholders.

Since then, at least 10 States went ahead and required insurers to issue policies to all Medicare beneficiaries in their States, including the disabled. My staff called those States, and not one State reported large hikes in premiums as a result of their new laws requiring access to Medigap for the disabled.

The Health Care Financing Administration [HCFA] has also estimated that Medicare's average per-person cost for the disabled is actually less than Medicare's average per-person cost for the aged. So, Mr. President, I believe we can put concerns about large premium hikes to rest, and move to guarantee the disabled access to private Medigap policies.

This bill will help people like a 44-year-old man from Capon Bridge, WV, who qualifies for Medicare because of a disability. He earns too much money to qualify for Medicaid and is unable to buy a private Medigap policy because of a chronic medical condition.

Medigap insurers in West Virginia refuse to sell him a policy because of his medical condition. A 47-year-old woman from Slanesville, WV, is in a similar situation. She was uninsured before qualifying for Medicare because of a chronic kidney disease that requires dialysis. Her husband and she have too many assets to qualify for Medicaid and they cannot afford the $300 a month, or $3,600 a year premium for health insurance provided through

her husband's job. The average cost of a Medigap policy ranges from $700 to $1,000 a year. Access to a Medigap policy would be a more affordable option for this family.

Mr. President, our bill also includes a section to help seniors choose the right health plan for them by ensuring that they get good information on what plans are available in their area.

It allows them to compare different health plans based on results of consumer satisfaction surveys, and will include information on benefits and costs.

Our bill does not directly address affordability. Just as the Kassebaum-Kennedy bill was not able to take that step, we leave it to the States to consider ways to promote affordable Medigap premiums. But Congress has some history in the Medigap market, with legislation passed in 1980, and again in 1990, to guarantee at least a minimal level of value across all Medigap policies. Under the current law that I helped enact back in 1990, individual and group Medigap policies must spend at least 65 percent and 75 percent, respectively, of all premium dollars collected, on benefits. If a Medigap plan fails to meet these minimum loss ratios, they must issue refunds or credits to their customers.

Mr. President, while Federal loss ratio standards help assure a minimum level of value, they do not prevent insurance companies from annually upping premiums as a senior ages. This practice—known as attained age-rating—results in the frailest and the lowest income seniors facing large, annual premium hikes as they age. I would hope that more States would follow the lead of at least five other States who have banned attained age-rating. This would vastly improve the affordability of Medigap for the oldest and frailest of our seniors.

Mr. President, our bill is a targeted, modest bill. But if and when we enact it, it will provide very real, very significant help to the seniors who, year in and year out, pay out billions of dollars in premiums in order to have the extra protection of Medigap protection.

It is wrong and unfair when senior and disabled citizens in West Virginia and across the country are suddenly dropped by insurers or denied a Medigap policy just because they move to another State, or their employer cuts back on promised retiree health benefits, or because they're disabled.

In the bipartisan and practical spirit of the Kassebaum-Kennedy bill, we now propose the same kind of commonsense, consumer protections and reforms, to help over 33 million senior citizens and almost 5 million disabled Americans. It is a great honor to be presenting this bill with the Senator from Rhode Island, someone who is responsible for many of the country's most important achievements in health care. I urge my colleagues to cosponsor this bill, and to help us extend the health care peace of mind that older and disabled Americans ask for and deserve.

By Mr. MURKOWSKI:

S. 2076. A bill to increase economic benefits to the United States from the activities of cruise ships visiting Alaska; to the Committee on Commerce, Science, and Transportation.

CRUISE SHIP LEGISLATION

• Mr. MURKOWSKI. Mr. President, today, I am reintroducing a very important measure—one that will unlock and open a door that Congress has kept barred for over 100 years.

Opening that door will create a path to thousands of new jobs, to hundreds of millions of dollars in new economic activity and to millions in new Federal, State, and local government revenues. Furthermore, Mr. President, that door can be opened with no adverse impact on any existing U.S. industry, labor interest or on the environment, and it will cost the Government virtually nothing.

There is no magic to this; in fact, it's a very simple matter. My bill merely allows United States ports to compete for the growing cruise ship trade to Alaska, and encourages the development of an all-Alaska cruise business, as well.

The bill amends the Passenger Service Act to allow foreign cruise ships to operate to and from Alaska, and between Alaska ports. However, it also very carefully protects all existing U.S. passenger vessels by using a definition of ''cruise ships'' designed to exclude any foreign-flag vessels that could conceivably compete in the same market as U.S.-flag tour boats or ferries. Finally, it provides a mechamism to guarantee that if a U.S. vessel ever enters this trade in the future, steps will be taken to ensure an ample pool of potential passengers.

Mr. President, this is a straightforward approach to a vexing problem, and it deserves the support of this body.

Let us look at the facts. U.S. ports currently are precluded from competing for the Alaska cruise ship trade by the Passenger Service Act of 1886, which bars foreign vessels from carrying passengers on one-way voyages between U.S. ports. However, it isn't 1886 anymore. These days, no one is building any U.S. passenger ships of this type, and no one has built one in over 40 years.

Because there are no U.S. vessels in this important trade, the only real effect of the Passenger Service Act is to force all the vessels sailing to Alaska to base their operations in an foreign port instead of a U.S. city.

Mr. President, what we have here is an act of Congress prohibiting U.S. cities from competing for thousands of jobs and hundreds of millions in business dollars. That is worse than absurd—in light of our ever-popular election-year promises to help the economy, it belongs in Letterman's ''Top Ten Reasons Why Congress Doesn't Know What It's Doing.''

How, Mr. President, can anyone argue with a straight face for the continuation of a policy that fails utterly to benefit any identifiable American interst, while actively discouraging economic growth.

Mr. President, this is not the first time I have introduced this legislation. When I began, Alaska-bound cruise passengers totaled about 200,000 per year. By last year, almost three times that many people—most of them American citizens—were making that voyage. Almost 600,000 people joined an Alaska bound vessel in 1995, and almost all those sailings originated in Vancouver, BC—not because Vancouver is necessarily a better port, but because our own foolish policy demands it.

The cash flow generated by this trade is enormous. Most passengers fly in or out of Seattle-Tacoma International Airport in Washington State, but because of the law, they spend little time there. Instead, they spend their pre-and post-sailing time in a Vancouver hotel, at Vancouver restaurants, and in Vancouver gift shops. And when their vessel sails, it sails with food, fuel general supplies, repair and maintenance needs taken care of by Vancouver vendors.

According to some estimates the city of Vancouver receives benefits of well over $200 million per year. Others provide more modest estimates, such as a comprehensive study by the International Council of Cruise Lines, which indicated that in 1992 alone, the Alaska cruise trade generated over 2,400 jobs for the city of Vancouver, plus payments to Canadian vendors and employees of over $119 million. If that business had taken place inside the United States, it would have been worth additional Federal, State, and local tax revenues of approximately $60 million.

In addition to the opportunities now being shunted to Vancouver, we are also missing an opportunity to create entirely new jobs and income through the potential to develop new cruising routes between Alaska ports. The city of Ketchikan, AK, was told a few years ago that two relatively small cruise ships were very interested in establishing short cruises within southeast Alaska. I'm told such a business could have contributed $2 million or more to that small community's economy, and created dozens of new jobs. But, because of the current policy, the opportunity simply evaporated.

Why, Mr. President, do we allow this to happen? This is a market almost entirely focused on U.S. citizens going to see one of the United State's most spectacular places, and yet we force them to go to another country to do it. We are throwing away both money and jobs—and getting nothing whatsoever in return.

Why is this allowed to happen? The answer is simple—but it is not rational. Although the current law is actually a job loser, there are those who argue that any change would weaken

U.S. maritime interests. I submit, Mr. President, that is not the case.

For some inexplicable reason, paranoia runs deep among those who oppose this bill. They seem to feel that amending the Passenger Service Act so that it makes sense for the United States would create a threat to Jones Act vessels hauling freight between U.S. ports. Mr. President, there simply is no connection whatsoever between the two. I have repeatedly made clear that I have no intention of using this bill to create cracks in the Jones Act.

This bill would actually enhance—not impede—opportunities for U.S. workers. Both shipyard workers and longshoremen—not to mention hotel and restaurant workers and many others—would have a great deal to gain from this legislation, and the bill has been carefully written to prevent the loss of any existing jobs in other trades.

Finally, let me dispose of any suggestion that this bill might farm smaller U.S. tour or excursion boats. The industry featuring these smaller vessels is thriving, but it simply does not cater to the same client base as large cruise ships. For one thing, the tour boats operating in Alaska are all much smaller—under 1,000 tons compared to the 5,000 ton minimum for cruise ships in this bill. The larger vessels can offer unmatched luxury and personal service, on-board shopping, entertainment, and so forth. The smaller vessels offer more flexible routes, the ability to get closer to Alaska's natural attractions, and other benefits. There is no significant competition between the two types of vessel, because the passengers inclined to one are not likely to be inclined to the other.

Mr. President, I cannot claim that this legislation would immediately lead to increased earnings for U.S. ports. I can only say that it would allow them to compete fairly, instead of being anchored by a rule that is actively harmful to U.S. interests. It is, as I said at the beginning of this statement, only a way to open the door.

We have heard a lot of talk about growing the economy and creating jobs during the last few years, and we are bound to keep hearing those phrases even more often over the next few months. But we all know, Mr. President, that such changes are easier to talk about than they are to accomplish. Well, Mr. President, here is a bill that opens the door to thousands of jobs and hundreds of millions of new dollars, and does it without one red cent of taxpayer money.

It has been 110 years since the current law was enacted, and it's time for a change.●

By Mr. LUGAR (for himself and Mr. LEAHY):

S. 2077. A bill to amend the Commodity Exchange Act to improve the act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1996

● Mr. LUGAR. Mr. President, today Senator LEAHY and I are introducing legislation to amend the Commodity Exchange Act. This bill follows several months of hearings and informal consultations with industry, academics and regulators. The legislation streamlines U.S. futures trading law, conforming it to changing competitive realities.

In many ways, regulation has benefited the U.S. futures industry. Prudent regulation enhances customer protection, prevents and punishes fraud and other abuses, and makes futures markets better able to provide risk management, price discovery and investment opportunity.

Regulation, however, also has its costs. U.S. futures markets face competition that is, in some cases, less regulated or differently regulated. In the years ahead, our challenge is to balance the need for adequate regulation with the need to offer cost-competitive products.

This bill tries to strike such a balance. It requires the Commodity Futures Trading Commission to consider the costs for industry of the regulations it imposes. The bill streamlines the process of introducing new futures contracts, reducing the time that is required to begin trading these new products. It makes similar reforms to the process by which exchanges' rules are reviewed by the CFTC.

Where additional authority for the CFTC is needed, the bill provides it. The CFTC will have the authority to require delivery points for overseas futures markets to provide information that is also regularly demanded of American market participants. This is eminently reasonable, and may assist the CFTC and other regulators in the future if situations similar to the current copper market scandal recur.

The bill will also provide greater legal certainty for swaps, over-the-counter products that are of increasing importance to many businesses. It is important that these contracts' enforceability be made more certain, so that legal risk does not compound the other risks inherent in any financial transaction.

The bill contains a number of other provisions. I have provided a descriptive summary which may be helpful to our colleagues. Mr. President, I ask unanimous consent that this document and the text of the introduced bill be printed in the RECORD.

It is late in the session, and I do not expect the Commodity Exchange Act Amendments of 1996 to become law this year. Senator LEAHY and I wanted to introduce it to spur discussion and debate, so that early in the next Congress we can again introduce the bill, with any refinements that may be developed in the interim. We both intend that the bill will be a major focus of attention for the Committee on Agriculture, Nutrition, and Forestry next year.

As usual, I am indebted to Senator LEAHY for his bipartisan cooperation in this as in so many other endeavors. I am honored that he is an original cosponsor of the bill.

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

S. 2077

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 ''Commodity Exchange Amendments Act of 1996''.

SEC. 2. HEDGING.

The fourth sentence of section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended by striking ''through fluctuations in price''.

SEC. 3. DELIVERY POINTS FOR FOREIGN FUTURES CONTRACTS.

Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended—

(1) in the third sentence—

(A) by striking ''(1)'' and ''(2)'' and inserting ''(A)'' and ''(B)'', respectively; and

(B) by striking ''No rule'' and inserting ''Except as provided in paragraph (2), no rule'';

(2) by inserting ''(1)'' after ''(b)''; and

(3) by adding at the end the following:

''(2)(A) The Commission shall consult with a foreign government, foreign futures authority, or department, agency, governmental body, or regulatory organization empowered by a foreign government to regulate a board of trade, exchange, or market located outside the United States, or a territory or possession of the United States, that has 1 or more established delivery points in the United States, or a territory or possession of the United States, for a contract of sale of a commodity for future delivery that is made or will be made on or subject to the rules of the board of trade, exchange, or market.

''(B) In the consultations, the Commission shall endeavor to secure adequate assurances, through memoranda of understanding or any other means the Commission considers appropriate, that the presence of the delivery points will not create the potential for manipulation of the price, or any other disruption in trading, of a contract of sale of a commodity for future delivery traded on or subject to the rules of a contract market, or a commodity, in interstate commerce.

''(C) Any warehouse or other facility housing an established delivery point in the United States, or a territory or possession of the United States, described in subparagraph (A) shall—

''(i) keep books, records, and other information specified by the Commission pertaining to all transactions and positions in all contracts made or carried on the foreign board of trade, exchange, or market in such form and manner and for such period as may be required by the Commission;

''(ii) file such reports regarding the transactions and positions with the Commission as the Commission may specify; and

''(iii) keep the books and records open to inspection by a representative of the Commission or the United States Department of Justice.''.

SEC. 4. EXEMPTION AUTHORITY AND SWAP EXEMPTION.

(a) IN GENERAL.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

''(6)(A) An agreement, contract, or transaction (or class thereof) that is otherwise subject to this Act shall be exempt from all

provisions of this Act and any person or class of persons offering, entering into, rendering advice, or rendering other services with respect to the agreement, contract, or transaction (or class thereof) shall be exempt for the activity from all provisions of this Act (except in each case the provisions of sections 2(a)(1)(B), 4b, and 4o, any antifraud provision adopted by the Commission pursuant to section 4c(b), and the provisions of section 6(c) and 9(a)(2) to the extent the provisions prohibit manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market): *Provided*, That prior to, on, or after the date of enactment of this paragraph, the agreement, contract, or transaction (or class thereof) satisfies the eligibility conditions for an exemption under the regulations of the Commission published in the Federal Register on January 22, 1993, and codified in sections 35.1(b)(2) and 35.2 of part 35 of title 17, Code of Federal Regulations.

''(B) This paragraph shall not restrict the authority of the Commission to grant exemptions under this subsection that are in addition to or independent of the exemption provided in this paragraph. No such exemption shall be applied in a manner that restricts an exemption provided under this paragraph.

''(7)(A) The Commission may exempt an agreement, contract, or transaction (or class thereof) under this subsection to the extent that the agreement, contract, or transaction (or class thereof) may be subject to this Act.

''(B) An exemption under this subsection shall not create a presumption that the exempted agreement, contract, or transaction (or class thereof) is subject to this Act.''.

(b) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission shall complete a reconsideration of the regulations contained in part 36 of title 17, Code of Federal Regulations, with the goal of establishing exemptive provisions that are consistent with subsection (c).

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the exemption provided under section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)), and codified in part 36 of title 17, Code of Federal Regulations, does not yet sufficiently promote fair competition by affording exchange-traded instruments fair and even-handed treatment with similar products traded over-the-counter among institutions and professionals; and

(2) the Commodity Futures Trading Commission should provide for such fair competition by granting instruments traded on or subject to the facilities of exchanges, exemptive flexibility that is equitable in comparison to the exemptive flexibility the Commission has granted to over-the-counter transactions, while ensuring the protection of market participants and financial and market integrity.

(d) REPORT.—On completion of the review required by subsection (b), the Commodity Futures Trading Commission shall report on the results of the review to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 5. CONTRACT DESIGNATION.

(a) IN GENERAL.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

''SEC. 5. DESIGNATION OF A BOARD OF TRADE AS A CONTRACT MARKET.

''(a) IN GENERAL.—The Commission shall designate a board of trade as a contract market if the board of trade complies with and carries out the following conditions and requirements:'';

(2) by striking paragraph (7);

(3) by redesignating paragraph (8) as paragraph (7); and

(4) by adding at the end the following:

''(b) EXISTING AND FUTURE DESIGNATIONS.—

''(1) IN GENERAL.—If a board of trade is designated as a contract market by the Commission under subsection (a) and section 6, the board of trade shall retain the designation for all existing or future contracts, unless the Commission suspends or revokes the designation or the board of trade relinquishes the designation.

''(2) EXISTING DESIGNATIONS.—A board of trade that has been designated as a contract market as of the date of enactment of this subsection shall retain the designation unless the Commission finds that a violation of this Act or a rule, regulation, or order of the Commission by the contract market justifies suspension or revocation of the designation under section 6(b), or the board of trade relinquishes the designation.

''(c) NEW CONTRACT SUBMISSIONS.—Except as provided in subsection (e), a board of trade that has been designated as a contract market under subsection (a) shall submit to the Commission all rules that establish the terms and conditions of a new contract of sale in accordance with subsection (d) (referred to in this section as a 'new contract'), other than a rule relating to the setting of levels of margin and other rules that the Commission may specify by regulation.

''(d) PROCEDURES FOR NEW CONTRACTS.—

''(1) REQUIRED SUBMISSION TO COMMISSION.—Except as provided in subsection (e), a contract market shall submit new contracts to the Commission in accordance with subsection (c).

''(2) EFFECTIVENESS OF NEW CONTRACTS.—A contract market may make effective a new contract and may implement trading in the new contract—

''(A) not earlier than 10 business days after the receipt of the new contract by the Commission; or

''(B) earlier if authorized by the Commission by rule, regulation, order, or written notice.

''(3) NOTICE TO CONTRACT MARKET.—The new contract shall become effective and may be traded on the contract market, unless, within the 10-business-day period beginning on the date of the receipt of the new contract by the Commission, the Commission notifies the contract market in writing—

''(A) of the determination of the Commission that the proposed new contract appears to—

''(i) violate a specific provision of this Act (including paragraphs (1) through (7) of section 5(a)) or a rule, regulation, or order of the Commission; or

''(ii) be contrary to the public interest; and

''(B) that the Commission intends to review the new contract.

''(4) NOTICE IN THE FEDERAL REGISTER.—Notwithstanding the determination of the Commission to review a new contract under paragraph (3) and except as provided in subsection (e), the contract market may make the new contract effective, and may implement trading in the new contract, on a date that is not earlier than 15 business days after the determination of the Commission to review the new contract unless within the period of 15 business days the Commission institutes proceedings to disapprove the new contract by providing notice in the Federal Register of the information required under paragraph (5)(A).

''(5) DISAPPROVAL PROCEEDINGS.—

''(A) NOTICE OF PROPOSED VIOLATIONS.—If the Commission institutes proceedings to determine whether to disapprove a new contract under this subsection, the Commission shall provide the contract market with written notice, including an explanation and analysis of the substantive basis for the proposed grounds for disapproval, of what the Commission has reason to believe are the grounds for disapproval, including, as applicable—

''(i) the 1 or more specific provisions of this Act or a rule, regulation, or order of the Commission that the Commission has reason to believe the new contract violates or, if the new contract became effective, would violate; or

''(ii) the 1 or more specific public interests to which the Commission has reason to believe the new contract is contrary, or if the new contract became effective would be contrary.

''(B) DISAPPROVAL PROCEEDINGS AND DETERMINATION.—

''(i) OPPORTUNITY TO PARTICIPATE; HEARING.—Before deciding to disapprove a new contract, the Commission shall give interested persons (including the board of trade) an opportunity to participate in the disapproval proceedings through the submission of written data, views, or arguments following appropriate notice and an opportunity for a hearing on the record before the Commission.

''(ii) DETERMINATION OF DISAPPROVAL.—At the conclusion of the disapproval proceeding, the Commission shall determine whether to disapprove the new contract.

''(iii) GROUNDS FOR DISAPPROVAL.—The Commission shall disapprove the new contract if the Commission determines that the new contract—

''(I) violates this Act or a rule, regulation, or order of the Commission; or

''(II) is contrary to public interest.

''(iv) SPECIFICATIONS FOR DISAPPROVAL.—Each disapproval determination shall specify, as applicable—

''(I) the 1 or more specific provisions of this Act or a rule, regulation, or order of the Commission, that the Commission determines the new contract violates or, if the new contract became effective, would violate; or

''(II) the 1 or more specific public interests to which the Commission determines the new contract is contrary, or if the new contract became effective would be contrary.

''(C) FAILURE TO TIMELY COMPLETE DISAPPROVAL DETERMINATION.—If the Commission does not conclude a disapproval proceeding as provided in subparagraph (B) for a new contract by the date that is 120 calendar days after the Commission institutes the proceeding, the new contract may be made effective, and trading in the new contract may be implemented, by the contract market until such time as the Commission disapproves the new contract in accordance with this paragraph.

''(D) APPEALS.—A board of trade that has been subject to disapproval of a new contract by the Commission under this subsection shall have the right to an appeal of the disapproval to the court of appeals as provided in section 6(b).

''(6) CONTRACT MARKET DEEMED DESIGNATED.—A board of trade shall be deemed to be designated a contract market for a new contract of sale for future delivery when the new contract becomes effective and trading in the new contract begins.

''(e) REQUIRED INTERAGENCY REVIEW.—Notwithstanding subsection (d), no board of trade may make effective a new contract (or option on the contract) that is subject to the requirements and procedures of clauses (ii) through (v) of paragraph (1)(B), and paragraph (8)(B)(ii), of section 2(a) until the requirements and procedures are satisfied and carried out.''.

(b) CONFORMING AMENDMENT.—The first sentence of section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking ''Any board of trade desiring'' and inserting ''A board of trade that has not obtained any designation as a contract market for a contract of sale for a commodity under section 5 that desires''.

SEC. 6. DELIVERY BY FEDERALLY LICENSED WAREHOUSES.

Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)) is amended by striking paragraph (7) and inserting the following:

''(7) Repealed;''.

SEC. 7. SUBMISSION OF RULES TO COMMISSION.

Section 5a(a) of the Commodity Exchange Act (7 U.S.C. 7a(a)(12)) is amended by striking paragraph (12) and inserting the following:

''(12)(A)(i) except as otherwise provided in this paragraph, submit to the Commission all bylaws, rules, regulations, and resolutions (collectively referred to in this subparagraph as 'rules') made or issued by the contract market, or by the governing board or committee of the contract market (except those relating to the setting of levels of margin, those submitted pursuant to section 5 or 6(a), and those the Commission may specify by regulation) and may make a rule effective not earlier than 10 business days after the receipt of the submission by the Commission or earlier, if approved by the Commission by rule, regulation, order, or written notice, unless, within the 10-business-day period, the Commission notifies the contract market in writing of its determination to review such rules for disapproval and of the specific sections of this Act or the regulations of the Commission that the Commission determines the rule would violate. The determination to review such rules for disapproval shall not be delegable to any employee of the Commission. Not later than 45 calendar days before disapproving a rule of major economic significance (as determined by the Commission), the Commission shall publish a notice of the rule in the Federal Register. The Commission shall give interested persons an opportunity to participate in the disapproval process through the submission of written data, views, or arguments. The determination by the Commission whether a rule is of major economic significance shall be final and not subject to judicial review. The Commission shall disapprove, after appropriate notice and opportunity for hearing (including an opportunity for the contract market to have a hearing on the record before the Commission), a rule only if the Commission determines the rule at any time to be in violation of this Act or a regulation of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, the Commission shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the regulations of the Commission that would be violated. At the conclusion of the proceedings, the Commission shall determine whether to disapprove the rule. Any disapproval shall specify the sections of this Act or the regulations of the Commission that the Commission determines the rule has violated or, if effective, would violate. If the Commission does not institute disapproval proceedings with respect to a rule within 45 calendar days after receipt of the rule by the Commission, or if the Commission does not conclude a disapproval proceeding with respect to a rule within 120 calendar days after receipt of the rule by the Commission, the rule may be made effective by the contract market until such time as the Commission disapproves the rule in accordance with this paragraph.

''(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a ⅔-vote of the governing board of the contract market, make a rule (referred to in this subparagraph as an 'emergency rule') immediately effective without compliance with the 10-day notice requirement under subparagraph (A), if the contract market makes every effort practicable to notify the Commission of the emergency rule, and provide a complete explanation of the emergency involved, prior to making the emergency rule effective.

''(ii) If the contract market does not provide the Commission with the requisite notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with the notification and explanation at the earliest practicable date.

''(iii) The Commission may delegate the power to receive the notification and explanation to such individuals as the Commission determines necessary and appropriate.

''(iv) Not later than 10 days after the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether to suspend the effect of the rule pending review by the Commission under the procedures of subparagraph (A).

''(v)(I) The Commission shall submit a report on the determination of the Commission on the emergency rule under clause (iv), and the basis for the determination, to the affected contract market, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

''(II) If the report is submitted more than 10 days after the Commission's receipt of notification of the emergency rule from a contract market, the report shall explain why submission within the 10-day period was not practicable.

''(III) A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 8a(9).

''(IV) Nothing in this paragraph limits the authority of the Commission under section 8a(9);''.

SEC. 8. AUDIT TRAIL.

Section 5a(b) of the Commodity Exchange Act (7 U.S.C. 7a(b)) is amended—

(1) in paragraph (3), by inserting ''selected by the contract market'' after ''means'' each place it appears; and

(2) by adding at the end the following:

''(7) The requirements of this subsection establish performance standards and do not mandate the use of a specific technology to satisfy the requirements.''.

SEC. 9. MISCELLANEOUS TECHNICAL AMENDMENTS.

Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by inserting ''this paragraph or'' after ''the provisions of''; and

(B) in subparagraph (D), by inserting ''pleaded guilty to or'' after ''such person has''; and

(2) in paragraph (3)(H), by striking ''or has been convicted in a State court,'' and inserting ''or has pleaded guilty to, or has been convicted, in a State court,''.

SEC. 10. CONSIDERATION OF EFFICIENCY, COMPETITION, RISK MANAGEMENT, AND ANTITRUST LAWS.

Section 15 of the Commodity Exchange Act (7 U.S.C. 19) is amended—

(1) by striking ''SEC. 15. The Commission'' and inserting the following:

''SEC. 15. (a)(1) Prior to adopting a rule or regulation authorized by this Act or adopting an order (except as provided in subsection (b)), the Commission shall consider the costs and benefits of the action of the Commission.

''(2) The costs and benefits of the proposed Commission action shall be evaluated in light of considerations of protection of market participants, the efficiency, competitiveness, and financial integrity of futures markets, price discovery, sound risk management practices, and other appropriate factors, as determined by the Commission.

''(b) Subsection (a) shall not apply to the following actions of the Commission:

''(1) An order that initiates, is part of, or is the result of an adjudicatory or investigative process of the Commission.

''(2) An emergency action.

''(3) A finding of fact regarding compliance with a requirement of the Commission.

''(c) The Commission''; and

(2) by striking ''requiring or approving'' and inserting ''requiring, reviewing, or disapproving''.

SEC. 11. DISCIPLINARY AND ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—It is the sense of Congress that the Commodity Futures Trading Commission should—

(1) to the extent practicable, avoid unnecessary duplication of effort in pursuing disciplinary and enforcement actions if adequate self-regulatory actions have been taken by contract markets and registered futures associations; and

(2) retain an oversight and disciplinary role over the self-regulatory activities by contract markets and registered futures associations in a manner that is sufficient to safeguard financial and market integrity and the public interest.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that evaluates the effectiveness of the enforcement activities of the Commission, including an evaluation of the experience of the Commission in preventing, deterring, and disciplining violations of the Commodity Exchange Act (7 U.S.C. 1 et seq.) and Commission regulations involving fraud against the public through the bucketing of orders and similar abuses.

SEC. 12. DELEGATION OF FUNCTIONS BY THE COMMISSION.

(a) IN GENERAL.—It is the sense of Congress that the Commodity Futures Trading Commission should—

(1) review its rules and regulations that delegate any of its duties or authorities under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to contract markets or registered futures associations;

(2) consistent with the public interest and law, determine which additional functions, if any, performed by the Commission should be delegated to contract markets or registered futures associations; and

(3) establish procedures (such as spot checks, random audits, reporting requirements, pilot projects, or other means) to ensure adequate performance of the additional functions that are delegated to contract markets or registered futures associations.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report the results of its review and actions under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SUMMARY AND DISCUSSION—THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1996

Section 1. Short title.

The bill is entitled ''The Commodity Exchange Act Amendments of 1996.''

Section 2. Hedging.

The CEA does not directly define the term ''hedging.'' In Section 3 of the CEA, which contains various legislative findings that justify regulation of futures markets, the statute speaks of business operators ''hedging themselves against possible loss through fluctuations in price.'' Questions have been raised whether hedging can occur against risks other than price risks—for instance, in new futures contracts that are based on yields of specified crops in particular states. The bill deletes the phrase ''through fluctuations in price.'' It makes clear that risks to be hedged may be risks other than those directly resulting from price changes. This change will not affect the authority to establish speculative limits, require reporting of large trader positions and otherwise ensure market integrity.

Section 3. Delivery Points for Foreign Futures Contracts.

In recent years, some overseas futures exchanges have established delivery points in the U.S. The implications of making and taking delivery of a physical commodity that is priced on a foreign exchange may differ, depending on the comparability of price discovery on that exchange and on U.S. exchanges, as well as other factors. Serious questions have been raised, as the current scandal in the copper markets has unfolded, about what role, if any, delivery points for foreign futures contracts may have played in that affair. These questions are not yet answered. However, the legislation makes changes that will be appropriate regardless of the outcome of specific investigations.

The bill directs the CFTC to consult with overseas regulators and other appropriate parties in countries where futures exchanges have established U.S. delivery points. The aim of the consultations will be to secure adequate assurances against any adverse effect on U.S. markets because of these delivery points. Such assurances could take the form of changes to regulations or trading rules in the overseas market.

The bill also gives the CFTC authority to obtain information from warehouses that are delivery points for foreign exchanges. This information would be similar to that which the CFTC may already require of persons making trades on overseas futures markets, and will assist the CFTC in ensuring market integrity, preventing abuses and otherwise discharging its responsibilities.

Section 4. Exemption Authority and Swap Exemption.

The Act gives the CFTC authority to exempt transactions from its regulatory requirements, either completely or on stated terms. In 1993, the CFTC used this authority to exempt swap agreements from most, but not all, portions of the Act. This exemption generally seems to have worked well, facilitating a climate in which swaps, which offer numerous benefits to their users if properly and prudently employed, could trade with secure legal status. (It was the lack of such legal certainty which, in part, prompted Congress to enact the exemptive authority.)

The bill will provide additional legal certainty for swaps transactions in two ways. First, the bill codifies the present exemption from regulation for transactions that meet its requirements, either now or in future. For these qualifying instruments, a statutory change would be required in order for the exemption to become more restrictive than it now is. The codification does not affect the CFTC's power to grant additional exemptions that would be less restrictive than the current exemption. Nor does it limit the CFTC's ability to enforce anti-manipulation or anti-fraud provisions of the CEA as they may apply to these transactions or as the present exemptions may be conditioned on compliance with their provisions.

Second, the bill codifies two important elements of the present swaps exemptive authority, again to enhance legal certainty. The legislation clarifies that the CFTC may issue an exemption that is applicable to the extent the exempted transaction may have been subject to the Act—i.e., without requiring a prior decision on whether the transaction actually was, in fact, subject to the Act. Relatedly, the legislation states that the mere fact that a transaction was exempted from the Act does not, in itself, create a presumption that the transaction was one that would have fallen under the Act's regulatory requirements had it not been exempted. Both these clarifications are consistent with present regulations for exemptions.

This section of the bill also directs the CFTC to review rules that permit futures exchanges, under narrowly defined conditions, to operate less-regulated markets that are restricted to professional and institutional participants. These so-called ''Part 36'' rules have not, so far, resulted in the active operation of such markets. The issue is an especially important one because of the competitive challenges futures exchanges face, both from overseas markets and from over-the-counter products in the U.S. The legislation does not contemplate greater regulation of the latter markets, and indeed strives to achieve greater legal certainty for O-T-C products. But it does express the view of Congress that futures exchanges need to be able to compete in today's financial marketplace, in a way that reduces regulatory costs of doing business while assuring customer protection. To this end, the CFTC is directed to re-examine the Part 36 rules and report, within a year, to Congress on what if any changes may be appropriate. This broad mandate, as opposed to requirements for specific changes in the current regulations, reflects a view that the CFTC should be better able than Congress to assess necessary reforms. The report will afford an opportunity for Congress to judge the adequacy of any changes, and to contemplate any additional statutory changes that may be required.

Section 5. Contract Designation.

The Act now requires futures exchanges to be ''designated'' as a ''contract market'' for each futures contract they trade. This process has been streamlined by the CFTC in recent years, but the statute continues to reflect a rather elaborate process in which, in many ways, the burden of proof is placed on exchanges to demonstrate why they should be able to offer new products for trading. Even for a regulated financial sector like the futures industry, this implicit presumption against new product development is out of date. The bill streamlines the process of introducing new futures contracts, both by compressing the time available for agency review and by creating a presumption that products developed by exchanges should be permitted to trade unless the CFTC finds compellingly why they should not. The legislation treats new contract applications as rules, albeit under somewhat different procedures from other exchange rules. Under the new procedure, an exchange submits a new contract to the CFTC. The new contract may trade after 10 business days, unless the CFTC states an intention to review it for possible disapproval. After a further 15 business days, the new contract can be traded unless the CFTC institutes proceedings to disapprove it. These proceedings are to be completed within 120 days; if not, the new contract can trade until and unless it is finally disapproved. In contrast to the present burden on an exchange to show that a contract is in ''the public interest,'' the CFTC could only disapprove a contract by showing that it was ''contrary to the public interest'' (or by showing that it violated law or regulations). The philosophy is a fairly simple one: Subject to prudent regulatory limits, private futures exchanges can more appropriately and efficiently decide which new products are ripe for trading than can the government. The exchanges may sometimes err in these judgments, but that is the way markets work.

Section 6. Delivery by Federally Licensed Warehouses.

An obscure provision of the Act now allows any federally licensed grain warehouse to make delivery against a futures contract, on giving reasonable notice. Though seldom used, this provision appears to conflict with the ability of exchanges to establish their own trading procedures, including delivery points. In an extremely tight market, the current provision could in some circumstances facilitate market manipulation. The bill repeals this provision.

Section 7. Submission of Rules to Commission.

The bill revises current requirements for submitting exchange rules to the CFTC. These rules affect the everyday procedures for doing business on the exchange, as well as the ground rules for trading. They run the gamut from major to minor. As with the procedures for approving new contracts, the legislation compresses the time available for federal review and generally streamlines procedures. Rules are to be submitted to the CFTC and can become effective in 10 business days unless the CFTC notifies the exchange that it will review them for possible disapproval. If the CFTC does not institute disapproval proceedings within 45 days of receiving the proposed rule, or conclude its proceedings within 120 days, the rule can become effective until and unless disapproved.

The authors of the bill intend that its legislative history will also discuss the implementation of statutory requirements for the composition of exchange boards of directors. The CFTC will be directed to report, on an ongoing basis, its evaluation of how fully these requirements are being met. The report language will provide further clarification of Congressional intent with regard to the qualification of individuals to satisfy particular requirements for board representation.

Section 8. Audit Trail.

Futures exchanges are subject to audit trail requirements that are intended to ensure market integrity, and to deter and detect abuse. The bill clarifies these requirements in one respect. It states—consistent with testimony by the CFTC before Congress in 1995—that the audit trail requirements establish a performance standard, not a mandate for any particular technological means of achieving the standard. In further support of this clarification, the bill speaks of the ''means selected by the contract market'' for meeting audit trail standards. The authors of the bill intend that its legislative history will also note further CFTC testimony that, in assessing the ''practicability'' of various components of the audit trail standards, the cost to exchanges of meeting the standards is one factor to be taken into account.

Section 9. Miscellaneous Technical Amendments.

The bill makes several technical changes to correct omissions in the current statute.

Section 10. Consideration of Efficiency, Competition, Risk Management, and Antitrust Laws.

The bill requires the CFTC, in issuing rules, regulations or some types of orders, to

take into account the costs and benefits of the action it contemplates. The requirement is not for a quantitative cost-benefit analysis, but a mandate to consider both costs and benefits, as well as other enumerated factors. The authors of the bill believe that in establishing its policies and giving direction to market participants, the CFTC should weigh how its actions may effect the participants' costs of doing business, as well as what benefits may accrue from the action.

Some activities of the CFTC, of course, do not call for this kind of approach, and indeed applying a cost-benefit requirement to them would be inappropriate. Thus, the bill exempts the CFTC's adjudicatory and investigative processes, emergency actions and certain findings of fact that are objective, quantitative or otherwise unsuitable for a cost-benefit approach. The bill's eventual legislative history will further discuss Congressional intent in enacting this requirement.

Section 11. Disciplinary and enforcement activities.

Enforcement is a priority for the CFTC. Like other financial regulators, the CFTC is assisted in its enforcement activities by the complementary rules, surveillance and disciplinary actions of self-regulatory organizations (SROs). These include both the futures exchanges themselves and the National Futures Association. The bill provides guidance to the CFTC on the deployment of enforcement resources, and requires a report in 1 year on the overall enforcement program. The legislation expresses the sense of Congress that the CFTC should avoid unnecessary duplication of effort where SROs have taken adequate action to deter abuse and ensure customer protection. It further states that the CFTC's oversight and disciplinary role should be sufficient to safeguard market integrity and protect public confidence in markets.

Section 12. Delegation of functions by the Commission.

The CFTC, under current law, has delegated some limited duties to the National Futures Association. Today's austere budget climate makes it prudent for the commission to assess whether other functions could appropriately be delegated. The bill calls on the CFTC to determine which, if any, additional functions should be delegated to SROs, suggesting the use of procedures like spot checks and random audits to ensure that any delegated functions are adequately performed, and requires a report in one year with the results of the review. The authors intend that the bill's legislative history will cite several current CFTC activities that could be considered for delegation.

OUTLINE OF THE COMMODITY EXCHANGE ACT AMENDMENTS OF 1996

The Commodity Exchange Act has benefited the American economy. It has helped encourage a dynamic, world-class futures trading industry that allows farmers, ranchers and other business operators to manage risk, provides investment opportunities and offers protection to consumers of its services. From time to time, Congress has re-examined the Act to bring it up to date with changing markets. Such an update is now opportune.

On June 5, the Committee on Agriculture, Nutrition, and Forestry heard testimony on the need to update the Commodity Exchange Act. Since then, committee staff have consulted extensively with federal agencies and private industry, seeking to explore the implications of legislative proposals by various groups.

As a result of this thorough process, we announced on August 2, 1996, our intention to introduce legislation to amend the Commodity Exchange Act. Today we are introducing that legislation. Because it is late in the legislative session, we do not intend that the bill become law this year. We intend it to spark discussion, so that the Congress can make comprehensive revisions to the Act in 1997.

There is a public interest in a strong, competitive U.S. futures industry because of its critical role in price discovery and business risk management. This public interest implies, and requires, a degree of regulation. In recent years, U.S. futures exchanges have also faced increasing competition from foreign exchanges and from over-the-counter derivative products.

U.S. exchanges face some regulatory costs that are not borne by their competitors. The Act, and the Commodity Futures Trading Commission's actions to implement its requirements, must strike an appropriate balance between prudent regulation and the need for a cost-competitive industry.

In our August 2 statement, we noted the importance of a provision of the Act called the ''Treasury amendment.'' This amendment excludes interbank foreign exchange transactions and some other enumerated transactions from the CFTC's jurisdiction. It has been the subject of much more frequent litigation than other sections of the Act. It was written, in some haste, in 1974 at a time when many financial markets and instruments were different or less fully developed than today. The case for Congress to revisit, reassess and clarify the Treasury amendment is compelling.

We asked the CFTC and the Treasury Department to conclude discussions which they had begun some months before, and report their progress around Labor Day. Unfortunately, these discussions have so far produced some points of agreement but no overall consensus among the two agencies or among the other members of the President's working group on financial markets.

We are disappointed that an agreement on the Treasury amendment has not yet been forged. The issues raised by the amendment seem to us substantial but not insurmountable. In fairness to the Administration, there is not yet a consensus in the private sector either about the appropriate scope of the amendment's exclusions from the Act.

With some reluctance, we have been persuaded to defer addressing the Treasury amendment in this bill. The Administration asserts that given furhter time, it will be able to reach internal agreement. We are today informing the Administration that, in our view, an agreement by the end of this year is necessary so that the issue can be presented to our colleagues at the beginning of the 105th Congress. If the Administration is not able to present its ideas by the end of 1996, we will reluctantly conclude that no consensus in the executive branch is likely, and not await further agency deliberations.

Deferring a provision of the Treasury amendment does not diminish its importance. Since today's legislation will have to be reintroduced in January 1997, we believe this course of action is prudent, since not only the Administration but also various interested private groups will have the opportunity to confer between now and the end of the year. We urge them to do so. Independent of both efforts, we are considering a variety of specific reforms to the Treasury amendment, and will be interested to compare these ideas to those of the private sector and the Administration. We intend that the reintroduced version of today's bill will propose a solution to the Treasury amendment problem.

We invite public comment on the Commodity Exchange Act Amendments. We believe this bill represents sound policies. We want to take full account, however, of other views. As we said in August, the bill is neither an opening gambit nor a least common denominator. It represents our best judgment of how the Act should prudently be changed, but our minds remain open.

The Agriculture Committee's work on the Commodity Exchange Act has been bipartisan and collegial. Like the 1996 farm bill, the landmark new food safety law and other important laws originated by the committee, this legislative effort is one on which we have worked together. Our cooperation will continue.●

● Mr. LEAHY. Mr. President, today Senator LUGAR and I are introducing legislation to amend the Commodity Exchange Act. This legislation updates and streamlines U.S. futures trading law.

There is a strong interest in maintaining a viable futures market. Senator LUGAR's and my review of committee testimony combined with the informal meetings with the industry, regulators, and interested academics has convinced us that it is appropriate to make these revisions to the CEA.

I do not expect that this bill will become law during this session. But introducing it now will afford an opportunity to engage in an active public discussion and debate over the changes that we propose here today.

It is my experience that such a dialog helps develop solid bipartisan legislation. As with most issues, there are many interests that must be balanced. And, Senator LUGAR and I have strived to strike the right balance between these interests. But we will profit from the dicussions that this bill is sure to prompt.

I am pleased to join my colleague in offering this bill. Senator LUGAR and I have worked together on futures issues since we came to the Agriculture Committee. We did the same on this bill—working to ensure that these markets remain competitive while still maintaining effective provisions on customer protection and market integrity such as the 1992 audit trail provisions.

I look forward to continuing our discussions.●

By Mr. BINGAMAN (for himself, Mr. KEMPTHORNE, and Mr. CRAIG):

S. 2078. A bill to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire; to the Committee on Armed Services.

THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT

● Mr. BINGAMAN. Mr. President, this Nation has had a very severe fire season this year. So far almost 6 million acres have burned. The average amount burned over the last 6 years is a little over 2 million acres per year. Airplanes, known as airtankers, play a critical role in fighting wildfires. Airtankers are used in the initial attack of wildfires in support of firefighters on the ground and, on large wildfires, to aid in the protection of lives and structures from rapidly advancing fires.

Today, I and my colleagues, Senators KEMPTHORNE and CRAIG, are introducing legislation that will help ensure that Federal firefighters continue to have access to airtanker services. The Wildfire Suppression Aircraft Transfer Act of 1996 will help facilitate the sale of former military aircraft to contractors who provide firefighting services to the Forest Service and the Department of the Interior. The existing fleet of available airtankers is aging rapidly and fleet modernization is critical to the continued success of the firefighting program.

Currently, legislative authority does not exist for the transfer or sale of excess turbine-powered military aircraft, suitable for conversion to airtankers, to private operators. This greatly hampers efforts to modernize the airtanker fleet. This bill will require that the aircraft be used only for firefighting activities.

Time is very short, but it is critical that this bill become law in this Congress. If we fail to pass this law, airtanker operators will not have access to the planes they need to update the aging airtanker fleet.

I urge my colleagues to support our efforts to ensure that Federal firefighters have the resources they need to protect the public and their property from the threat of wildfires.●

By Mr. MOYNIHAN:

S. 2079. A bill to repeal the prohibition against State restrictions on communications between government agencies and the INS; to the Committee on the Judiciary.

ALIEN INFORMATION PROVISION REPEAL LEGISLATION

● Mr. MOYNIHAN. Mr. President, on Wednesday, September 11, Mayor Rudolph W. Giuliani of New York City delivered an address at Georgetown University Law School about an obscure provision in the recently passed welfare legislation. The provision, section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, states:

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service (INS) information regarding the immigration status, lawful or unlawful, of an alien in the United States.

Mayor Giuliani said it would ''create chaos in New York City.'' I agree with him that this provision is ill-advised and threatens the public health and safety of residents of New York City. It conflicts with a 1985 executive order issued by then-Mayor Edward I. Koch prohibiting city employees from reporting suspected illegal aliens to the INS unless the alien was charged with a crime. That executive order, which is similar to local laws in other States and cities, was intended to ensure that fear of deportation does not deter illegal aliens from seeking emergency medical attention, reporting crimes, and so on.

An earlier version of this provision was first introduced in welfare legislation during the 103d Congress as a part of H.R. 3500, the Responsibility and Empowerment Support Program Providing Employment, Child Care, and Training Act, sponsored by Representatives Michel, GINGRICH, and SANTORUM. On September 8, 1995, during Senate consideration of H.R. 4, the Work Opportunity Act of 1995, Senator SANTORUM, along with Senator NICKLES, offered a similar amendment. The amendment was adopted by the Senate by a vote of 91 to 6, but H.R. 4 was later vetoed by President Clinton.

This year, the provision was included in S. 1795, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which was signed by President Clinton on August 22, 1996.

Because this provision poses a threat to health and safety in New York City and elsewhere, I am today introducing legislation to repeal section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2079

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

SECTION 1. REPEAL OF THE PROHIBITION AGAINST STATE RESTRICTIONS ON COMMUNICATIONS BETWEEN GOVERNMENT AGENCIES AND THE INS.

Section 434 of the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104–193) is repealed.●

ADDITIONAL COSPONSORS

S. 157

At the request of Mr. BUMPERS, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 157, a bill to reduce Federal spending by prohibiting the expenditure of appropriated funds on the United States International Space Station Program.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1379

At the request of Mr. SIMPSON, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Minnesota [Mr. GRAMS) were added as cosponsors of S. 1379, a bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes.

S. 1735

At the request of Mr. PRESSLER, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1735, a bill to establish the United States Tourism Organization as a non-governmental entity for the purpose of promoting tourism in the United States.

S. 1870

At the request of Mr. MOYNIHAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1870, a bill to establish a medical education trust fund, and for other purposes.

S. 1963

At the request of Mr. ROCKEFELLER, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1963, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 1965

At the request of Mr. KERREY, his name was added as a cosponsor of S. 1965, a bill to prevent the illegal manufacturing and use of methamphetamine.

S. 2064

At the request of Ms. SNOWE, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2064, a bill to amend the Public Health Service Act to extend the program of research on breast cancer.

SENATE JOINT RESOLUTION 52

At the request of Mr. KYL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

SENATE RESOLUTION 292

At the request of Mr. PRESSLER, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Tennessee [Mr. FRIST], the Senator from Virginia [Mr. WARNER], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Resolution 292, a resolution designating the second Sunday in October of 1996 as ''National Children's Day,'' and for other purposes.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

GRAMS AMENDMENT NO. 5350

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill (H.R. 3662) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . VOYAGEURS NATIONAL PARK.

The Secretary of the Interior, acting through the Director of the National Park Service, shall, during fiscal year 1997, in cooperation with State, local, and tribal governments, other public entities, and private organizations, as appropriate, begin substantial implementation of section 401(b) of the Act entitled ''An Act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes'', approved January 8, 1971 (16 U.S.C. 160k(b)).

PRESSLER AMENDMENT NO. 5351

Mr. PRESSLER proposed an amendment to the bill, H.R. 3662, supra; as follows:

At the end of the bill, add the following:

TITLE ____—LIVESTOCK INDUSTRY

Subtitle A—Captive Supply

SEC. ___01. CAPTIVE SUPPLY.

(a) DEFINITION OF CAPTIVE SUPPLY.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by adding at the end the following:

''(12) CAPTIVE SUPPLY.—The term 'captive supply' means livestock acquired for slaughter by a packer (including livestock delivered 7 days or more before slaughter) under a standing purchase arrangement, forward contract, or packer ownership, feeding, or financing arrangement, as determined by the Secretary.''.

(b) ANNUAL REPORT ON LIVESTOCK MARKETED OR SLAUGHTERED.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended by adding at the end the following:

''(f) ANNUAL REPORT ON LIVESTOCK MARKETED OR SLAUGHTERED.—

''(1) IN GENERAL.—The Secretary shall make available to the public an annual statistical report on the number and volume of livestock marketed or slaughtered in the United States, including—

''(A) information collected on the date of enactment of this Act; and

''(B) information on transactions involving livestock in regional and local markets.

''(2) ADMINISTRATION.—In carrying out paragraph (1), the Secretary shall ensure that—

''(A) a significant share of regional and local livestock transactions are reported; and

''(B) the confidentiality of individual livestock transactions is maintained.''.

(c) INFORMATION ON CAPTIVE SUPPLY TRANSACTIONS.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), as amended by subsection (b), is amended by adding at the end the following:

''(g) INFORMATION ON CAPTIVE SUPPLY TRANSACTIONS.—

''(1) IN GENERAL.—Not later than 24 hours after a transaction involving captive supply is recorded, the Secretary shall make information concerning the transaction (including the specific standing arrangement) available to the public using electronic and other means that will ensure wide availability of the information.

''(2) ONGOING LIVESTOCK TRANSACTIONS.—Any information collected on captive supply under paragraph (1) shall be reported in conjunction with ongoing livestock transactions.''.

Subtitle B—Livestock Dealer Trust

SEC. ___11. LIVESTOCK DEALER TRUST.

Title III of the Packers and Stockyards Act, 1921 (7 U.S.C. 201 et seq.), is amended by adding at the end the following:

''SEC. 318. LIVESTOCK DEALER TRUST.

''(a) FINDINGS.—Congress finds that—

''(1) a burden on and obstruction to commerce in livestock is caused by financing arrangements under which dealers and market agencies purchasing livestock on commission encumber, give lenders security interests in, or have liens placed on livestock purchased by the dealers and market agencies in cash sales, or on receivables from or proceeds of the sales, when payment is not made for the livestock; and

''(2) the carrying out of the arrangements is contrary to the public interest.

''(b) PURPOSE.—The purpose of this section is to remedy the burden on and obstruction to commerce in livestock described in paragraph (1) and protect the public interest.

''(c) DEFINITIONS.—In this section:

''(1) CASH SALE.—The term 'cash sale' means a sale in which the seller does not expressly extend credit to the buyer.

''(2) TRUST.—The term 'trust' means 1 or more assets of a buyer that (subsequent to a cash sale of livestock) constitutes the corpus of a trust held for the benefit of an unpaid cash seller and consists of—

''(A) account receivables and proceeds earned from the cash sale of livestock by a dealer or market agency buying on a commission basis;

''(B) account receivables and proceeds of a marketing agency earned on commission from the cash sale of livestock;

''(C) the inventory of the dealer or marketing agency; or

''(D) livestock involved in the cash sale, if the seller has not received payment in full for the livestock and a bona fide third-party purchaser has not purchased the livestock from the dealer or marketing agency.

''(d) HOLDING IN TRUST.—

''(1) IN GENERAL.—The account receivables and proceeds generated in a cash sale made by a dealer or a market agency on commission and the inventory of the dealer or market agency shall be held by the dealer or market agency in trust for the benefit of an unpaid cash seller of the livestock until the seller receives payment in full for the livestock.

''(2) EXEMPTION.—Paragraph (1) does not apply in the case of a cash sale made by a dealer or market agency if the total amount of cash sales made by the dealer or market agency during the preceding 12 months does not exceed $250,000.

''(3) DISHONOR OF INSTRUMENT OF PAYMENT.—A payment in a sale described in paragraph (1) shall not be considered to be made if the instrument by which payment is made is dishonored.

''(4) LOSS OF BENEFIT OF TRUST.—If an instrument by which payment is made in a sale described in paragraph (1) is dishonored, the seller shall lose the benefit of the trust under paragraph (1) on the earlier of—

''(A) the date that is 15 business days after date on which the seller receives notice of the dishonor; or

''(B) the date that is 30 days after the final date for making payment under section 409,

unless the seller gives written notice to the dealer or market agency of the seller's intention to preserve the trust and submits a copy of the notice to the Secretary.

''(5) RIGHTS OF THIRD-PARTY PURCHASER.—The trust established under paragraph (1) shall have no effect on the rights of a bona fide third-party purchaser of the livestock, without regard to whether the livestock are delivered to the bona fide purchaser.

''(e) JURISDICTION.—The district courts of the United States shall have jurisdiction in a civil action—

''(1) by the beneficiary of a trust described in subsection (c)(1), to enforce payment of the amount held in trust; and

''(2) by the Secretary, to prevent and restrain dissipation of a trust described in subsection (c)(1).''.

Subtitle C—Cooperative Bargaining

SEC. ___21. COOPERATIVE BARGAINING.

Section 4 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2303) is amended by adding at the end the following:

''(g) To fail to engage in good-faith negotiations with producer cooperatives (including new cooperatives), or to unfairly discriminate among producer cooperatives (including new cooperatives), with respect to the purchase, acquisition, or other handling of agricultural products.''.

Subtitle D—Meat Labeling

SEC. ___31. LABELING OF MEAT AND MEAT FOOD PRODUCTS.

Section 7(b) of the Federal Meat Inspection Act (21 U.S.C. 607(b)) is amended by striking ''require,'' and all that follows through the period at the end and inserting ''require—

''(1) the information required under section 1(n); and

''(2) if it was imported (or was produced from an animal that was located in another country for at least 120 days) and is graded, a grading labeling that bears the words 'imported', 'may have been imported', 'this product contains imported meat', 'this product may contain imported meat', 'this container contains imported meat', or 'this container may contain imported meat', as the case may be, or words to indicate its country of origin.''.

Subtitle E—Interstate Shipment of Meat and Poultry Products

SEC. ___41. FEDERAL AND STATE COOPERATION WITH RESPECT TO MEAT INSPECTION.

(a) WAIVER OF INTRASTATE DISTRIBUTION LIMITATION UNDER THE FEDERAL MEAT INSPECTION ACT.—Section 301(a) of the Federal Meat Inspection Act (21 U.S.C. 661(a)) is amended by adding at the end the following:

''(5) WAIVER OF INTRASTATE DISTRIBUTION LIMITATION.—

''(A) IN GENERAL.—On application of an appropriate State agency with which the Secretary may cooperate under this Act, the Secretary shall reevaluate the applicant State's meat inspection program to verify that its mandatory requirements are at least equal to the Federal inspection, reinspection, and sanitation requirements under title I.

''(B) WAIVERS.—If the Secretary verifies that the mandatory inspection requirements of the applicant State are at least equal to Federal inspection requirements, the limitation in paragraph (1) that restricts meat inspected by the applicant State to intrastate distribution shall be waived by the Secretary.

''(C) INSPECTIONS.—Following any waiver under subparagraph (B), the Secretary may perform random inspections of State-inspected plants within the applicant State to ensure that the mandatory State inspection requirements employed in the State are at least equal to the substantive Federal inspection requirements under title I.

''(D) PERSONNEL.—The Secretary may use Federal personnel, or may cooperate with the appropriate State agency under this Act to train and use State personnel, to perform any random inspections authorized by this paragraph.

''(E) NONCOMPLIANCE.—If a random inspection performed under this paragraph discloses that a State-inspected plant is not employing mandatory inspection requirements that are at least equal to the substantive Federal inspection requirements under title I, the Secretary shall reimpose

the restriction against the interstate distribution of meat and meat products produced at the plant until a subsequent inspection verifies that the plant has reestablished mandatory inspection requirements that are at least equal to the substantive Federal inspection requirements under title I.''.

(b) WAIVER OF INTRASTATE DISTRIBUTION LIMITATION UNDER THE POULTRY PRODUCTS INSPECTION ACT.—Section 5(a) of the Poultry Products Inspection Act (21 U.S.C. 454(a)) is amended by adding at the end the following:

''(5) WAIVER OF INTRASTATE DISTRIBUTION LIMITATION.—

''(A) IN GENERAL.—On application of an appropriate State agency with which the Secretary may cooperate under this Act, the Secretary shall reevaluate the applicant State's poultry inspection program to verify that its mandatory requirements are at least equal to the Federal inspection, reinspection, and sanitation requirements of this Act.

''(B) WAIVERS.—If the Secretary verifies that the mandatory inspection requirements of the applicant State are at least equal to Federal inspection requirements, the limitation in paragraph (1) that restricts poultry or poultry products inspected by the applicant State to intrastate distribution shall be waived by the Secretary.

''(C) INSPECTIONS.—Following any waiver under subparagraph (B), the Secretary may perform random inspections of State-inspected plants within the applicant State to ensure that the mandatory State inspection requirements employed in the State are at least equal to the substantive Federal inspection requirements under this Act.

''(D) PERSONNEL.—The Secretary may use Federal personnel, or may cooperate with the appropriate State agency under this Act to train and use State personnel, to perform any random inspections authorized by this paragraph.

''(E) NONCOMPLIANCE.—If a random inspection performed under this paragraph discloses that a State-inspected plant is not employing mandatory inspection requirements that are at least equal to the substantive Federal inspection requirements of this Act, the Secretary shall reimpose the restriction against the interstate distribution of poultry and poultry products produced at the plant until a subsequent inspection verifies that the plant has reestablished mandatory inspection requirements that are at least equal to the substantive inspection Federal requirements of this Act.''.

Subtitle F—Agricultural Credit

SEC. ___51. REVIEW OF FEDERAL AGRICULTURE CREDIT POLICIES.

The Secretary of Agriculture, in consultation with the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Board of the Farm Credit Administration, shall establish an interagency working group to study—

(1) the extent to which Federal lending practices and policies have contributed, or are contributing, to market concentration in the livestock and dairy sectors of the national economy; and

(2) whether Federal policies regarding the financial system of the United States adequately take account of the weather and price volatility risks inherent in livestock and dairy enterprises.

Subtitle G—Agricultural Trade

SEC. ___61. INTERNATIONAL BARRIERS TO TRADE.

It is the sense of the Senate that—

(1) the Secretary of Agriculture should continue to identify and seek to eliminate unfair trade barriers and subsidies affecting United States beef markets;

(2) the United States and Canadian Governments should expeditiously negotiate the elimination of animal health barriers that are not based on sound science; and

(3) the import ban on beef from cattle treated with approved growth hormones imposed by the European Union should be terminated.

SEC. ___62. USE OF GSM PROGRAMS TO PROMOTE AGRICULTURAL EXPORTS TO AFRICA.

It is the sense of the Senate that the Secretary of Agriculture shall use the Export Credit Guarantee Program (GSM-102) and the Intermediate Export Credit Guarantee Program (GSM-103) established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) to promote the export of United States agricultural commodities to countries of Africa.

Subtitle H—Animal Drug Availability

SEC. 71. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Animal Drug Availability Act of 1996''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 72. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Section 512(d) (21 U.S.C. 360b(d)) is amended by striking paragraph (3) and by adding at the end the following:

''(4) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as a study in a target species, a study in laboratory animals, any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant, a bioequivalence study, or an in vitro study, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.''

(b) CONFORMING AMENDMENTS.—

(1) Section 512(c)(2)(F) (ii) and (iii) (21 U.S.C. 360b(c)(2)(F) (ii) and (iii)) is amended—

(i) by striking ''reports of new clinical or field investigations (other than bioequivalence or residue studies) and,'' and inserting ''substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,''; and

(ii) by striking ''essential to'' and inserting '', required for''.

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(i) by striking ''(B)(iv)'' each place it appears and inserting ''(F)(iv)'' in lieu thereof;

(ii) by striking ''reports of clinical or field investigations'' and inserting ''substantial evidence of the effectiveness of the drug involved, any studies of animal safety,''; and

(iii) by striking ''essential to'' and inserting ''required for''.

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)) is amended by inserting before paragraph (4) (as added by subsection (a)) the following new paragraph:

''(3) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

''(A) the Secretary shall not issue an order under paragraph (1) (A), (B), or (D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that:

''(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

''(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

''(B) the Secretary shall not issue an order under paragraphs (1) (A), (B), or (D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

''(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

''(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

''(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i) (I) and (II), paragraphs (1) (A), (B), or (D) apply;

''(C) except in the case of a combination that contains a nontropical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that:

''(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness; or

''(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

''(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

''(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that:

''(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness; or

''(ii) each of the active ingredients or animal drugs intended for at least one use that is different from other active ingredients or

animal drugs used in combination provides appropriate concurrent use for the intended target population; or

''(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

''(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.''

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

''(3) Any person intending to file an application under subparagraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requester unless (a) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (b) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth scientific justification specific to the animal drug and intended uses under consideration if such decision requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this subparagraph shall be construed as compelling the Secretary to require field investigation.''

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act the Secretary shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term ''adequate and well controlled,'' as used in subsection (d)(4) of section 512, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions; *Provided,* That until the regulations required by this subparagraph are issued, nothing in 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary to require field investigation under section 512(d)(1)(E), or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in this subparagraph;

(B) further define the term ''substantial evidence'', as defined in subsection (d)(4) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P–0434–CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

(f) MINOR SPECIES AND USES.—The Secretary shall consider legislative and regulatory options for facilitating the approval of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process for animal drugs intended for use in minor species for minor uses.

SEC. . 73. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

''(F) upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug;''.

SEC. 74. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

''(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under section 512 if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used, or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, relevant organization means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance.''

SEC. 75. VETERINARY FEED DIRECTIVES.

(a) Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after ''other than man'' the following: '', other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,''.

(b) New Section 504 (21 U.S.C. 354) is added, to read as follows:

''SEC. 504. VETERINARY FEED DIRECTIVE DRUGS.

''(a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to Section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from Section 502(f).

''(2) A veterinary feed directive is lawful if it:

''(A) Contains such information as the Secretary may by general regulation or by order require; and

''(B) Is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to Section 512(i).

''(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution, such person distributing the feed shall maintain a written acknowledgment for the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

''(B) Every person required under the previous subparagraph to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

''(b) a veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may be general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to Section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

''(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any federal or state law.''

(c) Section 512 (21 U.S.C. 360b) is amended as follows:

(1) In subsection (i) by inserting after the words ''including special labeling requirements'' the following: ''and any requirement that an animal feed bearing or containing the new animal drug be limited to use under

the professional supervision of a licensed veterinarian''.

(2) In subparagraph (a)(2)(C) by inserting after ''its labeling,'' the following: ''its distribution, its holding,''.

(3) In subparagraph (m)(4)(B)(i) by inserting after ''paragraph (5)(A)'' the following: ''or under section 504(a)(3)(A)''; and by inserting after ''subparagraph (B) of such paragraph'' the following: ''or section 504(a)(3)(B)''.

(d) Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after ''by section 412'' the following: '', 504,''; and by inserting after ''under Section 412,'' the following: ''504,''.

SEC. 76. FEED MILL LICENSES.

(a) Section 512(a)(1) and (2) (21 U.S.C. 360b(a)(1) and (2)) is amended to read as follows:

''(a) (1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) of this section with respect to such use or intended use of such drug, and

''(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee—

''(i) holds a license issued under subsection (m) of this section and has in its possession current approved labeling for such drug in animal feed; or

''(ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m) of this section.

''(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed, be deemed unsafe for the purposes of section 501(a)(6) unless—

''(A) there is in effect an approval of an application filed pursuant to subsection (b) of this section with respect to such drug, as used in such animal feed,

''(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) of this section to manufacture such animal feed, and

''(C) such animal feed bears approved labeling, and such use conforms to the conditions and indications of use published pursuant to subsection (i) of this section.''

(b) Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

''(m) (1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i) of this section, and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

''(2) Within 90 days after the filing of an application pursuant to subsection (m)(1), or such additional period as may be agreed upon the Secretary and the applicant, the Secretary shall either (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

''(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

''(A) that the application is incomplete, false, or misleading in any particular;

''(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

''(C) that the facility manufacturers animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture, or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i) of this section; the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) of this section relating to the use of such drugs in or on such animal feed.

''(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

''(i) that the application contains any untrue statement of a material fact; or

''(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in his absence the officer acting as Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

''(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

''(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

''(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

''(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

''(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

''(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection, and waives an opportunity for a hearing on the matter.

''(D) Any order under paragraph (4) of this subsection shall state the findings upon which it is based.

''(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued:

''(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4) of this subsection;

''(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

''(6) To the extent consistent with the public health, the Secretary may promulgate

regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.''

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application at the time of enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

WYDEN AMENDMENT NO. 5352

Mr. WYDEN proposed an amendment to the bill, H.R. 3662, supra; as follows:

At the appropriate place in title I, insert the following:

SEC 10. WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.

(a) IN GENERAL.—For fiscal year 1997 and each fiscal year thereafter, appropriations made for the Bureau of Land Management may be used by the Secretary of the Interior for the purpose of entering into cooperative agreements with willing private landowners for restoration and enhancement of fish, wildlife, and other biotic resources on public or private land or both that benefit these resources on public lands within the watershed.

(b) DIRECT AND INDIRECT WATERSHED AGREEMENTS.—The Secretary of the Interior may enter into a watershed restoration and enhancement agreement—

(1) directly with a willing private landowner: or

(2) indirectly through an agreement with a State, local, or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) TERMS AND CONDITIONS.—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner:

(B) improve the viability of and otherwise benefit the fish, wildlife, and other biotic resources on public land in the watershed.

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner, and other entities, as mutually agreed on by the affected interests: and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on private lands, provided such terms and conditions are mutually agreed to by the Secretary and the landowner.

BUMPERS (AND OTHERS) AMENDMENT NO. 5353

Mr. BUMPERS (for himself, Mr. GREGG, and Mr. KERRY) proposed an amendment to the bill, H.R. 3662, supra; as follows:

At the end of the pending committee amendment ending on line 4 on page 25, add the following:

SEC. . GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985).

(b) DETERMINATION OF FEE.—(1) Permittees or lessees, including related persons, who own or control livestock comprising less than 2,000 animal unit months on the public rangelands pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees, including related persons, who own or control livestock comprising more than 2,000 animal unit months or the public rangelands pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a) for the first 2,000 animal unit months. For animal unit months in excess of 2,000, the fee shall be the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State lands board lands;

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee; and

(3) related persons includes—

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the holder of the permit or lease; and

(ii) a person controlled by, or controlling, or under common control with the holder of the permit or lease.

THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENT ACT OF 1996

MURKOWSKI AMENDMENT NO. 5354

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (S. 1920) to amend the Alaska National Interest Lands Conservation Act, and for other purposes; as follows:

(a) Section 1(a) is amended by adding ''and an ANCSA'' after the word ''ANILCA'' on page 1, line 10, and page 2, line 4.

(b) Section 1(b) is deleted.

(c) Section 1(d) is deleted.

(d) Section 1(e) is deleted.

Section 1(r) is amended by striking all after the word ''follows'' and inserting in lieu thereof: ''Inability to provide the service, after enactment of this Act, for up to a two-year period shall not constitute a relinquishment of a right under this section.''.

(e) Section 1(s) is deleted.

(f) At the end of the bill add a new section, section (2) as follows:

''SEC. 2. STATUTORY CONSTRUCTION.

Nothing in this Act is intended to affect—

(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96–487), including those in titles III and VIII of that Act;

(2) the provisions of section 102 of the Alaska National Interest Lands Conservation Act, the jurisdiction over subsistence uses in Alaska, or any assertion of subsistence used in the Federal courts; and

(3) the manner in which section 810 of the Alaska National Interest Lands Conservation Act is implemented in refuges in Alaska, and the determination of compatible use as it relates to subsistence uses in these refuges.''.

Mr. MURKOWSKI. Mr. President, today I rise for the purpose of submitting an amendment to legislation within the jurisdiction of the Senate Committee on Energy and Natural Resources.

This amendment addresses some of the concerns raised by Alaskans on S. 1920 as introduced. I plan to discuss the bill and the amendment at a hearing to be held in the Senate and Energy and Natural Resources Committee on Wednesday, September 18, 1996.

ADDITIONAL STATEMENTS

CHANGES TO THE BUDGET RESOLUTION DISCRETIONARY SPENDING LIMITS, APPROPRIATE BUDGETARY AGGREGATES, AND APPROPRIATIONS COMMITTEE ALLOCATION

● Mr. DOMENICI. Mr. President, section 103(c) of Public Law 104–121, the Contract With America Advancement Act, requires the chairman of the Senate Budget Committee to adjust the discretionary spending limits, the appropriate budgetary aggregates, and the Appropriations Committee's allocation contained in the most recently adopted budget resolution—in this case, House Concurrent Resolution 178—to reflect additional new budget authority and outlays for continuing disability reviews, CDR's, as defined in section 201(g)(1)(A) of the Social Security Act. The maximum amount of such adjustments was modified by section 211 of Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

I hereby submit revisions to the nondefense discretionary spending limits for fiscal year 1997 contained in section 301 of House Concurrent Resolution 178 in the following amounts:

Budget Authority:	
Current nondefense discretionary spending limit	$230,988,000,000
Adjustment	175,000,000
Revised nondefense discretionary spending limit	$231,163,000,000

Outlays:	
Current nondefense discretionary spending limit	273,644,000,000
Adjustment	310,000,000
Revised nondefense discretionary spending limit	273,954,000,000

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1997 contained in section 101 of House Concurrent Resolution 178 in the following amounts:

Budget Authority:	
Current aggregate	$1,314,760,000,000
Adjustment	175,000,000
Revised aggregate	1,314,935,000,000
Outlays:	
Current aggregate	1,311,011,000,000
Adjustment	310,000,000
Revised aggregate	1,311,321,000,000
Deficit:	
Current aggregate	227,283,000,000
Adjustment	310,000,000
Revised aggregate	227,593,000,000

I hereby submit revisions to the 1997 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

Budget Authority:	
Current Appropriations Committee allocation	$795,878,000,000
Adjustment	175,000,000
Revised Appropriations Committee allocation	796,053,000,000
Outlays:	
Current Appropriations Committee allocation	835,346,000,000
Adjustment	310,000,000
Revised Appropriations Committee allocation	835,656,000,000

THE ELIOT LOUNGE

• Mr. KERRY. Mr. President, I rise today to offer a tribute to one of Boston's most celebrated local institutions—which is soon to be no more—and to the man who has done so much to make that place the very special corner of town that it is.

To running enthusiasts across the Nation, the Eliot Lounge is well known as the unofficial headquarters of the Boston Marathon—a congenial watering hole where the world's elite runners rub elbows, and perhaps down a beer or two, with weekend joggers and others even less athletically inclined. But anyone who has ever dropped by the corner of Massachusetts and Commonwealth Avenues knows that the Eliot is far more than just a runner's tavern.

The Eliot is a gathering place, and a welcoming haven, for men and women from all different backgrounds and walks of life: stockbrokers and steam fitters, journalists and office clerks, teachers and police officers and even the occasional politician have all found a warm welcome there. It is a place where old-fashioned hospitality and camaraderie still endure, a place where strangers become old friends with just a few easy words—a neighborhood bar, it's been said, for people who don't necessarily live in the neighborhood.

For the better part of two decades now, the camaraderie and good fellowship of the Eliot Lounge have been personified by one man: Tommy Leonard. From his post behind the bar, T.L. has dispensed wit and wisdom to all corners—always brimming with enthusiasm and good cheer, and always eager to help the first-time visitor to Boston learn all the extraordinary charms of our most extraordinary city.

As devoted distance runner and founder of the renowned Falmouth Road Race, it was Mr. Leonard who first introduced the running community to the charms of the Eliot Lounge. But even more important, it is Tommy Leonard who embodies the tremendous generosity of spirit that has long characterized the special place.

Just as he proudly served his country years ago in the U.S. Marine Corps, Mr. Leonard continues to serve the people of Boston in countless different ways. Over the years T.L. has organized charity drives for scores of worthy causes; whether money was needed to replace a beloved children's statue stolen from the Boston Public Garden, to set up a scholarship fund for the children of a slain police officer, or to meet the medical bills of a badly injured former marathon star, Mr. Leonard has always been at the forefront of those looking to help.

Tommy Leonard is the first to point out that he has not been alone in these endeavors. Indeed, the entire staff of the Eliot Lounge deserves tremendous credit for their years of charitable work—as does Eddie Doyle, another legendary Boston publican who is Mr. Leonard's frequent partner in good deeds.

But over the years it has been Tommy Leonard who has, time and again, provided the inspiration and the energy needed to get the job done: to turn well-intentioned wishes into concrete deeds. To prove that the volunteer spirit is still alive and well in America today. To harness the generosity and good will of an entire community and, together, to make a real difference in the lives of others.

Some who know him say that if Tommy Leonard had only devoted his boundless energy and his promotional genius to making money for himself, he would be a rich man today. But, Mr. President, others who know him—myself included—look at the joy that he has brought to so many others, and we know that Tommy Leonard is already wealthy in the ways that really matter.

But now, Mr. President, after all these years, there will soon be no more Eliot Lounge for Tommy Leonard to call home. The congenial little tavern that has seen so many famous faces and so much good cheer will be closing its doors by the end of this month.

Before that happens, Mr. President, I want to take this opportunity to salute Tommy Leonard, and his colleagues on the staff of the Eliot Lounge, for all the generosity they have shown and all the good works they have so cheerfully performed over the years. I applaud them, I wish them Godspeed, and I also remind them:

As T.L. so often observes, ''It's a Wonderful Life.'' And it is even more so, T.L. and colleagues, because of all that you have done.•

TRIBUTE TO SARAH SCHOFIELD AND ERIN MITCHELL, NEW HAMPSHIRE STUDENTS WHO ARE RECIPIENTS OF THE PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

• Mr. SMITH. Mr. President, I rise before you today to congratulate two young New Hampshire students for their outstanding work on behalf of their community. Sarah Schofield of Gilbert H. Hood Middle School in Derry, NH, and Erin Mitchell of Londonderry High School in Londonderry, NH have both been honored with the Prudential Spirit of Community Awards. In recognition of their hard work and dedication to their communities, Sarah and Erin will both receive a silver medallion, $1,000, and a trip to Washington, DC.

The Prudential Spirit of Community Awards honors students who best exemplify community spirit by their self-initiated volunteer work. The awards are sponsored by the Prudential Insurance Co. of America in partnership with the National Association of Secondary School Principals. The program recognizes deserving students in local schools, identifies the best examples of community service, and culminates in naming America's top 10 youth volunteers of the year. For the 1996 awards, the program drew applications from more than 7,000 young people across the Nation. Both Sarah and Erin should be very proud of this distinguished recognition.

Sarah Schofield was recognized for her participation in a Christmas event at a local nursing home. Along with several of her peers from her church's Sunday school, Sarah went to a nursing home with gift baskets and sang Christmas carols for the residents. Due to the great success of the group's first effort at the nursing home, several other trips were planned after the Christmas event.

Erin Mitchell was recognized for creating a Girl's Group, to match girls from her scouting troop with girls who have disabilities. All the girls gather together regularly for theater trips, bowling, camping, and a variety of other activities. Erin's program allows the families of the disabled girls to know that their daughters are making new friends. Erin's inspiration for developing the group came from her experience of working with the Special Olympics.

I am extremely proud to congratulate both Sarah Schofield and Erin

Mitchell for exemplifying the leadership and willingness to act on the behalf of others in their New Hampshire communities. Both students have made a tremendous difference in the lives of other people. Congratulations to them on their hard work and distinguished recognition. They are an inspiration to the youth of America.●

AMBASSADOR TO CROATIA PETER GALBRAITH

● Mr. SIMON. Mr. President, during much of my time in the Senate I was fortunate to serve on the Foreign Relations Committee. With our responsibility to approve the nominations of ambassadors and others, I had the opportunity to meet so many of the fine men and women who serve our Nation overseas. One of those outstanding public servants is Peter Galbraith.

I got to know Peter when I came to the Foreign Relations Committee in 1985 and he was a staff member. I was grateful for the diligent, thoughtful, and excellent staff work he provided. In 1993, I was pleased to vote to approve his nomination as the first-ever U.S. Ambassador to Croatia, a position he currently holds.

There has been a certain amount of controversy surrounding Ambassador Galbraith in the last year. This summer he was called to testify before Congress on his involvement relating to third-party transfers of arms to the Muslims in Bosnia. While Ambassador Galbraith has faced criticism from several corners, it seems to me that he was doing the job that ambassadors are supposed to do, and that is carry out the policies set forth by the President and his administration.

Peter has at times been disparaged as an activist. If this label is applied to someone who wants to change things for the better, then Peter should be proud of that characterization. As a staffer on the Foreign Relations Committee, he was known as a tireless campaigner for human rights. The story of his trip to Iraqi Kurdistan after the gulf war is well known. He helped bring attention to the plight of the Kurds and rescued key documents before they could fall into the hands of Saddam Hussein's regime. Benazir Bhutto, now Prime Minister of Pakistan, credited Peter with helping attain her release from prison. And in another famous incident, he achieved in helping Senator PAT MOYNIHAN—a strong advocate for the Bosnian Muslims—get into Sarajevo in 1992 to survey the besieged city. This event may have aggravated some United States military officials at the time, but it helped increase the Senate's understanding of what was going on in Bosnia.

Now, as the first envoy to Croatia, a nation only 5 years old, Ambassador Galbraith has had the responsibility to develop the new relationship between our two countries. His service has occurred during an extremely trying and tragic period in the Balkans. Such a job is not easy, and it is understandable to see how one could get stuck between a rock and a hard place. These circumstances call for strong and able, even aggressive, diplomats, and Ambassador Galbraith has been just that.●

ORDERS FOR TUESDAY, SEPTEMBER 17, 1996

Mr. GORTON. Mr. President, with the consent of both sides, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. Tuesday, September 17; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of the conference report to accompany H.R. 3816, the energy and water appropriations bill, with the reading of the report waived; further, that debate from 9:30 to 11 be equally divided with 45 minutes under the control of Senator DOMENICI, 15 minutes under the control of Senator JOHNSTON, 15 minutes under the control of Senator LEVIN, and 15 minutes under the control of Senator SIMON on the conference report.

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

Mr. GORTON. I further ask unanimous consent that at the hour of 11 a.m., the Senate resume consideration of the Interior appropriations bill, with the time between 11 and 12:30 equally divided in the usual form prior to a motion to table. I also ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 for the weekly policy conferences to meet.

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

Mr. GORTON. I further ask unanimous consent that at the hour of 2:15 on Tuesday there be 20 minutes remaining prior to a motion to table the Bumpers amendment to be equally divided, to be followed by a vote on or in relation to the Bumpers amendment to the Interior appropriations bill, to be followed immediately by a vote on the adoption of the energy and water appropriations conference report.

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

PROGRAM

Mr. GORTON. For the information of all Senators, under the previous order, tomorrow morning the Senate will be debating the energy and water appropriations conference report. Following that debate, at 11 a.m., the Senate will resume the Interior appropriations bill debate and the pending Bumpers amendment on grazing.

As a reminder to all Members, at approximately 2:35 tomorrow, there will be two consecutive rollcall votes on those issues. Senators should expect additional votes throughout the day on Tuesday and may also turn to any other items cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, at 5:54 p.m., the Senate adjourned until Tuesday, September 17, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1996:

DEPARTMENT OF COMMERCE

ROBERT S. LARUSSA, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE SUSAN G. ESSERMAN.

DEPARTMENT OF STATE

RICHARD W. BOGOSIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL COORDINATOR FOR RWANADA/BURUNDI.

IN THE ARMY

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 3385, 3392 AND 12203(A):

To be brigadier general

COL. FRANK A. AVALLONE, 000–00–0000.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF MAJOR IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

ROBERT T. BADER, 000–00–0000
WAYNE D. SZYMCZYK, 000–00–0000

Executive nominations received by the Senate September 16, 1996:

NATIONAL INSTITUTE OF BUILDING SCIENCES

CHARLES A. GUELI, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1999, VICE WALTER SCOTT BLACKBURN, TERM EXPIRED.