SENATE—*Friday, March 14, 1986*

(Legislative day of Monday, March 10, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights * * * to secure these rights governments are instituted among men deriving their just powers from the consent of the governed."—Declaration of Independence.

God of Creation, we thank You for our political system, its uniqueness in history, and the prosperous, powerful Republic which is its product. We thank You for the fundamental principle that sovereignty belongs to the people and that government receives its powers from them. Help us to realize, Lord, that if the people fail to understand this—if they ignore or neglect their sovereignty, the system inevitably will break down. Awaken us to the peril of the Republic if people abdicate their sovereignty and quicken the people to their indispensable responsibility. We pray in His name who is the source of all power. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I will reserve any time I do not use.

That is to be followed by special orders in favor of Senators HAWKINS, PROXMIRE, and BAUCUS.

There will then be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following routine morning business, the Senate will resume consideration of the House message to accompany H.R. 3128, reconciliation. Pending is amendment No. 1673.

It would be my hope, and I know a number of Members have conflicts starting early this afternoon, that we could be on this measure right at 10 o'clock. If there are amendments, the amendments should be offered. There will be a limit of 30 minutes on each amendment. I believe that is correct. So we can move rather quickly. I understand there may be three, four, or five amendments, or maybe more. I am not certain.

If we can act on reconciliation and dispose of that, then it would be my hope that, if we can get an agreement, we can take up the Fitzwater nomination, after going into executive session, file cloture, get unanimous consent on the cloture motion, and dispose of that matter.

Then, before we leave today, lay down the water resources bill.

On Monday, it would seem to me if we can accomplish this much today, I would be in a pretty good position to indicate to Members, if we are able to lay down the water resources bill today or the first thing on Monday, that it is my view that there are probably enough matters to be taken care of in the water resources bill, amendments that can be accepted, opening statements and other areas of discussion, where we could probably avoid any rollcall votes on Monday. But it will depend on how much we accomplish today. I will try to make an announcement as early as I can so that Senators who have conflicts on Monday can be advised.

SERGEANT AT ARMS OFFICE

Mr. DOLE. Mr. President, responding to the concerns expressed by the distinguished Senator from Ohio [Mr. METZENBAUM] regarding terminations within the Office of the Sergeant at Arms I submit the following information which I have obtained from the Office of the Sergeant at Arms, for the RECORD.

In June 1985 when the Sergeant at Arms' tenure began, he communicated to each of his department heads his targeted direction toward efficiency and effectiveness, stressing the overriding need to maintain or increase services within increasingly limited resources. He also began at that time to take a hard look at the overall organization to identify both functions and positions which could be viewed as duplicative or nonessential, recognizing from the outset that it might come down to a choice between management staff or production personnel. Indeed, a recent study in one area of his operations revealed that while the industry norm for supervisory personnel is 1:17, the Sergeant at Arms ratio is approximately 1:3. Clearly, management levels needed to be examined and assessed for cost effectiveness.

Several options were considered within the overall need for reapplication of limited resources. This whole process evolved over an 8-month period and has involved attrition, abolition, or consolidation of positions as well as replacement of personnel. The decision regarding replacement of higher level supervisory personnel in the Service Department and Computer Center had as its basis the determination and realization that: First, the number of administrative positions was disproportionately large to the needs of the department; and, second, the management team was not responding as the Sergeant at Arms had hoped to the new way of conducting business. These were difficult decisions but necessary for improving the efficiency of the Senate as an institution. These combined efforts to date have resulted in an anticipated full year reduction of 69 positions and an approximate $1.8 million from the pending fiscal year 1987 budget estimate. Similar personnel reductions were made in the Service Department in 1981 due to budgetary restrictions.

It is true that some of the affected individuals had several years of seniority, however, the restructuring was conducted on a very objective, businesslike planning basis, without regard to personal considerations. This obviously called for the establishment of priorities geared toward production demands and legitimacy of functions.

It is never easy to have to inform employees that their services are no longer required, especially when terminations are based on the legitimacy of their function. Certainly there is a human side to every employee, from the nightshift custodian in the Capitol to members of my immediate staff; and, I would venture to say that each and every employee has a very real personal life and a need to be employed. For this reason, there was a conscious effort to avoid bringing personal considerations into the decisionmaking process.

Special provision was made for each individual terminated. Everyone affected was provided with at least 10 days administrative leave over and above their unused vacation time to facilitate relocation efforts. The Ser-

geant at Arms' Director of Human Resources made a concerted effort to meet personally with everyone affected to discuss letters of recommendation, Ramspect Act opportunities and general résumé preparation and job search assistance.

It is a common occurrence in the professional workplace to reorganize an organization to effect efficiencies and increase cost effectiveness, especially when mandated by limited resources. I would venture to say that in the coming months cutbacks will become commonplace throughout the Federal Government as we strive for a balanced budget.

The narrow timeframe for departures was established in the interest of preserving morale and avoiding even greater disruption and anxiety than was already bound to occur. There was also every intention of being as fair and reasonable as possible. The affected employees were notified of their terminations in mid-February. To date each remains on the payroll; they will remain in payroll status until they have used their entire 1986 leave entitlement plus an additional 10 days of administrative leave—for most this equates to 6 weeks on the payroll after notice of termination. Options for further monetary considerations to these individuals could not be effected due to limited budgetary resources. The Directors and Deputy Directors of the Service Department and Computer Center will remain on the Sergeant at Arms payroll until the first day of May—a 10-week consideration.

While I regret very much the personal sacrifices which have resulted from this reorganization, we have an interesting tendency around here to point our finger in the other direction whenever the subject of waste and inefficiency is mentioned.

We like to talk about waste and mismanagement in the Federal Government never once admitting that our very own base of operations could stand a little scrutiny. The Sergeant at Arms Office examined its organization and correctly consolidated some of its subdivisions into one. The time had come to eliminate inefficiency resulting from the duplication of functions. And to a large degree this has been accomplished. The Office has pooled its resources where necessary. It has transferred employees in some cases to areas that require more manpower and eliminated positions in areas where functions overlapped. These decisions have not been easy ones. They never are. They are difficult ones that evoke sympathy for those whose jobs have been eliminated. Waste is an easy topic to talk about in the abstract, particularly when it's the other branch of Government's problem. But I would suggest to my colleagues that this branch of Government must shed itself of the luxuries which we can no longer afford.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. MATTINGLY). The distinguished acting Democratic leader is recognized.

POSSIBLE RESULTS OF GRAMM-RUDMAN-HOLLINGS

Mr. CRANSTON. Mr. President, a vote on the balanced budget amendment has been put off until March 25. But the issue will be the same then that it has been all along: Should we be tampering with our Constitution when we can achieve what we all want better and faster by making the legislative process work? We do not need to play around with the Constitution to eliminate the deficit and get the budget in balance. All we need is a good sense of national priorities and the will to back those priorities with our votes.

The distinguished chairman of the Appropriations Committee, Senator MARK HATFIELD, a Republican, who, like me, is against the proposed amendment, said the other day:

> If you like Gramm-Rudman, you ought to love the constitutional amendment. One may be a can of worms, but the other is a barrel of snakes.

Well, I do not like Gramm-Rudman. It is a can of worms. I voted against it. But now that it is law, I am determined to do my part to try to make it work. As any young fisherman can tell you, even a can of worms can be put to good use. But unless you work in a carnival sideshow, why would you want a barrel of snakes? I certainly do not, and I do not think the American people do either.

I opposed Gramm-Rudman for three reasons:

One, I believed it to be unconstitutional. One court has now so ruled, and I suspect the Supreme Court will sustain that ruling.

Two, it can lead to a transfer of authority, a very serious transfer of power, from the Congress to the President.

While I am serving in this body of the U.S. Senate, I am not about to go along with transfers of power that could diminish the role of Congress and lead to an imperial Presidency.

Three, I voted against Gramm-Rudman most importantly because it can lead to across-the-board cuts in virtually all programs without any sense of priorities, programs particularly helpful to very poor people having in good part been exempted, but programs that affect the welfare of all Americans having not been exempted.

Let me give a few examples of the sort of cuts that we could see coming and will come if the Gramm-Rudman automatic cuts actually occur.

One, we have had a year of air disasters with rising fatalities, and yet Gramm-Rudman can lead to a 25-percent cut in air controllers and air safety inspectors. The inevitable result: More dangerous skies, more air crashes, more fatalities, more claims against the United States, new costs.

Two, we have a serious problem at our borders. The worst aspect is drugs coming across our border, hard drugs that lead to violence and death in our cities and corruption of many, many young Americans. Gramm-Rudman could mean as much as a 25-percent cut in the border patrol, in Customs agents, in the Coast Guard, in the Drug Enforcement Agency, in the FBI, in the Department of Justice.

The inevitable result: More hard drugs across the border in California, in Florida, and elsewhere in our country, and more severe problems of crime, mayhem, bloodshed, muggings, and deaths in our streets.

Three, we have had an 18-percent cut in education in the past 5 years. Gramm-Rudman could lead this year to another 25-percent cut and to deeper cuts in ensuing years. This would be absolute folly, ending our effort to invest in the quality and in the capacities of young Americans, making it far more difficult for us to compete with other countries in world trade and in world security matters.

Finally, among many other, I think, terrible examples of what Gramm-Rudman could bring, it could lead to across-the-board cuts in national defense, with no sense of priorities, that could decimate our conventional readiness forces, make us more reliant upon nuclear weapons, lead to a situation where a President might be compelled to turn to nuclear weapons at a time of crisis, leading to the ultimate horror of a nuclear catastrophe.

We must avoid all of this, Mr. President. The way is to make Gramm-Rudman work, now it is law, so that we can work out a budget agreed upon by the President and the Congress to avoid the automatic trigger that would lead to that sort of ridiculous, unwise, and dangerous cuts in some domestic and foreign programs. What we need to do is agree on that budget. I, for one, will do all I can to work with the President, with Members of Congress, the House and Senate Republicans and Democrats alike, to agree upon a budget that will avoid the worst aspects of Gramm-Rudman.

EXPRESSION OF CONCERN ABOUT CHANGES IN RECONCILIATION

Mr. CRANSTON. Mr. President, on the reconciliation matter, I want to serve notice that Senator PETE

WILSON, my Republican colleague, and I have some grave concerns about some very unfair aspects of the proposed Republican leadership substitute on reconciliation. We shall be bringing that matter to the attention of the Senate shortly and will offer an amendment to cope with one of the very serious problems that result from changes negotiated privately between Senate Republican staff and White House staff.

The very complex language of this proposal, unseen by any committee of the Senate or by CBO, will take hundreds of millions of dollars from my State if it ever becomes law. It ought to be defeated.

And Senator WILSON and I will attempt to restore language previously passed by both Houses, which will give all coastal States a more effective voice in the negotiations with the Department of the Interior over coastal oil and gas development.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. CRANSTON. Mr. President, I reserve whatever time is left to the minority leader.

RECOGNITION OF SENATOR HAWKINS

The PRESIDING OFFICER. Under the previous order, the Senator from Florida [Mrs. HAWKINS] is recognized for not to exceed 5 minutes.

Mrs. HAWKINS. Mr. President, I thank the Chair.

BURMA—A BRIGHT SPOT ON THE DRUG ERADICATION SCENE

Mrs. HAWKINS. Mr. President, there are not a great number of bright spots in the realm of international narcotics trafficking and efforts to bring it under control. But one place where the outlook is encouraging is Burma. The Burmese have recently begun aerial spraying of poppy fields, something the United States has advocated for some time. We provided three aircraft to Burma for use in aerial spraying, and trained nine Burmese pilots in agricultural spraying techniques. In addition, we trained a number of Burmese policemen in special drug control courses at the Federal Law Enforcement Training Center in Glynco, GA. They will function as team managers to train and lead their fellow policemen in drug eradication efforts. These actions are encouraging, in that the Burmese are officially seeking outside help in trying to curb opium production and committing their own resources to acheive this goal.

One should note that while Burma is one of the world's largest producers of illicit opium, the central government does not have effective control of the primary growing areas. The Burma Communist Party controls the largest growing area, with increasing numbers of refineries in Communist-controlled territory.

Poppy growing is a key ingredient of the economy in insurgent-dominated territory, and the insurgents use the profits from opium smuggling to finance their revolutionary activities. The Burmese Government is firmly committed to wiping out illicit narcotics production and destroying the organizations involved. Their reasoning is simple: the drug trade feeds the insurgency and provides the wherewithal for buying its weapons.

The Burmese strategy includes the annual "Hellflower" campaign, in which police, army, and civilians move into an opium-growing area to eradicate the crops manually. Simultaneously, a military operation is launched against the heroin refineries. The results thus far have been outstanding. Of the estimated 75,000 hectares planted in 1985-86, 15,000 hectares have been eradicated manually and by aerial spraying. Large seizures of opium, heroin morphine base, and chemicals associated with drug production have been made in recent months. The destruction of one-fifth of the crop is just short of spectacular. This success did not come without sacrifice. More than 100 Burmese were killed every month in the war against drug trafficking and drug-financed insurgents.

Carrying the battle further, Burma has tightened its drug control laws, providing stiff penalties and legal sanctions for every aspect of narcotics production, processing, and cultivation. Prison terms of 5 to 10 years and fines of $1,300—and that is big money in Burma—are meted out to defendants convicted of cultivation, manufacture, possession, and transportation of narcotics, or unauthorized transfer of prescription drugs. For processing, there can be a term of 10 years to life and a $6,600 fine. For the import or export of drugs or materials relating to drugs, one can draw a term of 10 years to life imprisonment, or the death penalty. For accepting bribes, there can be a 3- to 5-year jail sentence and for using narcotics, 3 to 5 years.

Burma conducts a continuous, intensive program of drug information in schools and through posters, radio, and television. The prevention theme is stressed in schools in the form of lectures, exhibitions, and competitions. The harmfulness of narcotics is regularly emphasized at mass rallies and political indoctrination sessions. Burmese Government agencies also use newspapers, pamphlets, and magazines to warn of the dangers from drug abuse.

Burma's Ministry of Health has sharply stepped up both the number and quality of treatment and detoxification centers. Under the new antidrug laws, addicts are required to register. After registration, treatment and rehabilitation are compulsory. Failure to register and seek treatment is dealt with harshly, with prison terms up to 3 years.

The effort has paid off. The addiction rate has stabilized in Burma, in contrast to the United States and other nations where the addiction rate is growing by leaps and bounds. Burma has shown that it has the will, the resolve, and the determination to fight drugs. We in America congratulate Burma's leaders and the Burmese people on their success, and say keep up the good work.

RECOGNITION OF SENATOR PROXMIRE

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

Mr. PROXMIRE. I thank the Chair.

HOW WE ARE BUYING OFF NATO ALLIES' OBJECTIONS TO STAR WARS

Mr. PROXMIRE. Mr. President, future historians looking back on the 1980's will be impressed by the remarkably skillful way the Reagan administration has sold "star wars" over the emphatic objections of so much expert opinion in the United States. If it continues, star wars will become the most costly military program in the history of the world by far. Yet the administration has persuaded Congress to plunge ahead with it at the very time the country staggers under the load of the biggest deficits in the Nation's history. The biggest political issue of the day in America is the skyrocketing national debt and the endless succession of huge deficits. Yet the President was able to persuade Congress to double star wars research spending in 1986. And he is well on his way to persuading Congress to shove it ahead by another huge 100 percent in 1987.

Even this amazing performance pales by comparison with the remarkable way the President has stilled the objection of the Nation's military allies. The European NATO countries depend heavily on the U.S. military forces as the superpower heart of defense against the Soviets. These nations have every reason to fear that if star wars does succeed in providing a protective shield for the United States it would leave Western Europe exposed to attack from a vastly superior Soviet conventional and nuclear force. Star wars could not possibly defend

Europe and the Europeans know it. Star wars represents a diversion of America's military strength from the NATO defense. It is strictly a loser for the Europeans. Here's why: if star wars fails which it very likely will the dominant NATO leader—the United States—will have squandered its economic and technological resources to no avail. If star wars succeeds—it is very unlikely but it is possible, a future U.S. President might decide the United States should hunker down behind its nuclear defense and let Europe go rather than incinerate the world by pressing the nuclear button or take the terrible loss of American lives in a major conventional or nuclear war in Europe.

So the Europeans have every reason to oppose star wars, and oppose it vigorously. Why don't they? Answer—they have literally been bought off—and I mean bought off—with money. Secretary Weinberger has done a masterful selling job.

How does he do it? Answer: Billions of dollars does it. The Defense Minister of the United Kingdom has signed an agreement with the United States that would provide the United Kingdom with a substantial share of star wars research contracts. The agreement is reported to be for about $1½ billion. Where will the $1½ billion come from? It comes from Uncle Sam—from taxpayers in Georgia, taxpayers in Wisconsin, taxpayers all over America. It will cost the British nothing. The French and West Germans are not far behind. A year ago, there was considerable criticism from our European allies. But money talks and billions of dollars can talk very eloquently indeed.

Now comes Japan. For obvious reasons, Japan is the most antinuclear nation in the world. The Japanese of course recognize the dubious prospects of star wars. Like the Europeans, they, too, rely on the supermilitary power of the United States for their security. The Japanese spend less than 1 percent of their GNP on their military defense. An America in the future retiring behind its star war defenses would leave Japan militarily naked. But like the Europeans, the Japanese are lured by the star wars billions. It is a tough siren call to resist. The Japanese can, over the years, receive billions of dollars of research money by winning those star wars contracts and at no cost at all. It is almost like being handed a free-winning multi-billion-dollar lottery ticket.

On February 9, Clyde Haberman reported from Tokyo for the New York Times that the Japanese had not finally decided whether to take this free ticket for billions of American dollars. Two observations in this Haberman story are especially interesting. Defense analysts told Haberman that the Japanese might follow: "one possible model, the West German approach announced last December, which would withhold active Government involvement but allow private companies and institutes to join the research." This is the same technique the strategic defense initiative office is pursuing with prestigious institutions like the Massachusetts Institute of Technology. MIT does not endorse star wars. In fact, the president of MIT has made a major point of saying he does not endorse star wars. But MIT researchers have gone on the big bucks star wars payroll.

It is obvious what Japanese and West German business and MIT researchers get out of this. They get money and lots of it. But what does the Defense Department get out of bringing Japanese researchers in on star wars? The second Haberman observation reveals this. He wrote in the February 10 New York Times the following:

> Despite Japan's technological pre-eminence, United States officials suggest that they regard any participation by Tokyo as bearing greater political significance than scientific.

Ah, here is the real point. The exact reason the Defense Department offers a lush star wars contract to the Japanese is because it wants to silence any political objection by Japan to star wars.

A year or so ago vigorous objection to star wars by our allies constituted a potent argument against the project. Star wars still constitutes an eventually divisive force in the NATO alliance as well as an appalling waste of NATO's military resources. But allied objections have faded. Why? The reason is blunt and simple. It is also shocking. The allies are being bought off.

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that "the data clearly show that the deficit is a spending problem, not a revenue problem." This quote is taken from an administration position paper, explaining why they oppose a tax increase to reduce the deficit.

Their position has surface appeal and is quite simple, like most myths. It is based on data which demonstrate that Federal revenues—as a percentage of gross national product [GNP]—have remained around 18 percent over the past 20 years. Spending, however, has increased from 18 to 24 percent of GNP.

Given this data, why do I say the administration is clinging to a myth? To explode this myth, look behind the revenue numbers.

Revenues which can be used for general Government purposes, including defense, have dramatically declined. In 1967, these revenues came to 14.7 percent of the GNP. Two decades later, they had dropped to 12.1 percent. If this percentage decline is put into dollars, it means that the Federal Government is raising about $125 billion less for general Government than it did 20 years ago.

What happened to the rest of Federal revenues? That money is raised by a payroll tax and goes to pay for Social Security and Medicare for the most part. The administration favors this arrangement as do an overwhelming majority of Congress. This revenue will not be used for general Government purposes.

This shift of revenues is especially noticeable if you look at the corporate income tax. In 1967, corporations paid taxes which came to about 4.3 percent of GNP. Two decades later, this figure had dropped to a miniscule 1.7 percent. The corporate income tax has nearly disappeared as a source of general revenue.

This shift was disguised during the 1970's when defense spending was declining as a percentage of GNP. But the administration is now spending much more on defense and the revenue base will no longer support this spending. These data demonstrate that the deficit is both a spending and a revenue problem, notwithstanding administration mythmaking.

VARIATIONS IN MEDICAL PRACTICE PATTERNS MAY COST BIG BUCKS

Mr. PROXMIRE. Mr. President, on March 5 the Wall Street Journal carried a perceptive article on a phenomenon known as medical practice pattern variations. That phrase is shorthand for differences in the way the sick are treated because of geographic location. For instance, as the article points out, in one part of Maine 20 percent of the women over age 74 have had a hysterectomy while in another part of the State the figure leaps to 70 percent. An even more striking example is the finding by researchers that the rate for a type of hemorrhoid treatment is 26 times as high as in one State as in another.

Now why should this concern my colleagues? We should all be concerned, in my estimation, because these statistics indicate that we are spending precious Federal dollars under the Medicare and Medicaid Programs for unnecessary medical treatments and surgical procedures. Dr. John Wennberg, a physician at Dartmouth Medical School, who is a leading researcher into medical practice pattern variations, has estimated that Medicare costs could easily be reduced by 40 percent if the comparatively low cost of Madison, WI, to take an example, were the U.S. norm. Dr. Wennberg was the principle witness before the

Labor-HHS-Education Appropriation Subcommittee in late 1984 at a hearing I chaired on the practice pattern variation issue.

The Journal article goes on to say that some doctors fear policymaking bodies will cite these kinds of studies as a rationale for reducing the frequency of certain procedures and thus denying care to those who need it. This is a legitimate concern because in most cases we just do not have a good explanation for these variations. That is exactly why I have introduced a bill to invest a very modest amount of money in the study of medical procedures that show a particularly high variation in their pattern of use. I firmly believe that we will find on closer examination that these procedures are being unnecessarily performed in many instances. In any event, these studies will give the medical profession the information it requires to eliminate unneeded surgical and medical procedures and, as a result, not only save dollars but also nullify the risk to life that is a small but inevitable part of any significant operation.

Mr. President, I ask unanimous consent that the Wall Street Journal article be reprinted in the RECORD.

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

RESEARCH MYSTERY: USE OF SURGERY, HOSPITALS VARIES GREATLY BY REGION

(By Joe Davidson)

How a given American is treated for a given ailment may depend on where he or she lives.

The chance of being admitted to a hospital because of gastroenteritis, a digestive system disorder, for example, is nearly twice as great in Stockton, Calif., as in Palo Alto, Calif., only 75 miles away, says John Wennberg, a physician at Dartmouth Medical School in New Hampshire.

Equally mysterious, Boston residents are half as likely to have their tonsils removed as people in Springfield, Mass., just 95 miles away, Dr. Wennberg says. And in one part of Maine, 20% of the women over 74 have had a hysterectomy; in another part of the state the figure soars to 70%.

Nobody knows why such variations occur, but Dr. Wennberg and others think they indicate that too much hospitalization and surgery may be occurring in some localities. And Democratic Sen. William Proxmire of Wisconsin has introduced legislation that would fund studies of the variations, with the goal of saving health-care dollars.

BAFFLED DOCTORS

But, at least for now, many doctors are baffled by the findings. And some fear that politicians and reimbursement officials will seize on data that nobody understands to rationalize budget cuts for Medicare and other health-insurance programs.

Researchers from the University of California, Los Angeles, and from Rand Corp., a California think tank, recently reported significant geographic differences in the use of medical and surgical services by Medicare patients. The researchers warned, however, in an article in the New England Journal of Medicine:

"We do not know whether physicians in high-use areas performed too many procedures, whether physicians in low-use areas performed too few, or whether neither or both of these explanations are accurate."

The researchers demonstrated that the variations that Dr. Wennberg had found between small contiguous areas also exist, at least for Medicare patients, between entire states or large portions of states that are far apart. The researchers compared the rates at which patients in certain parts of the U.S. received one type of hemorrhoid treatment, for example. In one state (which the researchers won't name), the rate was 26 times as high as in another.

SOME SPECULATION

Most community doctors readily concede that they can't fully explain the use-of-services findings, but they take stabs at it. Springfield, Mass., has a comparatively high tonsillectomy rate, according to Dr. Wennberg. "Maybe there are more sore throats here," speculates Bernard Gottlib, an ear, nose and throat specialist in that city. Others suggest that local styles of medical practice are a factor.

A doctor's style of practice is determined largely by the way he is trained and by local medical standards, says John Dawson, a Seattle surgeon and a trustee of the American Medical Association. If doctors stray too far from the prevailing methods of practice, Dr. Dawson suggests, perhaps they won't be viewed as competent.

Medical experts agree that wide variations in medical and surgical practices aren't due to such geographic differences as climate and terrain. Nor are the variations linked significantly to age, race, income or other demographic factors.

The experts debate whether the figures indicate as excess of hospital use and surgery in some areas. According to Dr. Wennberg, what really matters is the number of hospital beds and surgeons in a given area. He says more beds lead to more medical admissions, and more surgeons lead to more operations. The result, he says, can be unnecessarily high hospital costs in some areas.

SAVINGS SEEN

For example, a Wennberg report says hospital payments by Medicare "could easily be reduced by 40%" if the comparatively low costs of Madison, Wis.; Iowa City; New Haven, Conn., and Rochester, N.Y., were the U.S. norm. In Boston in 1982, Medicare costs would have been cut by one-third if per-capita hospital spending had been the same as in New Haven, Dr. Wennberg says.

Some health authorities see at least one way to cut the use of medical and surgical procedures in problem areas—through more requiring of second opinions before insurers agree to pay for operations.

In states where second opinions are mandatory in Medicaid programs for the poor, significant savings are already occurring, says Richard Kusserow, the inspector general of the U.S. Department of Health and Human Services. In Michigan, the number of operations has fallen 35%, for a $3.7 million savings annually, he says, while in Wisconsin $22 is being saved for every dollar spent on the second-opinion program. Mandatory second opinions could save Medicare and Medicaid $250 million a year, he estimates.

But Dr. Wennberg says that second opinions may not reduce the overuse of health care much in a given region if the second opinion is rendered—as it usually is—by a physician who is from the same region and shares the same practice patterns.

STANDARDS URGED

To help physicians shape opinions, Dr. Wennberg urges the profession to "define what the best clinical judgment is" regarding various treatments for which no standard now exists. Doctors disagree little about when hernia operations, for example, are indicated, so there is little geographic variance in hernia-operation rates. Broad agreement on more operations would result in better medicine and more consistency from place to place, he says, thus cutting hospital use and health-cost inflation.

If the medical profession doesn't define the "best practice" for each procedure, he says, reimbursement officials will eventually decide that "least is always best," he adds.

A "least-is-best" decision would be shortsighted, many doctors believe, especially if it were based on the geographic data collected so far. Mark Chassin, a Rand researcher who was an author of the medical-journal article, says the state of the research literature on the geographic variations is still "rather primitive." He adds: "We just don't know if high use means inappropriate use, some of the time, all of the time or none of the time."

Dr. Chassin, moreover, worries that policy-making bodies will cite the studies as grounds for reducing the frequency of certain procedures. That could deny care to somebody truly in need of it, he fears. Says Dr. Chassin: "Assuming that high use means inappropriate overuse is wrong and dangerous."

Mr. President, I suggest the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

RECOGNITION OF SENATOR BAUCUS

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

CANADIAN BEEF SUBSIDIES

Mr. BAUCUS. Mr. President, next week President Reagan will hold a summit here in Washington with Prime Minister Mulroney of Canada.

In anticipation of that summit, I think it is worth raising an issue between our two countries that has previously been ignored—Canadian beef subsidies.

Mr. President, Canadian beef has been flooding the United States market. Last year Canadian beef exports increased to nearly 188 million pounds—about 21 million pounds more than during 1984.

Imports this year are reaching record levels.

Ranchers in Montana and other cattle-producing States simply cannot sell their cattle.

Canadian cattle is selling for $10 to $11 less than United States cattle.

That may not sound like much, but it makes a huge difference to cattle buyers who sell on thin margins.

That price difference is causing a crisis in Montana and other cattle-producing States.

And a large share of this crisis is due to Canadian subsidies.

Mr. President, before January 1 of this year, Canadian beef production was subsidized, but only at the Provincial level, by the Provinces in Canada.

Starting this year, however, the Federal Government instituted a new subsidy program.

The new Federal program essentially is a price support program—if producers are unable to sell cattle above a certain price, Canadian producers are given a deficiency payment.

That program is likely to increase the wave of Canadian imports that are flooding the United States market.

The reason is simple. Participation by the Provinces in the program is voluntary. That has meant that Provinces that do not have generous subsidy programs have signed up. Provinces with more generous programs have not signed up.

The result is that the average level of subsidy is increasing.

Even if all Provinces signed up, it is very likely that the new program will increase the subsidies given to Canadian producers because the Provinces will then be free to spend the saved funds on other farm subsidy programs.

Mr. President, this escalation of Canadian subsidies takes on particular importance as we approach the Reagan-Mulroney summit.

Prime Minister Mulroney has asked the United States to begin negotiations toward a free trade agreement.

The United States approaches those negotiations with guarded optimism. A free trade agreement holds great potential.

But Canada sends the wrong signal to the United States when it asks for free trade negotiations while simultaneously raising the level of subsidies to its beef producers.

The federalization of Canadian beef subsidy may make it easier for Canada to negotiate a reduction in the subsidy amounts.

It may be easier for Canada to negotiate a reduction in one Federal program than numerous provincial programs.

But any free trade negotiations must result in a severe reduction, if not an elimination, of Canadian beef subsidies.

I pledge today to make elimination of Canadian beef subsidies a top U.S. priority in any free trade negotiations.

Mr. President, there is an old song that goes, "With me, it's all or nothing. Is it all or nothing with you?"

Today we should ask Canada that same question. When it comes to free trade, "Is it all or nothing with you?"

If the Canadians want free trade in some areas, their beef trade must also be free.

We should not settle for less.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. MCCONNELL). Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10 a.m., with statements therein limited to 5 minutes each.

GAO REPORT ON THE SAFETY OF MILITARY AIR CHARTERS

Mr. BYRD. Mr. President, the New York Times of March 13, 1986, carried an article on a new report by the General Accounting Office regarding violations of Federal Aviation Administration regulations by two charter airlines involved in the transport of American military personnel. According to the Times story, GAO found that South Pacific Island Airways carried 6,400 American military personnel from the west coast to Hawaii, American Samoa, and Guam in a 6-month period in 1984 after FAA inspectors had recommended that operations be suspended.

The other airline involved, Air Resorts, carried 2,500 military passengers in a single month in 1984 after the airline had grounded the rest of its fleet in response to complaints from FAA inspectors.

Mr. President, according to the Times article, the GAO report discloses that beginning in 1983, FAA inspectors had repeatedly found deficiencies in maintenance and engine reliability in South Pacific Island Airway's fleet of planes. Then, in May 1984, the FAA inspectors urged that the airline be suspended immediately in the face of a large list of serious infractions of FAA regulations. Incredibly, South Pacific was allowed to continue operations.

In July 1984, a South Pacific aircraft crashed, killing one person. An inquiry into the crash concluded that the cause was a break in a rusty elevator cable.

The Times article also includes a GAO finding that a South Pacific plane originating in Anchorage, AK, strayed from its flightpath on a flight over the polar route. The aircraft headed toward Soviet airspace, and was only 50 miles from the Soviet Union when it was warned off by Norwegian aircraft and ground control personnel. The pilot of the South Pacific aircraft, GAO reports, had violated operating rules.

The other company, Air Resorts, has flown Navy personnel from the mainland of the United States to naval facilities in the Channel Islands. According to the GAO:

> After a series of deficiencies were found in 1984, Air Resorts grounded most of its planes but asked to continue flying military charters with four planes it said were safe. Subsequent inspections, however, found defects in three of the planes.

Mr. President, in the wake of the tragic crash of an Arrow Air DC-8 aircraft in Newfoundland on December 12, in which 248 soldiers of the 101st Airborne Division lost their lives, these revelations by the GAO are particularly distressing. They underscore the concern that many of us share about the safety of air transportation services being provided to our military personnel. It should go without saying that the Federal Government should do everything in its power to ensure that American military personnel are provided safe, reliable air transportation. In light of the lastest GAO report, it would appear that there is much work to be done by the FAA and the Department of Defense in this area.

I share the grave concerns of many of my colleagues about the problem of aviation safety and what may be a deterioration in the margin of safety in the Nation's aviation safety system. For several weeks, I have been studying legislation that is needed to restore that margin of safety.

I understand that the Permanent Subcommittee on Investigations of the Committee on Government Affairs has been holding hearings on the issue of airline safety. I would like to suggest that this is one area which the committee might wish to give a high priority in its investigation. Indeed, I have sent a letter to Senator ROTH, the chairman of the subcommittee, and Senator NUNN, the ranking member, asking them to schedule hearings on this issue.

Mr. President, I ask unanimous consent that the article from the New York Times and the text of the letter I sent to Senator ROTH and Senator NUNN be printed in the RECORD.

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

[From the New York Times, Mar. 13, 1986]

2 CHARTER AIRLINES ASSAILED BY G.A.O.

(By Richard Halloran)

WASHINGTON, March 12.—The General Accounting Office, the Congressional auditing agency, has drafted a report asserting that two charter airlines flew military flights in violation of the Federal Aviation Administration's safety regulations.

The airlines are South Pacific Island Airways, based in Honolulu, and Air Resorts, based in Carlsbad, Calif. On Dec. 12 a DC-8 operated by another charter airline, Arrow

Air, crashed at Gander airport in Newfoundland, killing 248 soldiers of the 101st Airborne Division returning from peacekeeping duties in Egypt to their home base at Fort Campbell, Ky. Eight crew members were also killed in the crash.

In one case a South Pacific plane carrying 200 Fijian troops headed for a peacekeeping mission in Lebanon few over an Arctic route without proper crew training and navigational procedures and was headed toward the Soviet Union before being turned away at the last minute.

The staff of Representative Charles E. Bennett, a Florida Democrat who is a senior member of the House Armed Services Committee, found the G.A.O. report in the course of an inquiry into charter airlines that transport military personnel.

FOCUS ON CHARTER AIRLINES

The report had been requested by Representative Norman Y. Mineta, a California Democrat who is chairman of the Aviation Subcommittee of the House Public Works and Transportation Committee, as part of the subcommittee's oversight of the F.A.A.

A member of Mr. Bennett's staff said the Congressman planned to release the report Thursday to point up what he contended was a lack of safety in charter airlines. The staff aide said Mr. Bennett would cite the report as evidence that the aviation agency and the Defense Department had failed to make sure that aircraft transporting military personnel were safe.

After the crash at Gander, Mr. Bennett introduced a bill that would require Defense Department examiners to check military planes before they were flown on military charters; that is now done now by the aviation agency.

The G.A.O. report said South Pacific Island Airways carried 6,400 American military personnel from the West Coast to Hawaii, American Samoa and Guam in a six-month period in 1984 after F.A.A. inspectors had recommended that operations be suspended. Similarly, the report said Air Resorts carried 2,500 military passengers in a single month in 1984 after the airline had grounded the rest of its fleet in response to complaints from F.A.A. inspectors.

According to the report, South Pacific had four Boeing 707's and four propeller-driven de Havilland Otters that it flew on charter and commuter flights. Beginning in 1983, F.A.A. inspectors repeatedly found deficiences in maintenance and engine reliability, the report said.

In May 1984, the inspectors urged that the airline "be suspended immediately in the face of a large list of serious infractions of F.A.A. regulations," the report said. The airline asked that the suspension be stayed until executives could meet with officials of the aviation agency.

In July, a South Pacific plane crashed in Samoa, killing one person. The G.A.O. report said an inquiry found that "the accident was caused by a break in a rusty elevator cable."

Ten days later, the airline flew the first of four flights over the polar route carrying Fijian soliders to the United Nations Interim Force in Lebanon. The report says the crew violated operating rules, navigational procedures and training regulations.

A second flight from Fiji to Lebanon, with stops in Anchorage and Amsterdam, was made in August 1984, and a third in September. The aviation agency ordered the airline grounded for 30 days, but South Pacific appealed the order and continued to fly.

PLANE NEARED SOVIET AIRSPACE

On the September flight, the South Pacific plane strayed from its flight path and headed toward Soviet airspace. It was only 50 miles from the Soviet Union when it was warned off by Norwegian jet fighters and ground controllers. The pilot had again violated operating rules, the report said.

After a court fight in October 1984, South Pacific was suspended. Since then, it has been allowed to fly only two of the de Havillands from Samoa and Guam.

Air Resorts, the California company, has flown 14 Convairs and two DC-3 propeller-driven aircraft, some of them on charter flights taking Navy personnel from the mainland to naval facilities in the Channel Islands.

After a series of deficiencies were found in 1984, Air Resorts grounded most of its planes but asked to continue flying military charters with four planes it said were safe. Subsequent inspections, however, found defects in three of the planes.

In December, an Air Resorts plane carrying 34 members of the East Tennessee State University basketball team and a crew of five had an engine fire that caused an emergency landing in Jasper, Ala. Four people were injured, one of them critically. The plane was destroyed.

Air Resorts was subsequently suspended for 13 days. According to the report, a yearlong investigation showed that it had been operating aircraft in an unsafe condition. A $30,000 fine was recommended, the report said, but the case is still open.

(Text of Letter)

The New York Times (of March 13, 1986) carried a disturbing story about a new report by the General Accounting Office on the abysmal safety records of two charter airlines that have provided transportation for American military personnel. The two airlines, South Pacific Island Airways and Air Resorts, apparently were involved in numerous infractions of FAA regulations, yet were allowed to continue to provide air transportation for American military personnel in 1984.

According to the GAO report, South Pacific Island Airways provided transportation for 6,400 military personnel from the West Coast to Hawaii, American Samoa, and Guam during a six-month period in 1984, after FAA inspectors had recommended that South Pacific operations be suspended.

Air Resorts, the other charter included in the GAO report, flew Navy personnel from the U.S. mainland to Naval facilities in the Channel Islands. According to GAO, "after a series of deficiencies were found in 1984, Air Resorts grounded most of its planes but asked to continue flying military charters with four planes it said were safe. Subsequent inspections, however, found defects in three of the planes."

I commend you for the hearings which the Permanent Subcommittee on Investigations has been holding on the issue of air safety. Those hearings will play an important role in efforts to ensure that the nation's air safety system has the proper margin of safety. Ensuring the safety of charter airlines which are transporting American military personnel should be a significant part of such efforts. Therefore, in light of the recent GAO report, I urge you to hold a hearing which focuses on the safety of military charters, and what the FAA and the Department of Defense are doing to ensure that the nation does not witness another tragedy such as the Arrow Air crash of December 12, 1985.

Sincerely yours,

ROBERT C. BYRD.

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

HOSTAGES IN LEBANON

Mr. SIMON. Mr. President, Sunday will mark 1 year that Terry Anderson has been a hostage in Lebanon. It will be 2 years for William Buckley, and much too long for Father Jenco, Peter Kilburn, David Jacobsen, Thomas Sutherland, and Alec Collett.

Their families are going to be in Washington tomorrow and over the weekend. It is a good time for us to remember that the hostages are there.

I urge the administration to keep this matter on the front burner. I urge my colleagues who may have any contact with other governments and who feel that in any way they can be of assistance to the hostages or their families to try to be of help.

This is an area in which no one knows what the right answers are or how we get there. But if we keep on pressing, we keep hope alive for these people, and we do what we should be doing as public officials and American citizens.

VISIT BY DR. SHOICHIRO TOYODA

Mr. McCONNELL. Mr. President, in Scott County, KY, there is great activity—activity initiated by an announcement made last December by Toyota Motor Corp. that it would construct an $800 million manufacturing facility in Scott County.

When production starts in mid-1988, this facility will produce some 200,000 cars per year and employ 3,000 Kentuckians.

Last December, Mr. President, Kentucky officially welcomed Toyota Motor Corp. to our Commonwealth. Today I have had the pleasure of once again welcoming to the Nation's Capital the president of Toyota, Dr. Shoichiro Toyoda. He is accompanied by a number of senior Toyota executives and I urge my colleagues to join me in extending a warm welcome on behalf of the U.S. Senate.

A 1947 graduate of Nagoyo University, Dr. Toyoda later went on to receive his doctorate in engineering from Tohoku University. He wrote his doctoral thesis on fuel injection systems.

As a Toyota executive, he has been primarily involved with automotive technology, quality control, and factory management. He was promoted to the position of managing director in 1961 and to senior managing director in 1967. He became executive vice president in 1972, and in 1981 assumed the presidency of Toyota Motor Sales Co., Ltd. After the merger of Toyota

Motor and Toyota Motor Sales in July 1982, he became president of the new Toyota Motor Corp.

In 1980, he received the Deming Prize for quality, and in 1984 he received the prestigious Medal with Blue Ribbon for outstanding public service through business.

Mr. President, on the day the Toyota Motor Corp. announced its decision to come to Kentucky, Dr. Toyoda said this:

This announcement is really just the beginning of what we must do. At Toyota, we must now not only go about the details of actually building and opening our plant; we must also make good on all the responsibilities of the partnership we so strongly desire. We know the people of the United States, and most assuredly the people of Kentucky, will do their part.

Since first coming to the United States in 1957 until now, we have been touched and rewarded by Americans reaching out to us. Today, we begin the newest phase of our relationship, in Kentucky, by reaching out to you.

Mr. President, I think after listening to that statement it is easy to understand why I am proud to remind my colleagues that the Toyota Motor Corp. now calls Kentucky home.

Mr. MOYNIHAN. Mr. President, on behalf of the Members on this side of the aisle, I know, I want to join our distinguished Senator from Kentucky in welcoming our Japanese friends, and I know they have chosen wisely in Kentucky. I know there is scarcely a State representative in this body who will not welcome them, also, perhaps not as eloquently as Senator McCONNELL has just done.

Mr. PACKWOOD. Mr. President, if my friend from New York will yield, let me add my compliment to Toyota, also. I did not realize the company's representatives were going to be here today.

I say to my good friend from Kentucky that the port of Portland, OR, is a port of entry serving 27 States for Toyota.

Much as I wish you good luck, I do not want you to manufacture so many in Kentucky that they cease shipping them in through our port.

Mr. McCONNELL. Well said.

A MEMORIAL TRIBUTE TO THE "CHALLENGER" ASTRONAUTS

Mr. CRANSTON. Mr. President, we were all deeply saddened by the explosion of the space shuttle *Challenger* in January. The seven members of the *Challenger* crew who lost their lives will long be remembered for their courage in testing the limits of human experience and their dedication to science and to education.

On behalf of the people of California, the poet laureate of our State, Charles B. Garrigus, wrote a memorial tribute to those brave American men and women who perished in the shuttle malfunction. The poem was read to both houses of the California Legislature on January 30; I would like to share it with my colleagues here in the U.S. Senate now:

IN MEMORIAM: THE SHUTTLE ASTRONAUTS

Now, once again, the diverse people of this country share, in knowledge, faith, and feeling, the unity of national grief.

A glad, courageous crew of astronauts, examples of our noblest citizenry, have sacrificed their inspirational lives.

How happily they bade farewell to earth; So eager to contribute what each could to widen our frontier in outer space.

How fearlessly they took that fatal risk which always separates the selfish goal from that for which the hero strives.

They were husbands, wives, fathers, mothers, friends, neighbors to all the households of this fortunate place.

Surely what they symbolize in mankind's never ending quest to know has laid them on the altar of God's grace.

They might have known those festive feelings of fulfillment which can only come to those who reach achievement's heights.

They might have spent declining years with rich respect from peers and loving hours with families and friends;

But never shall they tread again the ordinary paths of life, nor know the many pains and sorrows that befall the common lot.

They shall not feel anxiety nor worry and frustrations that advancing years unto the aging hero sends.

But all they were and all they are for what they tried and failed, gives us a trust to which we must be true.

Beyond the pales of death they clearly say: "Hold fast the course! Redeem our sacrifice with faith, hard work, and courage, and make successful what we tried to do."

Search not for their depleted dust nor seek to make a tomb for any of their mortal parts.

Their varied lives from henceforth rest in history's sacred shrine.

Their meanings live forever in a grateful nation's hearts.

DEATH OF SIR HUW WHELDON

Mr. MOYNIHAN. Mr. President, I rise to the sad task of informing the Senate that Sir Huw Wheldon, the former chairman of the British Broadcasting Corporation, the BBC, has died.

Sir Huw did not invent television, but he transformed it through his great perception that television was a writer's medium. Exactly as the theater is. The whole world is literally in his debt.

I would recount here only one brief tale of our friendship. It happens Sir Huw was a guest at my farm in Pindars Corners on that mid-July day in 1969 when Neil Armstrong and Buzz Aldrin landed on the Moon.

Liz and I had borrowed a 10-inch black-and-white television set for the occasion. Our television reception is miserable up at the farm, and to us it looked as if our astronauts had landed in a lunar blizzard.

But Sir Huw minded not at all. No American could have been more excited than was he.

Mr. President, television has lost one of its creative geniuses. His friends are in grief, and our hearts go out to Jay and the children.

THE FITZWATER NOMINATION

Mr. KENNEDY. Mr. President, late yesterday, I received a letter from Texas Attorney General Jim Mattox on the signs posted at minority polling places by Sidney Fitzwater during the 1982 statewide general election in Texas.

In a hearing on February 5 before the Senate Judiciary Committee, Mr. Fitzwater claimed that the signs he posted in minority polling places in Dallas County—signs which were obviously designed to intimidate minority voters—were consistent with Texas law.

In light of this claim, I asked Attorney General Mattox for his opinion of Texas law. In his reply, dated March 13, Attorney General Mattox concludes:

I personally observed the signs at my polling place in East Dallas in 1982 and viewed them with alarm. There is no doubt in my mind that the signs were placed there to intimidate minority voters.

The contents of the sign appear to be so far beyond the scope of authentic Texas law that the good faith of any attorney who might have participated in their placement would be subject to inquiry.

The full text of the letter is set out below:

MARCH 13, 1986.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: You have asked whether the contents of certain signs placed at predominantly minority polling places within Dallas County for the 1982 general election were consistent with Texas law. Apparently, Judge Sidney Fitzwater participated in the placement of signs at the pollings places within view of the voters which contained, among other matters, the following statements:

"You can be imprisoned . . .

1. If you offer, accept or agree to offer or accept money or anything else of value to vote or not vote.

2. If you influence or try to influence a voter how to vote . . .

4. If you let a person vote more than once . . ."

The first statement, by extending the purported prohibition to "anything of value" is not only at variance with the contents of the former Section 36.02, Texas Penal Code; it exceeds the scope of the conduct actually prohibited. The phase "pecuniary benefit" was carefully defined by Article 36.01, Texas Penal Code (as existed in 1982), and was not so broad as to include anything of value."

The second admonition is far broader than the terms of the former Article 15.24, Texas Election Code, which merely prohibits influencing a voter while "in the room where an election . . . is being held . . ."

The fourth admonition, by being taken out of its proper context, also is incorrect. Since the signs were obviously to be visible to voters at a polling place, they implied that the voters might be responsible for the conduct of the election workers. The admonition also is beyond the scope of Article 15.42, Texas Election Code, for the reason that the statute only prohibits the affirmative conduct of aiding, advising or procuring certain illegal voting.

I have been advised that in 1982, then Secretary of State David Dean was requested to approve the placement of the signs. He refused to approve the placement and instructed Dallas County officials that the signs should not be posted. He expressed concerns about potential intimidation of Dallas County voters.

I personally observed the signs at my polling place in East Dallas in 1982 and viewed them with alarm. There is no doubt in my mind that the signs were placed there to intimidate minority voters.

The contents of the sign appear to be so far beyond the scope of authentic Texas law that the good faith of any attorney who might have participated in their placement would be subject to inquiry.

Sincerely,

JIM MATTOX,
Attorney General.

JUDICIAL NOMINATIONS

Mr. BYRD. Mr. President, several days ago, the junior Senator from Illinois [Mr. SIMON] performed an exceptional service when he addressed the Senate on the subject of the Senate's role in connection with judicial appointments. From his position as the Democratic member of the Judiciary Committee who has the responsibility for conducting the initial screening of all judicial nominations, Senator SIMON has a unique perspective on this subject. His views and his comments and his judgment are of enormous benefit to us all as we strive faithfully to fulfill our advice and consent responsibilities under the U.S. Constitution.

I commend to my colleagues the thoughtful and incisive remarks of our colleague from Illinois on this subject which appear at pages 4129-4132 of the CONGRESSIONAL RECORD of March 10.

I was astonished to discover one set of statistics which were included in Senator SIMON's presentation. First, by way of background, most of us are probably aware of the role which is played by the American Bar Association in connection with judicial appointments. For 34 years, the ABA's standing committee on the Federal judiciary has been consulted by every President with respect to almost every judicial appointment. For even longer—for 38 years—the Senate Judiciary Committee has sought that ABA committee's opinion with respect to every single judicial nomination.

The ABA's committee provides ratings to the Senate on all judicial nominees . . . ratings of "exceptionally well qualified," "well qualified," "qualified," and "not qualified." Since January 1985, one-half of all the individuals who were nominated for judgeships on U.S. Courts of Appeals received only the minimum passing grade of qualified, and of these, about three-fourths were found by a minority of the ABA's committee to be not qualified at all.

Just what are these ratings supposed to relate to? First of all, the ABA's standing committee on the Federal judiciary acknowledges that they do not "investigate the prospective nominee's political or ideological philosophy except to the extent that extreme views on such matters might bear upon judicial temperament or integrity." Rather, the committee's evaluation of nominees "is directed primarily to professional qualifications—competence, integrity, and judicial temperament."

I think that the fact that one-half of the Reagan nominations to courts of appeals over the past year received only qualified ratings by the ABA's committee, and that about three-fourths of those nominees were found by a minority of the ABA's committee to be not qualified at all, constitute disturbing statistics. These are individuals who are being entrusted with lifetime responsibilities to hear and resolve some of the most significant and pressing issues facing our Nation. They interpret our laws, they breathe life into our Constitution. Every day they deal with the lives and the liberties of vast numbers of our citizens. They affect our business, social and family activities, our homes and our pocketbooks, our property and our children. Surely the men and women who preside over these matters must be of the very highest quality that may be found. And we in the Senate have the constitutional responsibility to pass on these nominees' qualifications.

Mr. President, the exercise of our responsibility to advise and consent to these nominations is only effective if it is informed. My colleagues are aware that I have expressed concern about this subject before. I have authored proposed legislation requiring that the Senate get all the same FBI information that the White House gets with respect to nominees. And I have held up the entire Executive Calendar when I saw the administration trying to short circuit our advice and consent responsibilities by making nonurgent recess appointments during a relatively brief intrasession adjournment.

I mention these actions on my part only to point out that it is my feeling that the framers of the Constitution intended for us to take our advice and consent function very seriously.

But today, I would like to focus not on those issues, although they still rank extremely high in importance. Today, I would like to address just the subject of the ABA's ratings, in view of the statistics I have described.

I would like to first read into the record a sample of the kind of rating letter we receive from the ABA. This particular letter is the one we received with respect to Sidney Fitzwater, who has been nominated by the President to be a U.S. district judge for the Northern District of Texas. It is addressed to Senator THURMOND, chairman of the Judiciary Committee, and reads as follows:

Thank you for affording this committee an opportunity to express an opinion pertaining to the nomination of Sidney A. Fitzwater for appointment as judge of the United States District Court for the Northern District of Texas.

A majority of our committee is of the opinion that Judge Fitzwater is "qualified" for this appointment. The minority found him to be not qualified.

The letter is signed by Robert B. Fiske, Jr., as chairman of the ABA's standing committee on the Federal judiciary.

Now, I do not mean to suggest that it is not helpful to know that a majority of the ABA committee found Mr. Fitzwater to be qualified and a minority found him to be not qualified. But none of us has any way of knowing why the ratings came out the way they did. It seems to me it would have been extremely helpful to know, if it were the case, that a minority of the ABA committee found Mr. Fitzwater not qualified because he was too young, or he had too little trial experience, or he lacks patience, or he has a quick temper—or whatever the reason or reasons may be. I think we should have that kind of information to assist us in the discharge of our responsibilities.

I intend to take this subject up with ABA officials, urging them to give us a little bit more help. We need their assistance. After all, the ABA's process includes contacting the lawyers who are best acquainted with the nominee's character and temperament, his integrity and his competence. We are not seeking the identities of the individuals who are contacted by the ABA. We respect the confidentiality of those who commented on a particular nominee's qualifications. But I do believe that if we are to continue the process of seeking and receiving ABA ratings, we must take steps to make those ratings more meaningful. I trust the ABA will understand our effort.

I know that the Senator from Illinois has tried without success to raise this and some related questions with the ABA's committee in the past. I just want to lend my support to his effort and to assure him that as far as the Democratic leader is concerned, he is right on target.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT

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

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) entitled "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process", and concur therein with an amendment:

The Senate resumed consideration of the House message.

Mr. DOMENICI. Mr. President, when the 1st session of the 99th Congress adjourned last December we left unfinished a major piece of deficit reduction legislation. We return to that legislation today and, I hope, we will complete action on it quickly.

I do not wish to expend a great deal of time reviewing the history of this legislation, which is commonly referred to as the 1985 reconciliation bill, but I think it would be helpful to all of us, and to those who might be listening for the first time, to quickly trace this legislation's torturous journey to the Senate floor today.

The first concurrent resolution on the budget for fiscal year 1986, adopted last August 1, agreed on a blueprint to lower deficits over the following 3 years by $276.2 billion. Of this total deficit reduction, $75.5 billion was to be achieved through the reconciliation procedure authorized in the Budget Act. The budget resolution included instructions to 11 Senate and 14 House committees requiring them to recommend changes in laws in their jurisdiction which would reduce Federal outlays by $67.1 billion over the next 3 years. In addition to outlay reductions, the Senate Finance and House Ways and Means Committees were instructed to recommend revenue increases totaling $8.4 billion over the same time period.

All reconciled committees were instructed to report their recommended legislative changes to their respective Budget Committees. The Budget Committees of both Chambers combined these recommended legislative changes into a single bill and reported their respective bills to their Houses for full consideration.

The Senate first took up its reconciliation bill on October 15, 1985, and passed it about 1 month later on November 14, 1985. A massive House-Senate conference with over 31 subconferences and nearly 300 Senate and House Members was convened on December 6 to work out differences between the House and Senate passed bills. A conference report was filed on December 19, passed the Senate, but was quickly rejected by the House and amended by them to strike legislation in the conference report concerning the Superfund Cleanup Program. And, after a couple more back and forths, on December 20 the Senate rejected a motion to recede to the House and a new conference was ordered.

A number of my colleagues concluded that night last December that the reconciliation bill would never come before this Chamber again. I disagreed then and am happy to be back here today bringing a completion to this legislation.

Let me also make it clear that while the original bill when it was brought before the Senate was estimated to save over $73 billion over the following 3 years, the estimates of the bill now before us have been substantially reduced. One should not despair, however, because of this $73 billion in the original savings estimate, nearly $49 billion was achieved through other measures such as the final farm bill, various appropriation and separate authorizing bills.

So the bill now before us, as amended today, is estimated to reduce the deficit by about $25 billion over the next 3 years.

Many Members have made great concessions to put together this final offer. Senator ROTH has agreed to drop the TAA tariff and program expansion provisions and Senator PACKWOOD has agreed to drop Superfund taxes and a number of Medicare expansion provisions. This offer, if adopted by the House without further amendment, would be acceptable to the administration—that is a major concession.

But, we should not focus exclusively on the modifications to the conference report. We should reflect on the bulk of the bill where we, the House, and the President agree, such as: Banking Committee reforms for rural housing programs; Armed Services reform of the military health system; Agriculture reform of the Tobacco Price Support Program; Commerce Committee reforms for Amtrak, FCC, and public broadcasting; Labor and Human Resources reforms of ERISA and increases in private pension insurance premiums, and reforms of the GSL Program; and Veterans Committee reforms of the VA health care system.

These are just a few of the many tough decisions that were made and agreements reached. We need this package to reduce the deficit and renew public confidence in the Government's ability to control spending. We are building a three-legged stool this year—the March 1 sequester order was the first leg, this reconciliation package is the second leg, and the fiscal year 1987 budget resolution and reconciliation is the third leg. However, unless we build all three legs on that stool, I am afraid many of us may be unseated. The projected fiscal year 1987 deficit is $183 billion, the target is $144 billion—and that is a big gap to fill.

Quite frankly, I need this package to do my job as chairman of the Budget Committee. I need $5.9 billion in savings in fiscal year 1987 to help put together a budget resolution that hits the Gramm-Rudman-Hollings deficit target.

Senators had to cast some very difficult votes last year to produce this reconciliation package. It would not be fair to make them go through the same set of votes just to get the same savings this year in the fiscal year 1987 budget.

I am delighted after weeks and hundreds of hours of negotiation that we bring the fiscal year 1986 budget deliberations to a conclusion.

Mr. President, I ask unanimous consent to print in the RECORD a table showing the current savings from the Senate amended reconciliation bill.

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

RECONCILIATION SAVINGS FROM CBO'S FINAL BASELINE FOR HOUSE BILL AS AMENDED BY THE SENATE, FISCAL YEAR 1986–89

[In millions of dollars]

	Fiscal year—				Total 1986–89
	1986	1987	1988	1989	
Reconciliation totals:					
Reductions in outlays	−5,976	−6,816	−7,453	−8,056	−28,301
Increase in revenues	765	2,503	2,790	2,895	8,953
Reduction in deficit	−6,741	−9,319	−10,243	−10,951	−37,254
Reduction excluding GRS	−6,741	−5,947	−5,668	−6,376	−24,732
Subconference No. 1—Agriculture:					
Export sales of dairy products	(1)	(1)	(1)	(1)	(1)
Agricultural credit	(1)	(1)	(1)	(1)	(1)
Subconference No. 2—Tobacco tax earmarking: Cigarette tax earmarking	(2)	(2)	(2)	(2)	(2)
Subconference No. 3—Tobacco support program: Tobacco program improvements	−5	−70	−230	−290	−595
Subconference No. 4—3d-party reimbursement		−16	−73	−123	−212
Subconference No. 5—Champus/Champva: Medicare reimbursement for Champus patients					
Subconference No. 6—Banking and housing:					
Rural housing loans		−298	−815	−278	−1,391
Public housing operating subsidies					
Section 108 loan guarantees	−15	−56	−94	−106	−271
Public housing debt forgiveness					
Total, spending reduction	−15	−354	−909	−384	−1,662

RECONCILIATION SAVINGS FROM CBO'S FINAL BASELINE FOR HOUSE BILL AS AMENDED BY THE SENATE, FISCAL YEAR 1986–89—Continued

[In millions of dollars]

	Fiscal year—				Total 1986–89
	1986	1987	1988	1989	
Subconference No. 7—					
Railroads and USTTA:					
Amtrak					
Local rail service assistance					
Total, spending reduction					
Subconference No. 8—					
FCC and CPB:					
CPB and FCC authorizations					
Federal Communications Commission [FCC]	0	−15	−36	−35	−51
Total, spending reduction	0	−15	−36	−35	−86
Subconference No. 9—					
Water/transportation programs:					
Ship construction differential subsidies					
NOAA fees	−7	−19	−23	−24	−73
NOAA authorizations					
Boat safety	−6	−5	−3	−1	−15
Coastal block grants					
Total, spending reduction	−13	−24	−26	−25	−88
Subconference No. 10—					
Pipeline programs:					
Pipeline user fees	−9	−9	−9	−10	−37
Subconference No. 11—					
Energy programs:					
Strategic petroleum reserve	55				55
Synfuels					
Shared-energy savings					
Biomass loan guarantees					
Total, spending reduction	55				55
Subconference No. 12—					
Uranium enrichment and FERC: Uranium enrichment			−21	−36	−57
Subconference No. 13—					
Outer Continental Shelf [OCS]	−4,946	−140	2,664	1,270	−1,152
Subconference No. 14—					
Highway programs:					
Federal-aid highways	30	500	150	150	830
Subconference No. 15—					
NRC fees	0	−81	−87	−98	−266
Subconference No. 16—					
Medicare pt. A and extended coverage:					
Spending reductions:					
Medicare pt. A	−9	−690	−1,015	−1,205	−2,919
Medicare pt. A (offsetting receipt)	1	5	5	5	16
Revenue changes:					
Extend medicare coverage for State and local workers (revenue increases)	22	178	321	460	981
Subconference No. 17—					
Medicare pt. B	−430	−842	−1,390	−1,350	−4,012
Subconference No. 18—					
Medicaid and MCH	36	55	55	65	211
Subconference No. 19—					
Private health insurance: Extend private health insurance coverage	(2)	(2)	(2)	(2)	(2)
Subconference No. 20—					
PBGC and ERISA:					
Pension Benefit Guarantee Corporation [PBGC]	−155	−217	−236	−138	−746
ERISA					
Total, spending reduction	−155	−217	−236	−138	−746

RECONCILIATION SAVINGS FROM CBO'S FINAL BASELINE FOR HOUSE BILL AS AMENDED BY THE SENATE, FISCAL YEAR 1986–89—Continued

[In millions of dollars]

	Fiscal year—				Total 1986–89
	1986	1987	1988	1989	
Subconference No. 21—					
Income security, trade, and other:					
Spending reductions:					
AFDC and SSI	1	3	1	1	6
Foster care and adoption assistance	1	78	48	3	130
Social security	2	4	4	4	14
Unemployment compensation	−1	−1	−1	−2	−5
Trade adjustment assistance	80	109	113	117	419
Custom fees	−25	−220	−230	−240	−715
Additional customs personnel					
Additional IRS personnel					
ITC authorization					
TAA authorization					
Total, spending reduction	58	−27	−65	137	103
Revenue increases:					
Increase Customs collections					
Increase IRS collections					
Total, revenue increases					
Subconference No. 22—					
Revenues:					
Tobacco excise tax	762	1,697	1,701	1,716	5,876
Superfund excise tax					
Limit income averaging	133	541	589	637	1900
Research and development tax allocation moratorium	−191	−96			−287
Railroad unemployment insurance tax		101	98	4	203
Tax railroad retirement benefits like Social Security	28	58	63	66	215
Coal excise tax	15	35	37	38	125
Alternate minimum tax for insolvents	−3	−9	−16	−23	−51
Trade adjustment assistance import tax					
Gulf coast waste disposal authority to issue IDB's	−1	−2	−3	−3	−9
Totala, revenue increases	743	2,325	2,469	2,435	7,972
Subconference No. 23—					
General revenue sharing		−3,372	−4,575	−4,575	−12,522
Subconference No. 24—					
Federal pay and benefits:					
Civilian agency pay					
2,087-hr workyear					
Postal Service programs					
FEHBP rebate		−292			−292
FEHBP cap					
Total, spending reduction		−292			−292
Subconference No. 25—					
Administrative savings:					
Motor vehicle fleet reductions					

RECONCILIATION SAVINGS FROM CBO'S FINAL BASELINE FOR HOUSE BILL AS AMENDED BY THE SENATE, FISCAL YEAR 1986–89—Continued

[In millions of dollars]

	Fiscal year—				Total 1986–89
	1986	1987	1988	1989	
Subconference No. 27—					
Education and labor programs:					
Walsh-Healey overtime provision					
Guaranteed student loans	−300	−170	−265	−192	−927
Total, spending reduction	−300	−170	−265	−192	−927
Subconference No. 29—					
SBA programs:					
SBA business programs	−98	−354	−365	−96	−913
SBA disaster program	−128	−356	−563	−627	−1,674
Total, spending reduction	−226	−710	−928	−723	−2,587
Subconference No. 30—					
Veterans' programs:					
Health care reforms	−48	−347	−462	−499	−1,356
Reduced compensation COLA					
Studies					
Total, spending reduction	−48	−347	−462	−499	−1,356
Comparison of House and Senate reconciliation savings: [3]					
House savings	−6,610	−6,008	−5,389	−6,362	−24,369
Senate savings	−6,741	−5,947	−5,668	−6,376	−24,732
Difference	−131	61	−279	−14	−363

[1] Savings in farm bill.
[2] Budget neutral provision.
[3] Savings estimated by CBO. Savings exclude GRS.

Note.—All estimates were prepared by CBO. Savings are measured against their final (postsequester) February baseline. Fiscal year 1986 estimates assume a Mar. 1, 1986, effective date unless otherwise stated in the legislation. Only direct spending is counted (authorizations are not).

Mr. DOMENICI. I yield the floor.

Mr. CHILES. Mr. President, of course I am pleased we are about to act on the reconciliation bill.

While we cannot take much pride in the length of time it has taken to reach this point, I think we have at least shown a new level of perseverance in the fight to cut the deficit.

Our work in passing this bill will make a reduction of at least $5 billion in the deficit. It shows that Gramm-Rudman-Hollings has had an impact on our awareness of the problem we face. But more than that it demonstrates that the deficit will only become smaller if we stick to the job.

What we do today and what we must do in the weeks ahead shows clearly that no matter how optimistic the economic projections might be, there is just no substitute for doing the sometimes painful things necessary to get the deficit down to size.

The Budget Committee is in the process of marking up a budget resolution. It is not easy work. But it is essential work. The deficit does not exactly seem to occupy the headlines right now. But it is certainly in the bloodstream of the economy. It is not

in remission. It is just as much a threat now as it has ever been.

So I hope passage of reconciliation will serve not only to cut the deficit, but also serve to remind us that there is still much work to be done.

Passing the bill completes our work on the 1986 budget and helps us on our way to the 1987 budget.

I note for the Members that to meet the Gramm-Rudman-Hollings deficit targets and to get on track to a balanced budget, we are going to have to reduce the deficit by $40 billion for the year 1987, and we are going to have to reduce it by at least $170 billion over the next 3 years.

Mr. CHAFEE. Mr. President, the Consolidated Omnibus Budget Reconciliation Act before us represents a great deal of hard work and careful discussion. The proposal will save the Federal Government $18 billion over the next 3 years. This Reconciliation Act is the crowning element of the deficit reduction effort begun here 1 year ago.

Reconciliation represents the budget process at its best. It links the efforts of each of the authorizing committees in carefully achieving savings in the programs under their jurisdiction. It represents our opportunity to set priorities in the budget process.

While it is imperative for us to meet the Gramm-Rudman-Hollings deficit reduction targets, I believe it is equally imperative for us to avoid triggering the across-the-board reductions which will occur if we fail. Such indiscriminate cuts would fall on nearly every activity, whether wasteful or worthwhile. That outcome would be disastrous for many important and effective programs. We must continue to do everything possible to protect programs that invest in people.

The passage of this bill will yield savings that apply not only to this fiscal year but also to fiscal years 1987 and 1988. These long-term savings will make it easier for Congress to reach the deficit reduction targets set forth in the Gramm-Rudman-Hollings balanced budget law.

Mr. President, I do not agree with all of the provisions in the package before us today; however, I believe it is the best we can do at this point.

The reconciliation package before us today contains a number of important provisions which will make reforms in programs under the jurisdiction of the Finance Committee. I would like to take a moment to outline some of these changes for my colleagues.

BLACK LUNG

I am particularly concerned about the provision in the Consolidated Omnibus Reconciliation Act which makes changes in the funding of the Black Lung Program. This act will increase the excise tax imposed on domestically mined coal and dedicate those additional revenues to the black lung disability trust fund. In addition, the act will provide a one-time, 5-year forgiveness of the current interest payments of the debt incurred by the trust fund as a result of its unlimited authorization to borrow from general revenues.

Mr. President, these changes were made without the slightest review of the benefit structure and eligibility requirements. By continuing to increase the funding of the trust fund and waiving the interest payments on the debt of the trust fund, we effectively removed any incentive to tighten up on the eligibility requirements and the benefit structure of the program. This is simply bad policy.

At a time when we can barely retain adequate funding for critical programs like Child Nutrition, School Lunch, Head Start, Education for the Handicapped, Health Care for the Poor and the Elderly, Job Training, and Basic Education, this is deeply troubling. Where are our priorities?

We have tightened up on spending problems—indeed the package is before us for that very purpose—how did this program escape?

I do not intend to oppose the entire Reconciliation Act because of this proposal; however, I do want to register my deep concern about our priorities with my colleagues.

MEDICARE

Mr. President, the next program I'd like to discuss is the Medicare Program. The package includes many changes in the Medicare Program. Most of them are reasonable changes. Some, however, I believe may come back to haunt us.

Very few changes were made which will have a direct economic impact on beneficiaries of the Medicare Program. Most of the savings were due to freezes or other restrictions placed on the providers of health care services—such as hospitals and physicians.

I am concerned that if we continue down this path, we will have a health care program in which there are many beneficiaries needing health care services, but few professionals available to deliver those services.

This package cuts the increase in payments to hospitals to one-half of 1 percent. In addition it substantially reduces—by close to 50 percent—the amount of reimbursement for indirect education costs to hospitals. I will be watching the effect of these combined reductions carefully to determine whether hospitals are capable of absorbing them.

We also continued a freeze on physician payments, with the exception of a 1-percent increase to what are known as "participating physicians"—those who have agreed to accept assignment for 100 percent of their Medicare patients. I know that there is grave concern among the physicians in my State about the freeze especially because of incredible increases in malpractice premiums during the past year.

It is becoming harder and harder to offer quality health care and at the same time substantially reduce reimbursement to those who provide that health care. This is just the beginning of the problems we will encounter in the coming years.

I predict that this body will soon be spending more and more of its time debating health care issues. The problems are just beginning to surface and they are complex and troubling. There simply are no easy answers.

This year, next year, and the year after that, when the time comes to produce budget savings, we are going to be faced with some very difficult problems—a growing elderly population which is living longer, increasingly limited long-term care services for that population, and rebellion among health care providers who cannot continue to absorb the loss resulting from our actions to freeze or reduce reimbursement.

So, Mr. President, while I am satisfied generally with our recommendations in this package, I am also worried about the future. I believe these problems can be resolved, but only if all of us work together with a common goal in mind—quality health care at a reasonable price. It sounds simple, but those of us who are familiar with the problems know that it will not be easy to achieve this goal.

MEDICAID

Mr. President, the changes in the Medicaid Program in this package are much more encouraging. For several years now, I have been working to reform this program. Specifically, I have been working to change the program to allow Medicaid funds to be used for community-based, long-term care services to our citizens with mental retardation and developmental disabilities.

In the long run, I believe this system is in need of a major overhaul. The current system is biased toward the use of institutional facilities—we should be working harder to keep handicapped citizens in the community and helping them to achieve their potential as productive members of their communities.

True Medicaid reform, such as what I have proposed in my legislation, S. 873—the Community and Family Living Amendments of 1985—may take years to accomplish. In the meantime, there are several interim reforms that can be made. Some of these reforms are included in the package before us today and I would like to briefly outline them for my colleagues.

LIFE SAFETY CODE

Earlier this year, I received complaints about the application of an outdated life safety code by the Department of Health and Human Serv-

ices from parents and residential providers across the country. Consequently, in the legislation before us there is a provision to require the Secretary of HHS to accept the 1985 life safety code as an acceptable standard for fire safety. This code, while still striving for fire safety, offers greater flexibility in the use of resources within a residence to promote such safety. As a result of this action the Secretary of HHS has already acted to accept the new code.

PUBLICATION OF ICF/MR REGULATIONS

People concerned about intermediate care facilities for the mentally retarded [ICF/MR] have been waiting for 2 years to see new regulations for these facilities. In the reconciliation package, we have included a provision to require the Secretary to publish for comment the current draft of the new ICF regulations within 60 days of passage. These regulations have been more than 2 years in the making, and their publication is long overdue. As a result of this provision the Secretary of HHS has already published the new regulations for public comment. With this provision, I hope we can move on to a new era of planning based on these new regulations.

MEDICAID WAIVER—DENIALS AND RENEWALS

Since 1981, HHS has offered home and community based care waivers to allow Medicaid moneys to be spent in specific non-Medicaid facilities. This program, called the Medicaid Waiver Program, has allowed many severely handicapped persons to live in the community rather than in institutions. This Waiver Program has also been used to develop better in-home support for elderly individuals so that they do not have to enter a nursing home until it is necessary.

However, the process of applying for and receiving a waiver has been so unpredictable, that it discourages many States from attempting to use the Waiver Program. In an effort to build greater permanence and predictability into the Waiver Program, I fought for the inclusion of two related provisions: First, a provision that calls for a moratorium on all denials of waiver renewal requests from States, and second, a provision that requires the Secretary to renew those waiver requests it approves for additional 5-year periods rather than the current 3-year periods.

ICF/MR PLANS OF CORRECTION

In recent years, many States have been confronted with the need to renovate old institutions for the developmentally disabled while at the same time trying to develop community based alternatives for those individuals. In many States, this choice between institutions and the community based services has presented a financial hardship. It has forced many States to renovate buildings that they had intended to close.

One of the provisions included in reconciliation would alleviate this problem—in very limited situations. This provision would allow an institution with a building or wing that is out of compliance to submit a plan of correction that incorporates depopulation of the building or wing over a 3-year period. Among a variety of other limitations, this would be allowed only in situations where the violations are nonlife threatening, and only with the approval of the Secretary.

I do not believe that this option will be used in many situations. The intent here is simply to allow those States which have had successful experiences with community based services the option of expanding on that success. There are many States which simply would not ask for this option, and if they did ask would be denied because they do not have a positive history of community based services and to some extent deinstitutionalization.

Some people are concerned about this provision because they think that States are given too much power. This is not so. The State must request to implement this provision, but the Secretary of HHS must approve the request.

Some are also concerned that this provision will allow States to dump people out of institutions without providing appropriate services and programs. I would never introduce such a provision. As it is framed there are a wide variety of requirements and limitations on the use of this provision. For those individuals who are affected, there are numerous safeguards and requirements which must be met throughout the operation of the plan.

There are many other provisions dealing with the Medicaid Program in this package. Those outlined above are simply the highlights. All in all, I believe that these provisions represent a substantial step forward in the attempt to provide a reasonable and rational method of providing long-term care services to both the physically and mentally disabled and the elderly.

Mr. ROTH. Mr. President, the negotiation of this budget reconciliation legislation both within the Congress and between the Congress and the administration has been a difficult, and at times, trying process.

This unprecedented ping pong game between the two bodies has eroded whatever confidence we had with the voters that we can cut spending and lower the deficit. On top of that, somewhere through the passage of time, with reestimates and other factors, 78 percent of the 3-year savings of this bill have evaporated. Once estimated to lower spending by $80 billion by 1988, this conference report now provides only $18 billion.

Clearly, it's time to complete this work and move on to other tasks. That means compromise. I am pleased to say that the Senate and the House have agreed on compromise language on trade adjustment assistance that we believe will be acceptable to the administration.

Despite the record high trade deficit, the administration has refused to support trade adjustment assistance, the program that helps workers who lose their jobs to imports. The President's fiscal year 1987 budget proposal again calls for the elimination of the program.

The Congress knows full well that at no time in our history has the need been greater to help those hurt by trade. That is why the support for my full proposal to extend and reform trade adjustment assistance that was incorporated in this budget reconciliation legislation has met with such overwhelming support among Members in both Houses and on both sides of the aisle.

In short, the administration has sought to wipe out the program and I have fought to extend and reform it. My proposal, which was reported unanimously by the Finance Committee, passed by the Senate and accepted by the House, would have extended the current program for 6 years and enacted three key reforms: Future funding through a new small import fee, a new requirement that workers be enrolled in training to receive cash benefits and a new benefit, up to $4,000 for each worker, paid directly or through a job training voucher, to pay for the required training.

In this compromise, I have agreed to drop my major reform proposals in order to save the Trade Adjustment Assistance Program, to begin to change the program into a real adjustment program and to enact a number of more minor improvements.

I believe that the administration will accept this compromise.

This compromise would accomplish several things:

First, the TAA Program would be saved and extended for 6 years;

Second, it would assure that workers who lose their jobs due to imports will continue to be eligible for cash benefits, the so-called trade readjustment allowance [TRA];

Third, it restores the cash benefits to workers who were cut off on December 19;

Fourth, it begins to turn the program into a real adjustment program by providing for participation of workers in job search programs and, in general, linking the receipt of cash benefits to participation in a job search program and by encouraging training under the TAA Program by requiring the approval of training by State agencies and by making clear that the full breadth of training possibilities from basic skills education to on-the-job

training can be funded under the TAA Program;

Fifth, it assures that workers applying for TAA in any State in the country will get counseling on job search and training opportunities;

Sixth, it will continue technical assistance to firms to help firms become more competitive. During this period in which the administration has been dismantling the firms program, I have received many, many letters from firms testifying to the usefulness of the technical assistance;

And finally, the compromise clarifies the application of the TAA Program to workers in agricultural firms.

Enactment of these changes clearly would be a victory.

At the same time, I must say that I am greatly disappointed that this final version of the omnibus budget reconciliation bill does not contain the major reforms to the program I have been pressing.

The crux of the issue was the proposal for the negotiation of an import fee to pay for the program.

I continue to find the administration's position on this fee to be inconsistent. An import fee by another name could be a user fee, and that's exactly what the administration called for in last year's budget proposal, and again in the fiscal year 1987 budget proposal—new customs users fees on all imports, dutiable and nondutiable. I might add that at the time the administration proposed these across-the-board import fees, it sent a document to the Finance Committee indicating that administrative costs for implementing the fees would be minimal—$130,000.

The import fee I am proposing would be a small cost for trading nations to pay to keep trade open and expanding. The imposition of such a fee is not without precedent, Hong Kong, the freest of free-trade nations, uses a small fee to help finance trade promotion. The fee I am proposing would be so small, that like Hong Kong's fee, it would not affect the volume of trade.

A trade policy that calls for growing trade among nations while ignoring the need to help workers adjust to import competition, will not succeed. The strong bipartisan support in Congress for strengthening trade adjustment assistance repeatedly shows that we in the trenches of the trade debate understand this basic point. It is time for the administration to join in this constructive effort by the Congress instead of fighting it.

I continue to believe that the major reforms of TAA are critical to establishing an effective adjustment program for workers who lose their jobs to trade. Retraining is increasingly important and it will cost money. The import fee is the most reasonable method of funding. I will continue to press for these reforms. In the meanwhile, I take some satisfaction in the fact that we may at least save the basic program with a few improvements.

Let me say that I greatly appreciate all the support I have received from other Members of Congress for this effort to retain and strengthen trade adjustment assistance. It is often said these days that there is no longer bipartisanship on trade policy in this country. This is certainly not true so far as trade adjustment assistance is concerned.

In particular, I am grateful to Senator MOYNIHAN, the chief cosponsor of the full extension and reform proposal, for his diligent efforts and that of his staff and to my colleagues on the Finance Committee, on both sides of the aisle, who have supported and followed developments on this legislation closely.

As the trade debate proceeds this year, I expect we will have other opportunities to continue our efforts to establish an effective Trade Adjustment Assistance Program.

Finally, I want to call attention to section 13009(d) of the bill relating to the impact of Gramm-Rudman on payments of trade adjustment assistance allowances [TRA] when the bill is implemented. This provision would limit the impact of Gramm-Rudman to weeks of unemployment beginning March 1, 1986, and not for weeks for which individuals were eligible but have not been paid. In no circumstances would the application of Gramm-Rudman cuts apply to benefits for weeks prior to March 1.

THE PROVISION MANDATING STATE COVERAGE OF UNEMPLOYED PARENTS UNDER AID TO FAMILIES WITH DEPENDENT CHILDREN

Mr. WALLOP. Mr. President, I rise in support of the latest version of the Senate amendments to last year's budget reconciliation legislation. We are in an interesting parliamentary situation at this juncture in the reconciliation debate. Normally, our rules do not allow amendments beyond the second degree. However, with this package of amendments, we will be amending the package in the fourth degree.

We are doing this because the current position by the House of Representatives on reconciliation is unacceptable—both to the Senate and the White House. There are many parts to this package which I do not like, but I have voted for the bill. We have to deal with the deficit, and the budget savings in this legislation is crucial to balancing the budget by 1991.

The bill is a net savings. But, the House has loaded the package with a number of costly and inappropriate items. If we could delete some, the budget savings would increase. I am particularly upset about the requirement that the States would be mandated to offer AFDC to families with an unemployed parent. We are not only increasing welfare costs to the Federal Government, but to the States, which are required to match this AFDC payment.

This provision is objectionable for three reasons. First, it is not a reduction in the Federal budget, but an increased cost. This provision will increase the Federal deficit by $175 million the first year it is effective. The second objection is the cost to the States resulting from this amendment. A rough estimate is that the States would have additional costs of $140 million in the first year.

The last objection is the Federal mandate that the States must provide this welfare benefit; 26 States do not provide this auxiliary welfare benefit. I would ask unanimous consent that a list of these States appear at the end of my statement. It is these States that would bear the $140 million cost of this program. In my State of Wyoming, the legislature's budget session is coming to a close. Because of the fall in oil prices and the disappearance of the uranium industry, my State is in a severe recession.

The State budget cuts back spending across the board. Wyoming is acting in a responsible fashion to live within its means. This is a far cry from what has been happening here in Washington. But, now the U.S. House of Representatives is forcing a budget busting program on Wyoming. This is ludicrous. This is part of the agenda of the social welfare activists to federalize welfare. The next step will be to mandate welfare benefit levels by the Federal Government. This is a State right, but the activists want the Feds to call the shots. We have to stop this backdoor approach to federalizing welfare right now, and I therefore strongly support the elimination of the AFDC-UP provision from the reconciliation bill.

The following is a list of States that don't have the AFDC-UP Program:

Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kentucky, Louisana, Mississippi, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wyoming, Virgin Islands, and Puerto Rico.

HOSPICE CARE

Mr. ROTH. Mr. President, I am very pleased that this 1986 Budget Act contains a provision which I introduced to expand the Medicaid Program to cover hospice care as an optional service to be offered by the States to those patients dependent upon Medicaid for their health care needs. In addition, this legislation makes hospice care under Medicare permanent, as well as increasing the rate of reimbursement. As you may recall, hospice care under Medicare was originally passed as a 3-year demonstration.

This legislation is important for many reasons. Hospice care saves the Medicare Program money, and now it can save the Medicaid Program money too. Preliminary results of the national demonstration project conducted by the Health Care Financing Administration document convincingly that hospice is a cost-effective alternative to the ever-growing cost of multiple hospital stays the terminally ill must cope with to be eligible for Medicare coverage. Moreover, the Congressional Budget Office estimates that providing reimbursment for hospice care will save Medicare alone over $100 million during the first 3 years. Savings can only increase as the hospice benefit becomes more accessible.

I believe hospice care should be as widely available as possible. In Delaware, our once small hospice program was expanded to provide statewide coverage. This expansion was in part due to the commitment of Congress toward this compassionate form of care. Many people have confirmed my belief that hospice is a sensitive and preferable alternative to lengthy and repeated hospital stays. Patients can spend important time at home with their loved ones. Families can participate in the program of care. Hospice care alleviates pain and suffering. It provides an atmosphere of concern and comfort, instead of the antiseptic and mechanical atmosphere of a hospital. I commend my colleagues for recognizing that the time has come to bring hospice under the Medicaid plan, to offer this humanitarian service to the low-income as well as older patients.

TRADE ADJUSTMENT ASSISTANCE

Mr. MITCHELL. Mr. President, I am pleased that the Senate is now considering the Budget Reconciliation Act. This measure includes reauthorization of Trade Adjustment Assistance, a program that is very important to Maine.

Because Congress failed to conclude action on last year's budget reconciliation measure, reauthorization of this program was not enacted. Authority for benefit payments have been issued since last year.

In Maine alone, 450 dislocated workers, people who have lost their jobs because of import competition, have received no benefits—no income—since December 20. Those of them who are now in training programs have stayed in training, in the hope that this Congress will act promptly to restore those benefits this year.

If Congress fails to act, these people will be forced to drop out of training, to seek alternative work if other jobs are available. Some of them will be forced to apply for public assistance. All of them have already suffered severe financial loss and the personal turmoil that is involved with job loss.

They are all dislocated workers whose problems are the direct result of conscious policy choices made by this administration in the area of trade.

Our trade imbalance imposes an unfair and crushing burden on those industries and workers whose products are targeted by foreign competition.

Although the long-range answer to their problem will require a dramatic change in the operation of our Nation's trade policy and improved investment and competitiveness on the part of every manufacturing sector, the immediate short-term problem must be addressed.

That short-term problem is very serious for the thousands of workers who have seen long-established shoe manufacturing plants closed with no hope of their reopening. It is serious for textile workers who have seen their intensive efforts to modernize overtaken by the combined effects of an overvalued dollar and foreign Government subsidies to their overseas competitors.

The problems facing these manufacturers and workers are not of their own making. They are problems which have a variety of causes, including conscious Government policy choices. The policy of this administration, to favor imports as a way of restraining domestic inflation, has kept some prices lower for all at great personal cost to a few.

The Trade Adjustment Assistance Program is a small effort on the part of Government to redress the unfairness with which trade deficits affect different parts of the country. The program provides direct income help for those with no other income source; it creates the conditions that allow some to seek training for a new job field.

The Trade Adjustment Assistance Program is not the only answer to the changing makeup of our manufacturing sector. It is not a sufficient answer. But at the present moment, it is the only program in place which has the capacity to provide some level of assistance to those most directly and most drastically affected by our trade deficit.

Trade adjustment assistance can never take the place of an improved and aggressive U.S. trade policy. It cannot take the place of an improved international monetary policy to moderate wild imbalances in international currency rates.

But so long as governments insist on manipulating their export industries for competitive advantage, some form of trade adjustment aid will be necessary.

SECTION 19 OF OCS LANDS ACT

Mrs. HAWKINS. Mr. President, I strongly support this amendment. It is crucial to the State of Florida. This amendment would restore the compromise language worked out last December which is contained in the House reconciliation bill providing for State-Federal consultation in leasing Outer Continental Shelf lands.

Section 19 of the Outer Continental Shelf Lands Act requires the Secretary of the Interior to strike a balance between the national interest and the well-being of citizens of the affected State. In determining the national interest, the Secretary must equally weigh the need for energy development and the need to protect other resources and uses of the coastal zone such as the marine environment. If the Secretary determines that the recommendations put forth by a State are not reasonable, a detailed explanation of that determination would be required.

Even as we consider the need to take the individual interests of States into account, the Department of the Interior is considering opening up for reevaluation some very delicate offshore tracts for potential leasing as part of its 5-year leasing plan. These same tracts have been off limits to leasing in the past due to their delicate and unique makeup.

In the State of Florida, the sensitive coastal habitat and esturaries, tropical waters, and white beaches demand extra special care. Simply allowing offshore areas to be leased for national energy and economic development purposes overlooks the economic and environmental needs of an individual State. Florida's unique coastal resources could not withstand an oil spill. Its tourist industry would suffer a harsh blow.

In sum, Mr. President, I believe that the State-Federal language is absolutely vital and I urge my colleagues to support this amendment.

STATEMENT OF MANAGERS—NCR USER FEES

Mr. SIMPSON. Mr. President, I should like to make one brief clarifying remark about the provision contained in this bill regarding assessment of user fees by the Nuclear Regulatory Commission. Due to an oversight in the preparation of the conference report on this legislation late in the last session, the statement of managers explaining the legislative intent of this particular provision was inadvertently omitted from the conference report. Because of that oversight, Mr. President, I ask unanimous consent that a copy of the legislative history, entitled "Statement of Managers Re NRC Fees," be printed in the RECORD at this point, for the purpose of guiding the NRC in its implementation of this provision.

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

STATEMENT OF MANAGERS RE NRC FEES

The House Budget Reconciliation legislation directs the Nuclear Regulatory Com-

mission to collect user fees and charges that, when added to other amounts collected by the Commission, total one-half of its budget. Under the Independent Offices Appropriation Act of 1952 (31 U.S.C. Sec. 9701), the Commission currently assesses fees which are expected to total $60 million in FY 1986. The House provision adds additional authority, which is expected to result in more than $150 million per year in additional revenues, assuming the current level of NRC expenditures. Discretion is left to the NRC to establish the details of the charges in the rulemaking. However, under the House provision, the Commission must consider the costs of regulating various classes of licensees. The Senate Reconciliation legislation contained no such provision.

The conferees agreed to require the NRC to assess and collect annual charges from its licensees in an amount that, when added to other amounts collected by the Commission, shall not exceed 33 percent of the Commission's budget for each fiscal year. Assuming the current level of NRC expenditures, this is expected to result in the collection of additional fees in an amount up to approximately $80 million per year for each fiscal year. The charges assessed pursuant to this authority shall be reasonably related to the regulatory service provided by the Commission, and fairly reflect the cost to the Commission of providing such service. This is intended by the conferees to establish a standard separate and distinct from the Commission's existing authority under the Independent Offices Appropriation Act of 1952 in order to permit the Commission to more fully recover the costs associated with regulating various categories of Commission licensees. This authority is not intended, however, to authorize the Commission to recover any costs that are not reasonably related to the regulatory service provided by the Commission, nor is it intended to authorize the Commission to recover any costs beyond those that, in the judgment of the Commission, fairly reflect the cost to the Commission of providing a regulatory service.

The Commission may assess and collect annual charges from its licensees only after the expiration of 45 calendar days, as calculated in accordance with this provision, following receipt by the Congress of a report by the Commission regarding its authority to collect annual charges prior to the enactment of this provision, including the authority provided pursuant to the Independent Offices Appropriation Act of 1952. This report must be completed by the Commission and submitted to the Congress within 90 days after the enactment of this Act. In addition, the Commission must promulgate rules, after notice and opportunity for public comment, establishing the amount of the charges to be assessed pursuant to this authority, before any such charges may be assessed. It is the intention of the conferees that, because certain Commission licensees, such as universities, hospitals, research and medical institutions, and uranium producers have limited ability to pass through the costs of these charges to the ultimate consumer, the Commission should take this factor into account in determining whether to modify the Commission's current fee schedule for such licensees.

Mr. DOMENICI. Mr. President, this was indeed an oversight in the last session, and the statement inserted in the RECORD accurately reflects the agreement of the conferees on the meaning and scope of this particular provision.

Mr. CHILES. I, too, concur in that statement, Mr. President.

Mr. SIMPSON. I thank my colleagues for that additional explanation.

Mr. DOLE. Mr. President, when we adjourned the last session of Congress in December, we left behind us an important piece of unfinished business—billions of dollars in savings in the budget reconciliation bill.

Since that time Senators, staff, and representatives from the administration have met in dozens of meetings in an effort to salvage the deficit reductions in this measure. And today, we have finally reached agreement on a 3-year $26 billion package that addresses both the concerns of the administration and the Senate. I am pleased to say that the administration has assured me, that if this bill is sent to the White House the President will sign it.

The Senate package differs from the last House offer in four areas—the OCS provisions were revised; one Medicare provision was modified, as was an expansion of the AFDC Program; and we deleted the cap provision for Federal employee health benefits.

Gone from the original package are the add ons, the expansions of programs that would have transformed reconciliation from a savings measure into a spending one. The excise tax to support the Trade Adjustment Assistance Program has been eliminated. And like the House, we have dropped the Superfund provisions.

These changes will not fully satisfy everyone. But we cannot relent in our effort to cut the deficit. And this package contains some fundamental reforms in spending programs—reforms that will continue to save the Federal Government money for years to come. Even today, $26 billion—$19 billion in outlay reductions and $6 billion in revenue increases—is nothing to be scoffed at.

Mr. President, there is some urgency in approving this bill now. On March 15 the cigarette tax will expire. This provision involves considerable revenue for the Federal Government. So I hope we can act favorably and quickly.

Many Members have put a great deal of time and effort into this package. Senator DOMENICI, Senator MCCLURE, Senator PACKWOOD, Senator ROTH, Senator HELMS, and others.

I am hopeful that the House will accept our offer. It is a reasonable compromise, one that deserves its serious consideration, and as I said earlier, one the administration has indicated it finds acceptable.

Mr. President, I urge that the Senate accept this compromise and send it to the House.

Mr. NICKLES. Mr. President, today the Senate takes final action, I hope, on the reconciliation measure. Title IX of the bill is a package of amendments to ERISA title IV designed to shore up the single-employer plan termination insurance provisions. As of today this Government backed program is approximately $1.4 billion in the red—due in large part to a handful of recent distress terminations of plans by plan sponsors in or near bankruptcy. The changes made by these amendments are designed to minimize the Pension Benefit Guaranty Corporation's exposure to these type of terminations for those terminations approved by PBGC after January 1, 1986.

In addition to these ERISA changes, the leadership intends to put through a concurrent resolution with a series of technical amendments that are required due to the passage of time since the last effort to pass the conference report in December 1985.

The members of an American Bar Association task force considering ERISA title IV issues have expressed concern that companies may take actions to impel involuntary termination of a plan by the PBGC and thereby limit the liability to plan participants and the PBGC. I expect that the Corporation will block this and other abuses of the new termination rules under title IV by using its authority under section 4047 to negate pending or completed plan terminations and restore plans to their pretermination status. Specifically, the Corporation may negate terminations under section 4041(c) or section 4042 whenever the Corporation determines that a principal purpose of an act, failure to act or transaction undertaken by the contributing sponsor—or any member of its controlled group—was to enable such person to satisfy any of the distress criteria in section 4041(c)(2)(B) or to compel the Corporation to institute termination proceedings under section 4042, thereby decreasing the liability to the PBGC or avoiding the obligation to provide all benefit commitments under the plan.

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

The PRESIDING OFFICER. The Chair informs the Senator from Louisiana that until all time has expired or been yielded back, further amendments are not in order.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Mr. President, I yield as much time to the distin-

guished Senator from Idaho as we have on the amendment.

Mr. McCLURE. Mr. President, I take this time only to make a very brief explanation of what we tried to do and what is embodied in the amendment with respect to several OCS issues. And the one that has been highlighted has been the 8(g) issue, the question of the distribution of the proceeds of the money accrued from oil operations in the so-called 8(g) zone. I will not take much time to explain that in detail, but I would be pleased to answer questions, if indeed there are questions, in that regard.

But we have sought to keep faith with the position that was taken in the Energy Committee and again on the floor of the Senate in supporting the actions brought to our attention, primarily from the Senator from Louisiana, BENNETT JOHNSTON, the distinguished and very helpful ranking member of that committee.

There are three other issues that were involved. One was the buy American provision; the second, the section 19, which deals with the State process and involvement in OCS deliberations and decisions; and the third, onshore revenue sharing of Outer Continental Shelf revenues, a block grant to the States affected.

I made the judgment, in the various discussions we had with OMB, that there were tradeoffs between each of those provisions, all of which had opposition from the administration. And the best way to address them was to dispose of the 8(g) issue for once and for all and do that in the way that kept faith with the coastal States that are involved and with the position we have taken in the past and to drop the other three provisions. That is what is done in this proposal before us at this time.

To do otherwise would have automatically increased the pressure on the distribution of funds in the 8(g) zone. And I still believe that provision was correct. I think we have been able to, by doing this, give to the people in the 8(g) States the most favorable, most generous, and in my judgment, the most proper distribution of those funds that was possible to get by agreement from the administration, and to leave those other three issues for another time and another place. Because to leave them in here and attempt to resolve them in this particular bill would have inevitably resulted in a reduction in the amount of money that would have been otherwise available for distribution out of the 8(g) zone.

Mr. JOHNSTON. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. I thank the distinguished Senator.

Is the President of the United States committed to this formula now contained in this amendment on 8(g)?

Mr. McCLURE. I think the best way I can answer that is that we have negotiated on the several OCS questions and the President has stated, I believe to Congressman HENSON MOORE yesterday at a meeting at the White House, that indeed this formula is acceptable to him in the context of this bill. I know that the Senator would like me to be able to say—and I wish I could say—that this, standing free and clear, would be acceptable to the administration. I think it should be. I believe it will be. But I hope we can resolve it in the context of this bill. I am assured that, indeed, if this bill is sent to the President with no changes in the overall bill, the President will sign it.

Mr. JOHNSTON. But the President is committed to sign the bill as is, if given to him without changes?

Mr. McCLURE. Yes.

Mr. JOHNSTON. What is the Senator's understanding about if this whole thing goes down? Of course, that is my great concern, because I have been told by the House and by contacts in the House that, if this comes back in its present form, they will not accept it and they will send us back the same bill which they gave us before. I hope that is not so. You know, there is a lot of puffery and threats that Presidents make in terms of vetoes, that OMB Directors make in terms of what they will advise about vetoes, and about what the staff members say that their principals are going to do on the House side. But if that happens and this whole thing falls apart, you do not know what the attitude of the administration will be?

Mr. McCLURE. After being involved in negotiations with OMB for the last 2 or 3 weeks, hour upon hour of negotiations, of which this is only a part, the best I can say is that there is every indication, if there is any change in the legislation that has been presented by the chairman of the Budget Committee, that the likelihood is that the President would be advised by OMB to veto the legislation.

Now I know our friends on the other side of the Capitol resent us passing something to them on a take-it-or-leave-it basis. But this thing has been bouncing back and forth across the rotunda often enough that I really do fear—and I am sincere when I say this—I really do fear if there is any change at all, and certainly if there is substantial change, it is likely to unravel and we will end up with no bill at all.

Mr. JOHNSTON. I understand. My question really had to do with that no-bill-at-all contingency and what we might expect if this whole thing does become unraveled, as I fear it will. Do we simply start out with this bill as the new offer on which we will take further erosion and further heat by OMB and by the administration, because that has been the consistent history throughout this bill.

Mr. McCLURE. I think the Senator's fears are well founded. I just hope we never get to that point so we will never have to find out.

I really do believe that we are at the point on this bill—and certainly I will leave it to the distinguished Senator from New Mexico and our leader, the Senator from Kansas, to make any further or different statements—but from my own perspective, having dealt with only the OCS issues in this bill, I think what we have is a fragile and tenuous compromise with the administration on the several issues that are involved and they are prepared to accept it if we do not change it. But that is very fragile, very tenuous, very hard fought for, and very hard to achieve. And I cannot say that I know if even one word is changed that the administration would back away from the agreement, but I say that I have a substantial fear and I think the fear is well founded.

Mr. JOHNSTON. I thank the Senator for his answer.

Mr. DOMENICI. Mr. President, I heard the last exchange between the distinguished Senator from Louisiana and the distinguished Senator from Idaho. Let me say to my friend from Idaho that I have the communication here from the White House. I would be glad to tell the Senator from Louisiana precisely where the administration is by just reading a very short statement that they submitted to me today.

The bill now being considered by the Senate reflects negotiations between congressional leaders and administration officials. In it present form, the Senate bill is acceptable. However, if there are any changes which upset this delicately crafted compromise, the President's senior advisers would recommend disapproval.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Who yields time?

Mr. JOHNSTON. Mr. President, this whole 8(g) matter is rather a tragic comedy. It is tragic in that the State of Louisiana for one is hurting very badly in terms of its economy. At last count we had 12.2-percent unemployment, and that is rapidly rising. There is real despair in Louisiana as the oil and gas industry has contracted, and is virtually shutting down, shutting up, and moving off. The agricultural industry is in very terrible shape as it is in other States. Tourism is down, as well as the port of New Orleans. We are in very bad shape.

So when we talk about $100 million, or $200 million for Louisiana, it is absolutely vital. So there are elements of tragedy in this whole thing. Through-

out this whole consistent fight for the 8(g) funds, the administration has consistently opposed Louisiana, at each and every step of the way.

Mr. President, we now have a so-called compromise. It represents significantly less than that which this Senate passed. Indeed, three committees in the House of Representatives, Merchant Marine and Fisheries, Interior Committee, later the Rules Committee, later the full House, later in the Senate the Senate Energy and Natural Resources Committee, and the full Senate passed legislation which was billions of dollars more according to Secretary Hodel than this compromise. Indeed, according to Secretary Hodel, the legislation which passed each of those bodies, and indeed passed the conference committee, for Louisiana represented $4 billion to $6 billion, and on pre-1978 leases which were part of the settlement it represented an additional $2.3 billion to $3 billion.

Mr. President, I ask unanimous consent that Secretary Hodel's letter be printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, DC, December 10, 1985.

Hon. J. BENNETT JOHNSTON,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: As a Conferee on the provisions of the Budget Reconciliation bills relating to the Outer Continental Shelf (OCS), you should be aware of the Administration's position with respect to various provisions that are subject to this Conference. I have enclosed a description of the differing OCS-related provisions in the House and Senate bills and the Administration's position on each. I am most concerned about the "Miller Amendment," which amends section 19 of the OCS Lands Act, undercuts the delicate balance between State and Federal interests and creates, in effect, a possible State veto of this important national program. Enclosed for your consideration is a copy of my September 20, 1985, letter to the Chairman of the Senate Energy and Natural Resources Committee discussing in detail the many serious problems inherent in this provision.

I also call to your attention the reconciliation provisions entitled the "Ocean and Coastal Resources Management and Development Block Grant Act," better known as OCS revenue sharing. The Administration strongly opposes these provisions. In light of over $8 billion in OCS revenues that would be obligated under other provisions of this legislation, these revenue sharing provisions are particularly unjustified. They provide OCS revenues to States unaffected by OCS leasing, and they earmark these revnues for activities for which the Administration has sought to reduce or eliminate Federal funding.

Finally, I again reiterate the Administration's objections to the windfall created by the 8(g) provisions of the Budget Reconciliation bills. Ironically, when Congress enacted section 8(g) in 1978, the cost of the distribution was thought to be so insignificant that the Congressional Budget Office did not even include it in its cost estimate. However, the reconciliation provisions that require that 27 percent of 8(g) royalties be distributed to the States could cost between $4–6 billion over the Administration-supported settlement. Moreover, the State of Louisiana's claim that this legislation requires the sharing of revenues from leases issued prior to 1978, as well as after 1978, a sharing not required under current law, would add an additional $2.3 to $3 billion to that estimate. Thus, the total cost of the 8(g) provisions could reach $8.4 to $11.1 billion. I therefore ask that, in addition to the other issues raised herein, you give careful consideration to the 8(g) provisions in the course of this Conference.

Sincerely,

DONALD PAUL HODEL.

Mr. JOHNSTON. Frankly, Mr. President, I never believed those figures and told my colleagues here on the floor I thought they were grossly inflated, and intentionally inflated for the purpose of trying to beat our legislation. It is true, however, Mr. President, that the bill as passed by the House and Senate in the conference committee did contain probably more than $1 billion more than the present settlement.

Mr. President, after we had passed the bill, after it has gone to conference committee, after we came back here on the floor, and in that abortive last day in December when the conference committee report was we though killed—at least it was sent back to the conference committee. Then when we came back after that last abortive day, Mr. President, we again had discussions about trying to put back together the reconciliation bill. Attempts to negotiate with OMB were unavailing. Calls were not returned from OMB.

Mr. President, this is that same OMB that professes to want to be bipartisan. Oh, they want the cooperation of Democratic Senators. Oh, they protest around the country that Democrats will not join in and be part of compromises, whether it is aid to the Contras, whether it is bipartisan budget reform, or whatever it is. But try to get a call through to OMB, Mr. President, and they will not return the call.

A member of the Budget Committee cannot get a call returned. So finally, we had Director Miller before the Appropriations Committee on January 19, and tried to discern what was the position of the administration on this 8(g) matter. I remonstrated, and my dear friend, the Senator from New Mexico, also on my behalf said we have been trying to find out what is the position of the administration. So, finally, he said, and I am quoting Mr. Miller now from the transcript:

Mr. MILLER. Basically, on 8(g), the components are this: The so-called Buy America program, while it has a nice ring to it, is going to cost enormous amounts.

Senator JOHNSTON. That is not part.

Mr. MILLER. We are against that. We are also against the States going back and taking pre-1978 money. We are also against the provision of the 8(g)-type provision connected with 8(g) that would strap the Secretary's hands and the discretion he has with respect to offshore leasing.

If we can reach an agreement, if you will accept those provisions, I think we can have an 8(g) settlement without very much trouble at all.

So at long last, Mr. President, we found out what the position of the administration was. Take out pre-1978 leases and we had a deal.

Mr. President, I ask unanimous consent that a transcript of the fiscal year 1987 budget overview hearings from Wednesday, February 19, 1986, on the Committee on Appropriations, pages 38, 39, and 40 be printed in the RECORD in full.

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

BUDGET OVERVIEW HEARINGS—FEBRUARY 19, 1986, U.S. SENATE, COMMITTEE ON APPROPRIATIONS, WASHINGTON, DC

The Committee met at 1:42 p.m., in room SD–192, Dirksen Senate Office Building, Hon. Mark O. Hatfield (chairman of the committee) presiding.

Present: Senators Hatfield, Weicker, McClure, Garn, Andrews, Abdnor, Kasten, D'Amato, Mattingly, Rudman, Specter, Domenici, Stennis, Chiles, Johnston, Burdick, Leahy, DeConcini, Bumpers, Lautenberg, and Harkin.

Chairman HATFIELD. The meeting will please come to order. This afternoon, we will begin the first of two overview hearings of the President's budget request for Fiscal Year 1987. This afternoon, we will hear from the Honorable William Miller, the Director of the Office of Management and Budget. One week from today, we will hear from Rudy Penner, the Director of the Congressional Budget Office, and he will present his annual analysis of the President's budget.

I believe this is your first appearance before this Committee, Mr. Miller, and we welcome you.

Mr. MILLER. Thank you.

* * * * *

Senator DOMENICI. Would the Senator yield for a clarification?

Senator JOHNSTON. Yes. Yes.

Senator DOMENICI. Mr. Miller, the Senator from Louisiana talks about the offshore leasing programs settlement, the so-called 8(g). Who do we settle with? Who do we talk with? He is the chief negotiator over here. Did somebody talk to him about a settlement?

Mr. MILLER. Yes, we have. We have had some discussions.

Senator JOHNSTON. I talked to your man over a month ago, and then said, "You know, here's my position. I would love to talk about it" and nobody has been there to talk to.

Mr. MILLER. We have indicated, Senator, very clearly, I think, our concerns over the 8(g) settlement. When we talked about——

Senator JOHNSTON. The concern is, you just don't want us to have it.

Mr. MILLER. No, we have agreed to certain amounts of monies.

Senator JOHNSTON. Not with me.

Mr. MILLER. Senator, I have sent up letter after letter after letter indicating what the Administration's position on 8(g) is. We have talked briefly. Secretary Hodel, I un-

derstand, has talked with you, Randy Davis has talked with your people.

Senator JOHNSTON. I talked to Randy Davis; I talked to Secretary Hodel. My opinion——

Mr. MILLER. I hope we can reach some kind of accommodation, but we are simply not going to allow a raid on the federal treasury in the nature of 8(g).

Senator JOHNSTON. What is your position? You say you have stated time and again what that position is. What is it? I mean, your budget says 4 percent.

Mr. MILLER. Basically, on 8(g), the components are this: The so-called Buy America program, while it has a nice ring to it, is going to cost enormous amounts.

Senator JOHNSTON. That is not part.

Mr. MILLER. We are against that. We are also against the states going back and taking pre-1978 money. We are also against the provision of the 8(g)-type provision connected with 8(g) that would strap the Secretary's hands and the discretion he has with respect to offshore leasing.

If we can reach an agreement, if you will accept those provisions, I think we can have an 8(g) settlement without very much trouble at all.

Senator JOHNSTON. The problem is not with me on those elements, but most of those are not in the 8(g). The Buy American, those other things are not in 8(g).

My time is up. Thank you.

Mr. JOHNSTON. Mr. President, there we were. We thought we had an offer stated by the highest official on budget matters in the whole administration.

So my colleagues in the House then went back to the drawing boards to send us an 8(g) piece of legislation precisely and exactly, and to the comma and period what the Director of OMB had said; that is, take out pre-1978 leases. That is what the House amendment did, Mr. President, as it came over here.

We thought there would be no difficulty in getting that which the Secretary had suggested, and we thought we had agreed to. But then, Mr. President, comes the comedy part of this whole little scenario. The administration sensed then that we were going to have an agreement on terms stated by the OMB but, oh, My Lord, it is going to go to the credit of Congressman JOHN BREAUX in the House of Representatives. And maybe even Senator JOHNSTON will get a little bit of the credit. Oh, we cannot have that, Mr. President. Oh, no. So we went through this elaborate new little dance.

What they did, Mr. President, is restructure the deal, move some of the terms around, reduce the amount, and then appear magically over at the White House, cameras whirring, and saying because of the intercession of Congressman HENSON MOORE we now have a deal which would otherwise was going to fall apart. I think that is somewhat humorous, Mr. President, first because it involves a lesser amount of money than the OMB Director said he was willing to accept, and second, and more difficult, because it might be setting the scene—I hope it is not—for the whole thing to fall apart.

My indication from the House, as I just indicated to the distinguished Senator from Idaho, is that the House is not going to accept this. They are not going to do that with my advice. My advice is let us go ahead, forget the politics, blow off a little steam here on the floor, and let us get this approved. My State is hurting. But if it falls apart, Mr. President, it is not going to be my fault. And it is not going to be the fault of my colleagues in the House. It is going to be because, against my advice, this matter was put together in a way that we are advised the House will not take. Of course, you have to measure the risk on the one hand of sending the White House a bill which they say they will veto as opposed to sending the House a bill which they say they will not take.

Faced with those two alternatives, Mr. President, my advice is send the President the bill, and see if he will veto it. The reason I think that, first of all, I think that was huffing and puffing on the part of the administration. This bill saves, I am advised, about $17 or $18 billion over 3 years. Those are real savings. Those are not phony savings. Those are savings worked out over a period of months in the reconciliation process with a lot of bloodshed, and political bloodshed on both sides of this Capitol in making cuts in programs.

Mr. President, I do not think the President could afford to veto such a bill, especially could he not veto such a bill when his own OMB Director has come in and said that is what the administration wanted. How could the administration have vetoed on that account? They could not do it.

I do not think they could veto on account of section 19 because that section has been compromised as well as the Buy American compromise.

On buy America, all the administration has to do to avoid the buy America is to say that the drilling of the offshore well would not be feasible and you invoke the buy America. They can invoke that kind of certificate any day of the week right now.

Indeed, with buy America it is not feasible, given today's oil prices, to drill such a well.

So, Mr. President, my advice would be, faced with one of the two choices, either sending an unacceptable bill to the House or sending a bill to the President, I say send the bill to the President. If he does veto, you can try to override. In any event, you have a new reconciliation bill coming through next year to which this could be attached. In the meantime, the 8(g) money is in escrow and nobody gets their hands on it.

Mr. President, the advice was to put this deal together. It is considerably less than what Mr. Miller, the OMB Director, stated. It is $63 million less than immediate payment. It is $400 million less in future royalties. There is a provision which purports to give us another $84 million, which we are due.

But—and listen to this—on the $84 million which we are due, we get 3 percent of it for each of the next 5 years. That does not even keep up with inflation. We get 7 percent of it for 5 years thereafter, and 10 percent a year for 5 years thereafter.

If you put that through your computers, as we have done—we have a mathematician-physicist on the staff—he tells us it is worth about 50 cents on the dollar for that $84 million. That is for Louisiana's share, and the same thing is true for other States.

So what we have, Mr. President, is a much smaller pie with a much greater chance, in my view, of that pie getting killed and, if the pie gets killed, no commitment from the administration that they would give us the deal in another context.

As the Senator from Idaho candidly said, what we may do is end up with this as a new starting point for the next negotiations.

I am sorry to say, Mr. President, that negotiating with this administration has not been a very happy, productive kind of negotiation because you either cannot get through or, once you get through and make a deal, they will not stick to it.

Mr. President, I hope the House will accept this. I am urging my friends in the House to do it because we need the money so badly.

I would say finally, Mr. President, that I am sorry that this thing has sort of slid downhill into what I regretfully say is personal relations and politics, which I think has been unworthy of our delegation and unworthy of some of the longstanding relationships we have in this body. When you cannot get information between colleagues, when there is political advantage taken with risks to the State, I would say that it is regrettable.

I will say that in my own State there are projects outside of the district of Senate candidates where Senate candidates will go to those districts and take credit for the projects, down in New Orleans, up in Monroe. Mr. President, we have never had that in my State, and we should not have it.

I say it now not to have to repeat those kinds of things.

Mr. President, I will soon be the senior Senator in this body from my State, and I hope we are going to have the kind of relationship, whoever is elected, that we do not take petty partisan advantage, go over and take credit for somebody else's project. I am afraid it is reaching somewhat epidemic proportions, Mr. President.

Mr. President, last week I told this body about a resolution that I and the distinguished Senator from Vermont had sent around to all Senators with a "Dear Colleague" letter. Three days later, before we had a chance to get the "Dear Colleague" letter back, we found the resolution introduced by someone else.

I stated a little poem at that time. I will read it now because I know everybody is interested in hearing a recount of that poem. It was entitled "Ode to Johnston-Leahy." It says:

A rose by another name may smell as sweet,
But our bill without our names would not be as neat.
We mailed our Dear Colleague on June 29th,
And were surprised on the 30th to find ours last in line.
But we will stand not on ceremony though our pride might be battered,
Imitation, after all, should make us feel flattered.
S. Res. 312 we'll join and offer praise aplenty,
For it is exactly the same as S. Res. 320.
Together the Budget Committee we all can now pester,
For bipartisan defeat of this year's sequester.

That was last week or a week ago, Mr. President. This week, with a new deal, a new 8(g) deal, which I strongly identified with on this side of the aisle, on this side of the Capitol, should I say, because I ate with it, I slept with it, I nursed it, I talked to every single Senator in this body about 8(g), then suddenly it is wafted off and talked about at the White House and somebody else has their name on it. It is a replay of a couple of weeks ago.

But it shall not escape the bard's poem. So I have a new poem, Mr. President, to read about 8(g). This is entitled "Owed to 8(g)."

Owed is spelled o-w-e-d. The poem goes like this.

OWED TO 8(g)

If my colleagues will listen, I want them to hear
How the slippery "8-g" deal finally went queer.
In Louisiana the Reagan campaigns were both big hits
The voters chose him over Grits and then Fritz.
The Administration's gratitude it soon did reveal:
They consistently opposed Louisiana's 8-g deal.
The Congress said Louisiana's share was a billion plus
While the President's men said less than half that's a must.
Later Jim Miller said before the Appropriations Committee
Drop pre-78 leases and a deal we'd see.
"OK", we said, that compromise seems fair.
But give Johnston and Breaux credit?—He wouldn't dare.
So back to the drawing board Miller did go,
But this time with only Moore and Republicans in tow.
He said "Cut back the amount, restructure the deal.
Make it look different and the credit we'll steal."
Off to the White House they eagerly did go—
For a picture with the Great Communicator the press to show.
Yes, we need the money, so "yes" we'll scream
Though we're disappointed at how stingly they seem.
We'll be getting the check now 'most any day
But don't expect us "Thank you" to say
'Cause we feel like the victim of some slick pickpocket
We might have done better on the Federal court docket.
There's a moral to this game of political chess:
With Breaux you get more, but with Moore you get less.

Mr. President, I yield the floor.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as I understand, there is no time remaining on the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Is there any time on the resolution itself?

The PRESIDING OFFICER. We are now considering an amendment between the Houses. There is no bill, per se, before the Senate.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Is it now appropriate to offer the amendment which I mentioned earlier?

The PRESIDING OFFICER. It is now appropriate to offer that amendment.

AMENDMENT NO. 1674

Mr. JOHNSTON. Mr. President, I previously sent that amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1674 to amendment numbered 1673.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the appropriate place in the amendment add the following:

"Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under Subtitle A of Title VIII (Outer Continental Shelf and Related Programs) of this Act shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986, at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana."

Mr. JOHNSTON. Mr. President, all this amendment does is delay the receipt of the moneys due only to the State of Louisiana until October 1. In the meantime, they are to accumulate interest as the fund is now doing. The reason for the delay until October 1 is that the Louisiana Legislature has passed a constitutional amendment by joint resolution which provides an elaborate framework for dedicating this money from 8(g) to education. On September 27, there will be a Statewide election to approve whether or not that framework for dedication of this money to education shall be approved by the people.

I believe that the people of the State ought to have the right to vote on that before the money is spent for other purposes. That is exactly what this amendment does. It does not affect any other State at all, it does not cost any money other than the money that would be drawn by interest on the account in the meantime. It does not increase or decrease the amount used in the State of Louisiana.

Mr. WILSON addressed the Chair.

Mr. DOMENICI. Mr. President, I yield—we have 30 minutes on amendments. I have half the time.

Mr. WILSON. Mr. President, actually, I was going to ask a question of the Senator from Louisiana.

The PRESIDING OFFICER. Does the Senator from Louisiana yield?

Mr. JOHNSTON. Yes, Mr. President, I yield.

Mr. WILSON. I thank the Chair.

My question to my friend from Louisiana is, does his amendment have the effect of securing not only for Louisiana but for all of the coastal States those rights to share with the Federal Government those revenues based upon the provisions that were contained in the House version?

Mr. JOHNSTON. No. Mr. President, I tell my friend from California that the amendment presently pending simply says that that share of revenues which would come to Louisiana under the amendment as introduced by the distinguished Senator from Idaho—Louisiana's share is simply delayed until October 1. That is all the instant amendment does, it simply delays that share until October 1. It does not affect California in any way.

If the Senator has a question about what the compromise amendment does, the underlying amendment, I would be happy to reply to that. But the amendment I just offered simply delays Louisiana's share.

Mr. WILSON. I thank my friend from Louisiana. I thank the Chair.

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

ask unanimous consent that the time not be charged to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, will the Senator from Florida yield me 2 minutes?

The PRESIDING OFFICER. The Senator from Louisiana controls the time.

AMENDMENT NO. 1674, AS MODIFIED

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

The PRESIDING OFFICER. The amendment will be so modified.

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1674 as modified.

Mr. JOHNSTON. 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 the Bill add the following: "Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under Subtitle A of Title VIII (Outer Continental Shelf and Related Programs) of this Act shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986 except that the $572 million set forth in section 8004(b)(1)(A) shall only accrue interest from April 15, 1986 to October 1, 1986, at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana."

Mr. JOHNSTON. Mr. President, this amendment simply makes clear that the interest shall accrue from April 15, 1986, and thus to make it revenue neutral.

I also wanted to make clear, Mr. President, that it is not the intent of this amendment to give any window for litigation but rather it is expected that so far as I know the State will accept this as a settlement, but in any event the court is not going to proceed with a trial of the case during this period prior to October 1 because this will be considered to be a final settlement in Louisiana when and if it is approved, and I hope it will be approved.

Mr. McCLURE. Mr. President, will the Senator respond to a question?

Mr. JOHNSTON. Yes.

Mr. McCLURE. I think the Senator has already responded to the question I was going to ask. In the form that the distribution is in of acceptance by the States does that acceptance of the money release the claims and settle the litigation? Since there will be a delay in the disbursement of the funds in the case of the State of Louisiana, there is no way in which that triggers prior to the acceptance of money under the current status of the proposed legislation.

Is there any likelihood or possibility that it could be arranged with the State of Louisiana in order to set this at rest that the State execute a release before they get the money in effect to settle the question whether or not there is litigation? Is that something worth pursuing with the State of Louisiana?

Mr. JOHNSTON. I say to my friend from Idaho that I would not think it would be necessary because I think the Governor of our State has already endorsed the settlement. The judge is not going to proceed with the trial. So I really do not think that is necessary. But it certainly could be pursued. My guess is that the Governor would sign such a release if offered to him.

Mr. McCLURE. I understand and I appreciate the comment of the Senator from Louisiana, because there is some concern that this period not be used. There is no way in which the Senator from Louisiana and I can make guarantee what the State government of Louisiana would do, although the Senator from Louisiana is certainly in a better position to express an opinion than I would be as to what they would be likely to do.

Mr. JOHNSTON. I might say to the Senator from Idaho I have not talked to Judge Mintz. Having not talked to him, I can absolutely guarantee he is not going to proceed with this trial in the face of an impending payment on October 1.

Mr. McCLURE. I thank the Senator from Louisiana.

I think the colloquy here on the floor should very clearly indicate that we intend that this does not create that window of opportunity that the Senator from Louisiana has described. It is simply a question that deals with the other question with respect to the use of the proceeds once Louisiana gets the money.

I thank the Senator for his response.

Mr. JOHNSTON. I thank the Senator.

Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Louisiana.

The amendment (No. 1674), as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, I have a question for the distinguished Senator from Idaho, the chairman of the Energy Committee.

My understanding is that section 7201 of this legislation—shared energy savings—would allow a Federal agency, without further congressional action, to enter into a contract for energy savings that might result in permanent improvements to Federal lands or property. The agency may provide in the contract that it owns the improvements after they are made or has the option to purchase them at the end of the term of the contract. These improvements on Federal property might range from additional insulation in a building to installation of new energy efficient boilers. Is that correct?

Mr. McCLURE. Mr. President, if the Senator will yield, yes, that is my understanding.

Mr. JOHNSTON. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1675

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 1675.

On page 3F, on the third line, strike the "s" on the end of the word "subtitles" and strike "B and".

Mr. DOMENICI. Mr. President, will the distinguished Senator yield?

Mr. WILSON. I yield.

Mr. DOMENICI. Mr. President, the time I have in opposition will be handled by the distinguished Senator

from Idaho, the chairman of the Energy Committee.

The PRESIDING OFFICER. The Senator has the right to make that designation.

The Senator from California.

Mr. WILSON. Thank you, Mr. President.

Mr. President, I offer this amendment on behalf of myself and my colleague, Senator CRANSTON.

We do so not only for ourselves or for our State of California, but, as I will indicate in these brief remarks, on behalf of all coastal States concerned with having an adequate voice in the planning of the development of their own coastal zones.

Mr. President, I am proposing an amendment that effectively adds back to the leadership amendment the changes to section 19 of the Outer Continental Shelf Lands Act of 1978 that were adopted by the House and subsequently stricken by the leadership in the proposal that is before us now.

These changes to section 19 of the Outer Continental Shelf Lands Act, changes which were substantively agreed to by the reconciliation conference committee last December, are changes that relate directly to the rights of affected coastal States to have their voices heard by the Secretary of the Interior in the planning of OCS oil and gas leases.

Section 19 is the provision of the Outer Continental Shelf Lands Act that requires the Secretary to coordinate and consult with affected States and local governments.

It requires the Secretary to accept the recommendations of the Governor of the affected State with regard to a proposed lease sale, provided that those recommendations strike a reasonable balance between the national interests and the well being of the citizens of the affected State.

The Secretary is required by existing law to make a determination of the national interest but he is required to do so within the context of a very loosely defined standard that requires that his determination be made "in a balanced manner."

Unfortunately, some Secretaries may not within that broad standard give adequate consideration to the legitimate interest of the States.

The Secretary's interpretation of what constitutes national interest may very well, and has in certain instances, allowed him to unjustly override the stated concerns of the affected Governors and State governments in a number of different lease sales.

Let me cite just a few examples:

Lease sale 53 off California in 1981 was one in which the Governor recommended deletion of 32 out of the 115 tracts that were proposed for sale by the Secretary. The Secretary rejected these recommendations in toto. When California then challenged the Secretary's decision, the court held that the Secretary had met "the bare technical requirements of the statute but quite clearly violated the spirit of the act."

The very next year, in 1982, the Governor recommended that 16 full tracts and 18 partial tracts, out of a total of 164 proposed by the Secretary to be offered for sale, be deleted from the sale and that additional stipulations be added for the other tracts. While the Secretary agreed to delete eight tracts, all other recommendations were rejected. When California again sued, the court granted a preliminary injunction based in part on its finding that the State had raised a serious question as to whether the Secretary had given the Governor's recommendations full and fair consideration.

It is my understanding that New Jersey, in an August 1982 lease sale; Florida, in two lease sales in 1983; Louisiana, in an April 1984 lease sale; Texas, in a July 1984 lease sale; and Massachusetts, in a September 1984 lease sale, all encountered similar problems in securing the cooperation of the Secretary.

Mr. President, these examples make clear that it has become evident over the last several years that the hand of the State needs to be strengthened in the planning of these OCS land sales. The legitimate interests of State government have not been adequately listened to nor heeded, and the result has been an injustice directly in contravention of Congress' stated intent in requiring the consultation that, in fact, the Outer Continental Shelf Lands Act seeks as protection for State interests.

The amendment that Senator CRANSTON and I are proposing would change the standard for the Secretary in making his determination of national interest. The language that we are proposing expands on the existing requirement in law that the Secretary make his detemination of national interest in a balanced manner by requiring that the Secretary "equally weigh the need for exploration, development, and production of oil and gas with the need to protect other resources and uses of the coastal zone and the marine environment."

This new standard would make clear that the Secretary cannot, as has occurred in the past, cavalierly dismiss or discount the concerns of Governors of coastal States on the basis of heretofore vague definitions of national interest, and the Secretary must, as he should, give equal weight to consideration of State interests in their own coastal zone.

This amendment also requires that the Secretary provide written explanations, that he document the support for his position, and that he allow the decision to be reviewed according to the Administrative Procedure Act. The standard of review under the Administrative Procedure Act slightly expands on the existing standard in the OCSLA of arbitrary and capricious conduct by adding the words that the Secretary, in making his decision, shall not engage in "an abuse of discretion" or in any other way ignore the requirements of the law that regard the decision that he is charged with making under the Outer Continental Shelf Lands Act.

Mr. President, these changes to section 19 of the act that I have described here are important changes. They are necessary in order that affected coastal States can have the voice and the protection required, if they are to receive anything that is real protection rather than lip service in the planning of the Outer Continental Shelf lease sales off their State shores.

With minor modifications, this was the language agreed to by the reconciliation conference committee last December. It was again adopted by the other body in its most recent consideration of this issue.

So, Mr. President, if we are to do more than give lip service to the legitimate requirements of State governments, including their economic interests in planning on-shore industries, then we have got to secure the changes that we are offering here today.

Mr. President, let me make clear what is at stake here is not safeguarding the landscape. It is not protecting the view. This is not an effort bent upon indulging a certain esthetic elitism, as critics of coastal protection sometimes term it.

Local government officials have come to the senior Senator and to myself. They have said:

> We need protection of our employment base. If we are going to put people to work in a steadily expanding area, an area that is beset by unrelenting population explosion, it does not help us if we find that, where we are threatened with violation of clean air standards, we cannot gain permits for new jobs because of the fact that we will suffer an impairment, a further impairment, in air quality because of what results from the rigs offshore.

The balancing that is necessary, Mr. President, for jobs, for the economic welfare of coastal States, requires that such considerations be taken into account, not merely stated by a Governor to be ignored by the Secretary of the Interior.

And that, Mr. President, is what is at stake here. It is not simply an academic exercise about States' rights, although I think that States' rights in this instance call out for protection, but it was precisely for the reason—although they might not have foreseen Outer Continental Shelf development—that the Founding Fathers in placing States' rights protections in

the Constitution specifically sought to do so. If they could not precisely foresee the technology that would pose this threat today, they could at least understand that the federation that they were seeking to achieve for greater elective strength must not be one that threatens the rights of individual States when those State rights are in fact legitimate. They are legitimate. They do require protection. They do not receive adequate protection either under existing law and certainly would not under the leadership proposal.

For that reason, Mr. President, I ask not only the representatives of coastal States who will be directly affected by this matter, but all who believe that States should have adequate protection against whatever good intentions the Federal Government seeks to foist upon them, to support this amendment.

I thank the Chair.

Mr. CRANSTON. Mr. President, I am delighted to join with my friend and colleague from California, Senator WILSON, in this effort to bring some fairness and common sense to the legislation that is now pending. The Republican leadership proposal, crafted in private, partisan meetings between select Senate and White House staff, is disastrous for our State of California and clearly unacceptable to the House—and so is likely to kill the bill if adopted.

The "savings" claimed for the proposal are phony. They depend, for example, on an assumed oil price that is at least 50 percent higher than reality. They assume $24 per barrel will be the price for oil. The price is now somewhere below $15 and dropping.

The proposal is merely an attempt, in reality, to shelter the President from accountability for the consequences of his threatened veto of this bill by sending it back to die in the House instead of requiring a veto, a power this President has often sought but has not been given by the Constitution or the Congress.

It would strip from the bill language specifically approved by both Houses which has no budgetary impact at all but which would give all coastal States and local governments a more effective voice in decisions about developing their coastlines.

My colleague, Senator WILSON, made the very eloquent statement about States rights, and about the need, where it can be done, to give local citizens and local officials a voice in their own affairs. Our approach would do that.

I urge all our colleagues to join this effort to restore some balance to the coastal process and to save the reconciliation bill.

I am delighted to be the original cosponsor of the amendment offered by my colleague and friend from California, Senator PETE WILSON. The Wilson-Cranston amendment would restore to the reconciliation bill language which represents a House-passed modification of language previously adopted by the House which withstood challenge in the Senate when we were debating this issue on its merits when it first arose.

The House modification was an attempt to compromise with administration concerns. The purpose of the amendment we are now offering is to attempt to restore some effectiveness to the voice of coastal States and local governments in their negotiations with the Secretary of Interior regarding oil and gas lease, and along the Outer Continental Shelf of a State's coastline.

The PRESIDING OFFICER. All the time of the proponents have expired.

Mr. CRANSTON. I would like some additional time if that is possible.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I ask unanimous consent to yield 3 minutes from the opposition to the Senator from California.

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

THE SECTION 19 ISSUE

Mr. CRANSTON. Mr. President, section 19 was added to the OCS Lands Act in 1978 as a part of a major overhaul of that statute. In amending the OCSLA, Congress was attempting to further several goals, one of which was to increase the role of the States in OCS decisionmaking. Indeed, the legislative history clearly indicates that the States were to play a leading role in these matters.

Section 19 was intended to be one of the primary tools to accomplish this goal. It provides that Governors, and local governments through Governors, could submit recommendations on OCS lease sales and on development and production plans. Interior was required to accept these recommendations if Interior determined that they struck a reasonable balance between the national interest and the well-being of the citizens of affected States. For purposes of section 19, a determination of national interest was based on the desirability of the recovery of oil and gas in a balanced manner and on the findings, policies and purposes of the OCSLA. The basic thrust of section 19 appears to have been that reasonable recommendations from Governors be accepted.

While section 19 appears to vest considerable authority in Governors of affected States, Interior has implemented it in a fashion which limits the impacts of a Governor's recommendation. For example, for lease sale 53 California's Governor submitted a recommendation that 31 tracts be deleted from the sale. Even though Interior's own documents revealed that these tracts contained only 8 percent of the oil in the sale areas, Interior rejected the recommendation. The courts upheld Interior even though they believed it was violating the spirit of the statute. In other cases, such as lease sale 82, Georges Bank, Interior has rejected recommendations that a limited number of tracts be deleted not because of any balancing analysis but simply because industry had expressed an interest in the tracts.

Frequently, Interior will solicit views from States, local governments, the oil industry and public interest groups. However, the solicitation of views is a very different process from consulting with Governors and accepting reasonable recommendations from Governors. Generally, Interior acts as though it may accept or reject at will the views it receives, and frequently, recommendations will be rejected without any modification of the lease sale decision.

The effect of this approach has been twofold. First, it has generated a considerable amount of litigation. Since 1981, California, Massachusetts, Louisiana, and Texas have challenged Interior's rejection of section 19 recommendations in litigation.

Second, because of the arbitrary and capricious standard now found in section 19(d), the courts have only a limited ability to compel Interior to accept a Governor's recommendation. In the litigation over lease sale 53, the Federal district court judge stated that Interior had violated the spirit of the act, but the standard of review required great deference to Interior and thus precluded a ruling in favor of the State. *California* v. *Watt* (C.D.Cal. 1981) 520 F.Supp. 1359, 1385-1386. The Court of Appeals for the Ninth Circuit upheld the district court ruling that Interior need only give "some consideration to the relevant factors. * * *" *California* v. *Watt* (9th Cir. 1982) 683 F.2d 1253, 1269. Interior can meet the standard of giving some consideration to relevant factors and still accept or reject recommendations as it wishes.

States have only prevailed in challenges to section 19 determinations in those situations where Interior has made a procedural mistake such as preparing its analysis supporting the decision after the decision was made, lease sale 68—*California* v. *Watt* (C.D.Cal. 1982) 17 .E.R.C. 1711, or failing to do the balancing required in section 19, lease sale 82—*Commonwealth of Massachusetts* v. *Clark* (D. Mass. 1984) 594 F.Supp. 1373.

The amendment that Senator WILSON and I offer will restore a reasonable weight to the recommendation of a State's Governor, without precluding a contrary Federal decision in the national interest if the facts so justify. It will cost no additional funds, and may end up saving money, by restoring balance to the lease sale proc-

ess and thereby avoiding otherwise inevitable and costly litigation.

I urge its restoration to the reconciliation bill.

I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I am a little puzzled to know how best to proceed in opposition to the adoption of this amendment because the Senators who offered the amendment in good faith talked about two things which are almost irrelevant to the current discussion. The Senators are concerned about the process that is followed with respect to the Outer Continental Shelf decision making.

I think all of us are concerned about that question. The Senators are concerned about the substance contained in the problems, and the impacts that may occur close to communities in their State of California. I think all of us are aware of those concerns, and wish to respond in a prudent way to it.

The Senators ignore something which I believe is reality; that is, if they pursue and are successful in pursuing this course, the bill is dead. It may well be that the distinguished senior Senator from California would rather that decision rest with the White House, and would like to force a veto of the bill rather than accept the responsibility here.

I can understand that might be his desire. But it does not serve this body well, and the rest of the interests that are of concern about provisions of this legislation.

As I said in my opening remarks earlier with respect to the 8(g) and Outer Continental Shelf issues, we made a reasoned, careful calculation as to what it would cost us in other ways to leave this provision in the bill, and still overcome the administration's objections to the bill.

It was my conclusion that we would be better off to strike this provision, and gain more acceptance of other provisions than to do it the other way around, for two reasons: One is the Senator's own State of California has much at risk, and much at stake with respect to the distribution of Outer Continental Shelf revenues—the 8(g) issue.

I want to remind the Senators from California that while they like the idea of raising this issue, and trying to position themselves correctly in a political sense for their votes in California, on this issue they put at hazard—no, I will make it more strongly than that, they almost guarantee—that the State of California will not receive $338 million from the 8(g) fund immediately, and an additional $289 million over the next 15 years as provided in a bill which the administration has said they will sign if it is not tampered with.

I understand the Senators from California would like to have that money, and this provision. But they are not going to get more now in this bill no matter how much they might like it. It simply is not going to happen.

So you can make your statement on Outer Continental Shelf processes, but if you do make that statement, and are successful, you automatically lose the money for your State.

Yes, you can come back and address the question of the revenues at a later date in another piece of legislation. I suggest you reverse that. Drop the issue of the Outer Continental Shelf processes in section 19, take the decision that is most favorable to your State with respect to the 8(g) revenues, get that done, then come back, and look at the Outer Continental Shelf processes.

Second, there are an awful lot of things being done now in consultation with State governments.

There are six separate opportunities under existing law for any interest, including the State interest, by any person pursuing State interests, the Governor or anyone else, in the process that is now in the statute. It is not the process that is at fault. It is that it is not yielding the results that some people desire with respect to Outer Continental Shelf operations.

The process is working. The result does not please them. So they seek to alter the process in order to try to achieve a different result. How would this work?

It would work by creating endless additional litigation. The courts have not finished the litigation under the existing statute. Then it would change the statute and we would start all over again. That achieves the result that some people want, to have nothing happen.

At some point, somewhere in this process, we have to make decisions. The endless paralysis of the decision-making process serves no one well except the attorneys who get paid in that process. This should not be that, although some people might suggest that that is the purpose.

Finally, there are other things going on at the present time with respect to the consultation with the appropriate Governors. In the continuing resolution that passed last year that is now the law, there is a negotiating team that was created. That negotiating team is made up of members of the California delegation. Both the Senators from California from time to time participate in those meetings. They are named as participants. They are certainly fully welcome to be there at any time to participate in all of those discussions about how we resolve the OCS question.

Those meetings continue and they have not yet been ended. There will be other such meetings before that negotiating team comes to a conclusion, if indeed it is capable of coming to a conclusion.

The Secretary of the Department of the Interior participates, or his designees participate, in every one of those meetings.

We are hopeful that before those meetings are over there will have been a negotiated settlement of the issue rather than continued litigation and continued political confrontation on the issue.

Mr. CRANSTON. Will the Senator yield?

Mr. McCLURE. I will yield shortly.

Finally, Mr. President, the Secretary of the Interior, Mr. Hodel, I think is making a sincere effort to meet the objections and the concerns of the people of California and the coastal States, the Government and the several governments within California on this matter dealing with Outer Continental Shelf operations.

If you will look at the recent recommendations made by the Governors to the Secretary of the Interior on the OCS Program, I believe it is correct—I would stand corrected if it is not—that the Secretary has accepted every one of the suggestions made by the several Governors involved in these operations.

Whether or not this is going to be continued in a pattern that will satisfy everyone, I cannot tell you. I can guess that there will still be some who, looking at their objective of stopping all operations, will not be satisfied with that result and they will seek some new start of negotiations and new start of litigation.

I would hope that we reject this amendment. I must strenuously urge this amendment be rejected because the process of working out these problems is ongoing. The process of working out OCS operations is continuing. It has not stopped. It is not static. It is not dead. It is still being developed. The appropriate legislative committees—and I chair one such committee—are continuing to look at this problem but we have not yet had any legislative proposal submitted for deliberations, and no hearings on proposed legislation. This was thrown into this bill at the last minute in the House of Representatives to express a political concern in the State of California that is disruptive to Federal land management.

I am sympathetic, because my State of Idaho has two-thirds of our surface area owned and controlled by the Federal Government directly. We would love to have a State veto over Federal actions on those lands. The adminis-

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tration stalwartly resists the notion that the taxpayers of this country should be hostage to the parochial interests of an individual State. So far, those of us who come from public land States have not been able to inject the States into direct control of the operations on the lands within the boundaries of our State.

If we cannot do that, how can we justify giving control to the States or increased control to the States of those lands which lie not just outside but several miles outside the States affected by operations on the Outer Continental Shelf.

Finally, Mr. President, the botton line is and must be that we are advised that if this provision is reinstated the bill is dead.

Mr. CRANSTON. Will the Senator yield on that point?

Mr. McCLURE. I am happy to yield.

Mr. CRANSTON. My information is that the bill is dead if this language proposed by the majority is adopted or stays in the bill because the House will reject it.

Mr. McCLURE. I understand that, and I have been told that the House feels very strongly about this provision. I understand that they do. I would hope that the better part of wisdom would prevail in the House as well as here. You see, I have never given up on the House of Representatives. I still think they are capable of rational judgments. In this instance, I think that the benefits that come to the coastal States in the solution of the 8(g) funding question, the distribution of those funds, leaving to future legislation the questions of Outer Continental Shelf management, is the prudent way for them to react.

As I said earlier, I had to make a judgment in these negotiations: Was it more important to retain this provision or give up on the money in 8(g)? I think there was a direct tradeoff. I elected to settle the 8(g) question once and for all and revisit these questions at a later time.

The legislative committee is certainly capable of doing that. Certainly the House and Senate are capable of doing that.

But if it comes down to a question of whether or not the administration will veto over this or whether the House will kill over this I will guarantee you I know what the administration will do over this provision, if they are telling me accurately. We still have an opportunity to persuade the House to postpone the discussion of the issue.

Mr. WILSON. Mr. President, I ask unanimous consent that an additional 5 minutes be permitted.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, and I shall not object, is that 5 minutes equally divided?

Mr. WILSON. Yes.

Mr. McCLURE. I have no objection.

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

Mr. WILSON. First, let me ask this: The Senator has just stated that the bottom line here is adoption of this amendment he feels will cause the loss of all the other advantages of the reconciliation bill. Is that Senator aware that the Republican chairman of the Finance Committee, the distinguished Senator from Oregon, Senator PACKWOOD, is joining with Senator CRANSTON and me in seeking this amendment? Does he think he would do so if, in fact, he thought it jeopardized the success of the leadership package and the acceptance by the President and the House of this reconciliation package?

Mr. McCLURE. Will the Senator yield?

Mr. WILSON. I yield.

Mr. McCLURE. I do not think that changes the situation at all. I do not know what his judgment might be. But I know what my conferences have been with the administration.

Mr. WILSON. Is the Senator from Idaho also aware that as recently as a few weeks ago the Governor of California, a Republican Governor, one who is on record as favoring a balanced budget, who is clearly not one of those who is seeking flat prohibitions on all Outer Continental Shelf developments, that that same Governor has used language that made headlines in referring to a breach of faith by the Secretary of the Interior?

Mr. McCLURE. I do not know what the Governor of California has said or even what the background of those comments may be, but there has been no breach of faith by the Secretary of Interior of which this Senator is aware. I have followed carefully what he has done over the last year. I have been in every one of the meetings of the negotiating team that has tried to negotiate a solution to this question; that is, trying to negotiate a solution to the OCS question. The Secretary has been there, or his designees have been there, at every meeting, participating fully, listening carefully. I can assure the Senator from California that indeed, it is my belief—and I think it is a fact—that the Secretary of the Interior is trying in good faith to work out the problems that are identified.

Mr. WILSON. Mr. President, I think the Senator might have a better idea had he been present last summer through a series of protracted discussions that did lead to what some of us felt was an agreement.

The point, Mr. President, is very simple: that is simply the most recent example of inadequate attention by a Secretary of the Interior, one you might happen to think to be a perfectly decent human being, but one who is not required, clearly, by existing law to give adequate weight even to consideration of the very balanced views of a Governor of my State who is by no means an opponent of offshore development.

The PRESIDING OFFICER. The time has expired.

Mr. McCLURE. Mr. President, let me yield 1 minute to the senior Senator from California on my time.

Mr. CRANSTON. Mr. President, I would simply like to state that the issue of what is best for the coastal States can best be judged by the attitudes of those who represent the coastal States. It seems clear that the House of Representatives will not accept, this measure if it goes over in its present form. I would like to see it amended so it can be adopted.

This is something like a $17 million savings implicit in this measure if we can get it enacted, and I wonder if the President would choose to veto a bill that would cost that much in money at a time when we need such savings. I would like to see the President given the opportunity to make that decision.

Mr. McCLURE. Mr. President, the President has already indicated what that decision would be. I can understand the standpoint of some that they would rather the President would veto this than have it die in Congress. I persist in the belief that it is good for the country to get this bill passed in a form which the President has said he will sign. I therefore shall continue, and urge my colleagues to continue, to reject the provision.

I yield the remainder of my time to the Senator from New Mexico.

Mr. CRANSTON. Madam President, I ask unanimous consent that the Senator from Massachusetts [Mr. KERRY] be added as a cosponsor to this amendment.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. PACKWOOD. I am pleased to support the amendment of my colleagues, Mr. CRANSTON and Mr. WILSON, which will strengthen the States' consultative role in offshore leasing and development decisions.

Section 19 of the Outer Continental Shelf Lands Act was designed to give the States a leading role in OCS decisions. However, the section currently gives the Secretary of the Interior too much discretion to discount the recommendations of the States. This disregard of States' interests and unwillingness to conclude effective negotiations has increased pressure for congressionally imposed leasing moratoria and has inspired extensive litigation. Since 1982, 12 coastal States have brought challenges to the current leasing program.

Senator CRANSTON's and Senator WILSON's amendment would rectify this situation by compelling the Secre-

tary to give greater weight to reasonable State recommendations. The amendment would insure that the Secretary of the Interior fully account for marine and coastal environmental values when weighing whether to accept or reject a Governor's recommendations. In addition, the Secretary would be required to supply the Governor with a detailed response as to why he rejected any recommendations.

This amendment adds no new steps or delays to the leasing process. Further, the national interest would continue to be fully protected under the new language, since the responsibility would lie with the Secretary to accept or reject the Governors' recommendations.

This amendment reinforces the original intent of Congress that Governors of States affected by Outer Continental Shelf oil and gas development have a leading role in lease-sale decisions. I urge my colleagues to support it.

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

Mr. DOMENICI. Madam President, has the 2½ minutes the Senator from Ohio had expired?

The PRESIDING OFFICER. Yes, it has.

Mr. DOMENICI. Madam President, I move to lay the pending amendment on the table. I ask for the yeas and nays.

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

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Virginia [Mr. TRIBLE] are necessarily absent.

I also announce that the Senator from Arizona [Mr. GOLDWATER] and the Senator from Maryland [Mr. MATHIAS] are absent on official business.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Missouri [Mr. EAGLETON], the Senator from Iowa [Mr. HARKIN], the Senator from Colorado [Mr. HART], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

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

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

The result was announced—yeas 53, nays 35—as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—53

Abdnor	Exon	McClure
Andrews	Ford	McConnell
Armstrong	Garn	Murkowski
Bentsen	Glenn	Nickles
Bingaman	Gorton	Pressler
Boren	Gramm	Pryor
Boschwitz	Grassley	Quayle
Bumpers	Hatfield	Rockefeller
Burdick	Hecht	Rudman
Byrd	Heflin	Simpson
Chafee	Helms	Stennis
Cochran	Humphrey	Stevens
Danforth	Johnston	Symms
Denton	Kassebaum	Thurmond
Dixon	Kasten	Wallop
Dole	Long	Warner
Domenici	Lugar	Zorinsky
East	Mattingly	

NAYS—35

Baucus	Heinz	Packwood
Bradley	Hollings	Pell
Chiles	Kerry	Proxmire
Cohen	Lautenberg	Riegle
Cranston	Laxalt	Roth
D'Amato	Leahy	Sarbanes
Dodd	Levin	Sasser
Durenberger	Matsunaga	Simon
Evans	Melcher	Stafford
Gore	Metzenbaum	Weicker
Hatch	Mitchell	Wilson
Hawkins	Moynihan	

NOT VOTING—12

Biden	Harkin	Mathias
DeConcini	Hart	Nunn
Eagleton	Inouye	Specter
Goldwater	Kennedy	Trible

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator from New Mexico suspend until the Senate is in order?

The Senator from New Mexico.

Mr. DOMENICI. A parliamentary inquiry, Madam President. If there are no further amendments, what would be the subject matter before the Senate?

The PRESIDING OFFICER. The time has expired on the motion to concur in the amendment. So the vote would be on the amendment.

Mr. DOMENICI. I have no desire to ask for the yeas and nays on the Dole-Domenici-McClure-Packwood amendment. Does somebody desire a rollcall vote?

Mr. BOREN. Madam President, I rise to call the Senate's attention to an issue of great importance to senior citizens all across our Nation.

During consideration of the budget reconciliation bill last year, I offered an amendment dealing with Medicaid eligibility for those people in need of nursing home care. During conference, however, my amendment was removed, along with other Medicare/Medicaid provisions. I would like to briefly review for the Senate the circumstances which led to my offering this amendment.

The Department of Health and Human Services, through administrative action, has issued one of the most unreasonable, unworkable and unfair regulations this Senator has encountered in a long time. That regulation, if left standing, will jeopardize the eligibility of thousands of senior citizens across this Nation for nursing home care under the Medicaid Program.

When a Medicaid applicant or recipient who owns his own home is admitted to a nursing home, the value of the residence is disregarded in determining whether he is eligible for Medicaid, provided he intends to eventually return home. However, when it is established that the individual will not be returning home, the value of the residence becomes a resource that can increase his resources beyond the permitted level.

In the past, Federal policy has given such an individual a reasonable amount of time, usually 90 days, to dispose of the property as long as he is making a "bona fide effort to sell." Proceeds from the eventual sale of the house are then used to finance the individual's nursing home care until he has reduced his resources to the allowable level and can again be eligible to receive Medicaid payments.

This policy has provided a reasonable period to determine whether it is realistic to expect a return home. It avoids requiring a patient to give up his home while there is still a chance he may be able to return to it. Once it is determined a return is not feasible, the individual has been given enough time to sell his property at market value, rather than being forced to dispose of it quickly, below market value.

Under this new HHS regulations, however, all this will now be changed. These regulations state that when it is determined a person will not be returning home, the home immediately becomes a resource. A memorandum dated June 3, 1985, from the Health Care Financing Administration to all Regional Administrators states the policy quite clearly:

> Medicaid eligibility can no longer be extended to individuals who have excess revenues and who are making a bona fide effort to sell. Medicaid eligibility based on 'bona fide effort to sell' does not exist. Individuals who have excess resources are ineligible for Medicaid.

Imagine the dilemma senior citizens all across this Nation will find themselves in as a result of this new ruling. Given the prospect of being declared ineligible for Medicaid coverage and forced to leave the nursing home, patients may, in desperation, be left with no choice but to dump their homes at greatly reduced prices, just in order to maintain Medicaid eligibility. In many parts of this Nation, certainly in my own State of Oklahoma, the housing

market has come to a virtual standstill as a result of the collapse of oil prices, the depression in the agricultural industry, and other factors. Under such circumstances it will be virtually impossible for senior citizens in my State to immediately dispose of their property, even at below-market value.

If there was ever a need for the Senate to act in blocking ridiculous Federal regulations, this is surely it. This is not just an Oklahoma problem, or one that is limited to a particular region of the country. Senior citizens in every State will be affected if these regulations are left intact.

Madam President, my intention was to again offer my amendment to the reconciliation bill we are now considering. In discussions with the chairman of the Finance Committee and the majority leader, however, I understand the delicate nature of the agreement that has been reached with the House and the administration regarding this bill. It has been suggested that I withhold offering my amendment to the reconciliation bill, and consider offering it to another appropriate legislative vehicle in the near future. In addition, I hope the distinguished majority leader and the chairman will join me in urging the administration to defer taking action under this regulation until we in Congress have had a chance to act. I would welcome any comments the majority leader and the chairman might have as to their own feelings on this important matter.

Mr. DOLE. Madam President, I thank the distinguished Senator from Oklahoma for bringing this matter to our attention. Elderly citizens in Kansas, like those in Oklahoma, have faced similar problems.

On December 20, 1985, the Senator from Kansas sent a letter to the Secretary of HHS, which addressed this same issue. I ask unanimous consent that a copy of this letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, DC, December 20, 1985.

Hon. OTIS BOWEN, M.D.,
Secretary of Health and Human Services, Hubert H. Humphrey Building, Washington, DC.

DEAR SECRETARY BOWEN: The Deficit Reduction Act of 1984 (DEFRA) established a moratorium period during which the Secretary of Health and Human Services was directed not to take any compliance, disallowance penalty or other regulatory action against a State because a State in determining eligibility for noncash Medicaid recipients is using an income or resource standard or methodology that is less restrictive than the applicable cash assistance standard or methodology. The moratorium is to run from the date of enactment until 18 months after submission of a required report.

Since the passage of this provision, problems have arisen with the Administration's interpretation of the moratorium. In addition, more recently, a related problem—the issue of the "bona fide" effort of sale—has come to our attention.

As a result, this year's Omnibus Reconciliation Bill of 1985 contains a provision which was added by the Senate Finance Committee, which clarifies the moratorium on your sanction activities. In addition, the provision restores for the duration of the moratorium the previous medicaid policy governing the period when homeownership by an institutionalized individual is permitted and the period of time given for the sale of a home.

Unfortunately, final action was not taken on the Conference report containing this provision prior to our Sine Die Adjournment in December. As a result, the States continue to be in a difficult positioin vis-a-vis their current rules.

In the absence of final Congressional action, I would be interested in learning how the Department might suggest that we resolve this difficult issue. It is clear that a rational policy would provide a reasonable period of time to determine whether it is realistic to expect a patient to return home, and once that determination is made, a recipient should be given enough time to sell their property at its reasonable market value rather than being forced to dispose of it at an unreasonable reduced market rate.

I recognize the need to avoid allowing individuals to qualify for Medicaid inappropriately but believe a reasonable accommodation can be reached here.

I look forward to your response.

Sincerely yours,

BOB DOLE,
Majority Leader.

Mr. DOLE. Madam President, like my distinguished colleague from Oklahoma, I hope that we can find some reasonable solution to this problem. It is certainly my intention to work with him in doing so.

Mr. PACKWOOD. Madam President, I agree that it is not good public policy to force elderly Americans to sell their homes for a fraction of their value in order to qualify for Medicaid. However, we must take great care in revising Medicaid eligibility rules for we run the risk of either, first, denying Medicaid coverage to needy elderly persons on the one hand, or second, granting Medicaid coverage to those not truly needing such coverage.

Although I do not agree with OMB's $1 billion estimate of the cost of such a change, I recognize that we need to address this problem. I will be happy to work with Senators and join in urging the administration to delay its enforcement of the regulation until we can address the problem.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the motion to concur in the amendment.

Mr. METZENBAUM. Is this on the amendment?

Mr. DOMENICI. On the amendment.

Mr. METZENBAUM. Not on the total package?

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. METZENBAUM. Madam President, I would like to ask the distinguished chairman of the Energy Committee a question. If a State declines its 8(g) payment and continues to litigate this issue and eventually loses would it be able to claim the money alloated to it under this amendment?

Mr. McCLURE. No. If a State does not take its payment by April 15, the offer expires and a State forfeits any future claim to that money and will receive only the money, if any, awarded to it from the litigation.

Mr. METZENBAUM. I thank the Senator.

Mr. MURKOWSKI. Madam President, it is my understanding that my colleague from Idaho, the distinguished Chairman of the Energy and Natural Resources Committee, was integrally involved in the discussions with the administration and the Office of Management and Budget which lead to the new OCS 8(g) provisions of this bill. Is that correct?

Mr. McCLURE. That is correct.

Mr. MURKOWSKI. As such, you are in a good position to reflect upon the intent and meaning of this language, are you not?

Mr. McCLURE. That is correct.

Mr. MURKOWSKI. In that regard, I have two provisions of this bill that I would like my colleague from Idaho to comment on. The first of those provisions appears in the proposed section 8(g)(2) of the Outer Continental Shelf Lands Act. Would my colleague please explain the intent and meaning of the language included in the second set of parantheses which begins: "(or, in the case of Alaska, * * *)"?

Mr. McCLURE. I would be happy to indicate the intent of that language. Quite simply it means that there is a period of 7 years in which the pro-rationing according to surface acreage provisions do not apply to leases in Alaska. For leases which do not involve a OCSLA section 7 dispute, that 7-year period begins to run on April 15, 1986, and expires on April 15, 1993.

For leases which involve a section 7 dispute and for which an escrow agreement has been entered into pursuant to section 7, the 7-year period begins to run on the date that such dispute is settled or otherwise resolved. The effect of this is that, during the 7-year period, Alaska will receive 27 percent of all revenues derived from the entire area covered by any lease which falls wholly or partially within the 8(g) zone. After the 7-year period revenues will be prorated according to surface acreage. The rationale for this provision is that the other coastal States have experienced the benefit of 7 years of no pro-rationing since 1978. Alaska has not. This provision brings Alaska equal with those other States.

Mr. MURKOWSKI. I thank my colleague for that explanation. The second provision upon which I have a question is that portion of the proposed section 8(g)(5)(A) which describes the manner in which moneys held under a section 7 escrow agreement are to be distributed. It is my understanding that, upon settlement or final resolution of the boundary dispute, all moneys held in escrow are to be distributed pursuant to the formula set forth in the proposed section 8(g)(2) regardless of the terms of any agreement entered into previously by the parties.

Mr. McCLURE. That understanding is correct. When the section 7 boundary dispute is settled, the State will be entitled to 27 percent of all revenues generated by any lease lying wholly or partially within the 8(g) zone as that zone has been defined by the agreement of judgment resolving the boundary dispute.

Mr. MURKOWSKI. I thank my colleague from Idaho. I have one last question. Is it not true that the OCS 8(g) provisions in this bill merely provide an option to the coastal States? In other words, a State may elect to forego receipt of moneys under this bill and continue to litigate the issue.

Mr. McCLURE. That is absolutely true. There is nothing in this bill which requires a State to accept these terms if it believes it can achieve a more favorable result through litigation.

Mr. MURKOWSKI. Madam President, with those understandings, I can support this bill. We now have a budget reconciliation package which is acceptable to the President. It is a package that achieves a good amount of budgetary savings. And it is something that deserves the support of this body. I wish to again thank my good friend from Idaho. His dedication and effort to this issue have been extraordinary. He is to be commended.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CRANSTON. Madam President, the Republican leadership amendment does not improve the reconciliation bill.

The PRESIDING OFFICER. The Senator from California will have to ask unanimous consent for any further debate.

Mr. CRANSTON. Madam President, I ask unanimous consent that I may proceed instead of having a quorum call going on and speak to this measure. I shall be brief.

Mr. DOMENICI. Madam President, reserving the right to object, could the Senator from California tell us how long he will be?

Mr. CRANSTON. About 4 minutes.

Mr. DOMENICI. I have no objection.

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

Mr. CRANSTON. Madam President, the Republican leadership amendment does not improve the reconciliation bill.

Rather, it would make a reasonably balanced and attractive reconciliation package into legislation that I cannot support, and that I hope others will not support.

I oppose its deletion of the amendment to section 19 of the OCS Lands Act. This deletion denies the Governors of all coastal States the right even to consult effectively with the Secretary of the Interior with regard to prospective Federal oil and gas leasing along a States coastline, suggests that the administration has proceeded in bad faith with negotiations involving the California coast, and insures a continuation of State-Federal warfare along that coast unless Congress constructively intervenes.

I oppose the one-sided modification in section 8(g), which, without even reading the fine print, will deny my State its fair share of future royalties from oil and gas development in the 8(g) zone.

I oppose the unfair deletion of the coastal revenue sharing provisions. And I oppose the deletion of the provision extending for 1 year the transition to national diagnosis-related group rates for Medicare payments to hospitals.

The Republican leadership wants the Senate to believe that if this amendment is added, the President will sign this bill.

Otherwise, OMB says, the President will veto it. I think that we ought to make the President's day.

I think we ought to send to the White House the version of this bill that has already passed the House, which includes these provisions to which the Senate has previously agreed. That will conclude responsible congressional action.

If the President then chooses to veto the bill, that is his right. And the President can make his decision on whether to veto the bill in full knowledge of the consequences of his action. And in the full view of the American people. Will he reject the $17 billion savings the reconciliation package will provide? I do not think so.

This so-called leadership amendment was crafted in very private negotiations between certain Republican Senate staff members and the staff of the Office of Management and Budget. And we have the word of one of the Senate negotiators that dealing with OMB on this matter was like talking with people from "another planet."

No committee of the Senate has had an opportunity to consider this amendment. I have had only a brief chance to glance at some of the very complex provisions that directly affect my State. And on one provision alone, the so-called 8(g) amendment, which changes language that was specifically approved by both Houses of Congress, my State could lose, by OMB's estimate, some $600 million. What we have here is an example of the line-item veto at work.

I am told that OMB's estimates of future oil royalties are based on an oil price of $24 a barrel. Current world oil prices are below $15 a barrel, and falling. No one has had an opportunity to get a reading on the effects of this amendment from CBO or from our State officials. All we know is that at the moment OMB's assumption about oil prices is off by a factor of 50 percent, distorting all other numbers in this package. The apparent reason for this erroneous assumption is that it bloats the savings OMB is claiming by a considerable amount.

Just yesterday, the junior Senator from Texas [Mr. GRAMM] told us that using these kinds of estimates was how we got to a $200 billion deficit and that budget discipline depends upon relying exclusively on CBO estimates. And today the Republican leadership asks us to adopt an amendment that CBO has not even seen, that involves billions of dollars, and that uses off-base price assumptions purporting to provide savings no one will ever see.

No Senator who wants to see the reconciliation bill adopted should support this amendment. The terms of the understanding with the White House, and the majority leader can correct me if I am wrong, are that the President will sign the bill only if no change is made in this understanding by either the House or the Senate. But all the information I have from the

House leadership is that the House will not accept this amendment.

Thus, passing this amendment with its phony savings assumptions merely sends the bill back to the House to die.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Madam President, a moment ago we permitted the distinguished minority whip to speak for a few moments. I ask unanimous consent that Senator GRAMM from Texas be permitted to speak for 2 minutes at this time.

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

Mr. GRAMM. Madam President, I rise in support of the reconciliation process and of the Dole substitute. In 1981 we were able to use reconciliation for the first time in a meaningful way to reform the budget, to gain control of spending, and to set into place a program that has put 10.5 million Americans to work in permanent, productive, tax-paying jobs for the future. And the miracle process that made that budget process was a process that we now know as reconciliation.

The problem in voting on individual spending bills is that everybody who wants something from the Government is looking over the Congressman's right shoulder, sending letters back home and telling people whether he cares about the old, the poor, the sick, the tired, the bicycle rider, and the list goes on and on. Very seldom is the taxpayer looking over the left shoulder.

But what we were able to do in 1981 was put together a reconciliation package that was big enough, in terms of savings, and important enough, in terms of public policy, that we got Main Street America involved in the budget debate for the first time and, as a result, we made a substantial change in the policy of the Federal Government and the direction of the country.

I support the Dole substitute and will vote for it in the vote for final passage, because I think it is important that we preserve the reconciliation process. But I think it is important that we recognize that the reconciliation bill before us today is a far cry from reconciliation bills of the past that had some real meaning.

Unfortunately, the reconciliation process has been used to bring forward a lot of programs that would never be able, on a freestanding basis, to pass both Houses of Congress and be accepted by the President. We have add-ons in this bill, a bill aimed at saving money, that add billions of dollars to Federal spending, ranging from interest forbearance on black lung, to trade adjustment assistance, to AFDC, to Medicare, to the highway fund—all good and laudable goals, all costing money.

I intend to support the Dole substitute and vote for it. But if the House does not accept the Dole substitute and comes back with a bill with add-ons, I intend to not only try to knock those add-ons off with an amendment but also to go back and knock off the add-ons that we have accepted in the spirit of compromise and that the President has accepted in being willing to sign reconciliation into law and preserve this process.

So I am hopeful that the Dole substitute will be accepted and I will vote for it on final passage.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President in any bill, we do not get everything we want.

The PRESIDING OFFICER. It will take unanimous consent, I say to the Senator from Rhode Island, for any debate.

Mr. CHAFEE. Madam President, I ask unanimous consent that I may speak for 2 minutes.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. CHAFEE. Madam President, in any measure, of course, there is a sense of compromise. This does not have everything that every one of us wants in it, but I think the important part is we are on the verge of getting reconciliation, which yields great savings not only in this year but, more importantly, in the out years.

So, for that reason I am supporting the reconciliation measure and doing everything I can to forestall amendments that might result in its possible veto by the President.

Madam President, I do believe that this is a good measure. It is not everything that every one of us wants, but it is a major step ahead and it is reconciliation, something we have been trying to get for a long time for this fiscal year.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Madam President, I ask unanimous consent that I may be permitted to speak for 1 minute.

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

Mr. DOMENICI. Madam President, as I understand the situation, I say to Senators, we are ready to adopt the measure that is before us. The majority leader asked me to tell Senators that, immediately after the adoption of it, we will proceed to the water resources bill, which will not only be laid down, but the majority leader hopes that we might indeed complete that bill today. There are not many amendments that anybody knows about. It is a very long-awaited bill and, consequently, he has informed me to tell the Senate there may be votes on the water resources bill which will be called up immediately after disposition of the measure that is before us.

The PRESIDING OFFICER. The measure before us is on the question of the motion to concur with an amendment.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further proceedings under the call of the quorum may be dispensed with.

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

INDEFINITE POSTPONEMENT OF S. RES. 207

Mr. STAFFORD. Mr. President, I ask unanimous consent that Calendar Order No. 304, Senate Resolution 207, budget waiver for S. 1567, be indefinitely postponed.

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

WATER RESOURCES DEVELOPMENT ACT

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 495, S. 1567, the water resources bill.

The PRESIDING OFFICER. Is there objection? Without objection, it so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1567) to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

The Senate proceeded to consider the bill which had been reported to

the Committee on Finance, with an amendment:

On page 128, strike line 6, through and including line 18 on page 137, and insert the following:

TITLE VIII—REVENUE PROVISIONS

SEC. 801. SHORT TITLE.

This title may be cited as the "Harbor Maintenance Revenue Act of 1985".

SEC. 802. IMPOSITION OF HARBOR MAINTENANCE CHARGE.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by inserting after the chapter heading the following new subchapter:

"SUBCHAPTER A—HARBOR MAINTENANCE CHARGE

"Sec. 4461. Imposition of charge.
"Sec. 4462. Definitions and special rules.

"SEC. 4461. IMPOSITION OF CHARGE.

"(a) GENERAL RULE.—There is hereby imposed a charge on—

"(1) any port use, or

"(2) any port maintenance use.

"(b) AMOUNT OF CHARGE.—The amount of the charge imposed by subsection (a) on—

"(1) any port use shall be an amount equal to 0.04 percent of the value of the commercial cargo involved, and

"(2) any port maintenance use shall be an amount equal to $0.005 multiplied by the number of net registered tons of the commercial vessel involved.

"(c) LIABILITY AND TIME OF IMPOSITION OF CHARGE.—

"(1) LIABILITY.—

"(A) PORT USE CHARGE.—The charge imposed by subsection (a)(1) on a port use shall be paid by—

"(i) in the case of cargo entering the United States, the importer,

"(ii) in the case of cargo to be exported from the United States, the exporter, or

"(iii) in any other case, the shipper.

"(B) PORT MAINTENANCE USE CHARGE. The charge imposed by subsection (a)(2) on a port maintenance use shall be paid by the vessel owner.

"(2) TIME OF IMPOSITION.—

"(A) PORT USE CHARGE.—The charge imposed by subsection (a)(1) on a port use described in section 4462(a)(1)(A) shall be imposed—

"(i) in the case of cargo to be exported from the United States, at the time of loading, and

"(ii) in any other case, at the time of unloading.

"(B) OTHER CHARGES.—Any charge imposed by this subchapter not described in subparagraph (A) shall be imposed at the time prescribed by the Secretary in regulations.

"SEC. 4462. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PORT USE.—The term 'port use' means—

"(A) the loading or unloading of commercial cargo on or from a commercial vessel at a port, or

"(B) the use of any Great Lakes navigation improvement, including any use described in subparagraph (A).

"(2) PORT MAINTENANCE USE.—The term 'port maintenance use' means the use of any port or Great Lakes navigation improvement for—

"(A) the purpose of bunkering, refitting, or repair of a commercial vessel,

"(B) the convenience of a commercial vessel, or

"(C) any similar purpose in connection with a commercial vessel.

"(3) PORT.—

"(A) IN GENERAL.—The term 'port' means any channel or harbor (or component thereof) in the United States, which—

"(i) is not an inland waterway or Great Lakes navigation improvement, and

"(ii) is open to public navigation.

"(B) EXCEPTION FOR CERTAIN FACILITIES.—The term 'port' does not include any channel or harbor with respect to which no Federal funds have been used since 1977 for construction, maintenance, or operation, or which was deauthorized by Federal law before 1985.

"(C) SPECIAL RULE FOR COLUMBIA RIVER.—The term 'port' shall include the channels of the Columbia River in the States of Oregon and Washington only up to the downstreams side of Bonneville lock and dam.

"(4) GREAT LAKES NAVIGATION IMPROVEMENT.—

"(A) IN GENERAL.—The term 'Great Lakes navigation improvement' means any lock, channel, harbor, or navigational facility located in the Great Lakes of the United States or their connecting waterways.

"(B) CONNECTING WATERWAYS.—The connecting waterways of the Great Lakes of the United States include, but are not limited to, the Detroit River, the Saint Clair River, Lake Saint Clair, and the Saint Marys River.

"(C) SAINT LAWRENCE SEAWAY.—The term 'Great Lakes navigation improvement' shall not include the Saint Lawrence Seaway (or any component thereof).

"(5) COMMERCIAL CARGO.—

"(A) IN GENERAL.—The term 'commercial cargo' means any cargo transported on a commercial vessel, including passengers transported for compensation or hire.

"(B) CERTAIN ITEMS NOT INCLUDED.—The term 'commercial cargo' does not include—

"(i) bunker fuel, ship's stores, sea stores, or the legitimate equipment necessary to the operation of a vessel, or

"(ii) fish or other aquatic animal life caught on a United States vessel and not previously landed on shore.

"(6) COMMERCIAL VESSEL.—

"(A) IN GENERAL.—The term 'commercial vessel' means any vessel used—

"(i) in transporting cargo by water for compensation or hire, or

"(ii) in transporting cargo by water in the business of the owner, lessee, or operator of the vessel.

"(B) EXCLUSION OF FERRIES.—

"(i) IN GENERAL.—The term 'commercial vessel' does not include any ferry engaged primarily in the ferrying of passengers (including their vehicles) between points within the United States, or between the United States and contiguous countries.

"(ii) FERRY.—The term 'ferry' means any vessel which arrives in the United States on a regular schedule at intervals of at least once each day.

"(7) VALUE.—

"(A) IN GENERAL.—The term 'value' means, except as provided in regulations, the value of any commercial cargo as determined by standard commercial documentation.

"(B) TRANSPORTATION OF PASSENGERS.—In the case of the transportation of passengers for hire, the term 'value' means the actual charge paid for such service or the prevailing charge for comparable service if no actual charge is paid.

"(b) SPECIAL RULE FOR HAWAII AND POSSESSIONS.—

"(1) IN GENERAL.—No charge shall be imposed under section 4461(a)(1) with respect to—

"(A) cargo loaded on a vessel in a port in the United States mainland for transportation to Hawaii or any possession of the United States for ultimate use or consumption in Hawaii or any possession of the United States,

"(B) cargo loaded on a vessel in Hawaii or any possession of the United States for transportation to the United States mainland for ultimate use or consumption in the United States mainland, or

"(C) the unloading of cargo described in subparagraph (A) or (B) in Hawaii or any possession of the United States, or in the United States mainland, respectively.

"(2) UNITED STATES MAINLAND.—For purposes of this subsection, the term 'United States mainland' means the continental United States and Alaska.

"(c) COORDINATION OF CHARGES WHERE TRANSPORTATION SUBJECT TO TAX IMPOSED BY SECTION 14042.—No charge shall be imposed under this subchapter with respect to the loading or unloading of any cargo on or from a vessel if any fuel of such vessel has been (or will be) subject to the tax imposed by section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

"(d) EXEMPTION FOR UNITED STATES.—No charge shall be imposed under this subchapter on the United States or any agency or instrumentality thereof.

"(e) EXTENSION OF PROVISIONS OF LAW APPLICABLE TO CUSTOMS DUTY.—

"(1) IN GENERAL.—Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations shall apply in respect of the charge imposed by this subchapter (and in respect of persons liable therefor) as if such charge were a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the value of the cargo.

"(2) JURISDICTION OF COURTS AND AGENCIES.—For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, the charge imposed by this subchapter shall be treated as if such charge were a customs duty.

"(3) ADMINISTRATIVE PROVISIONS APPLICABLE TO TAX LAW NOT TO APPLY.—The charge imposed by this subchapter shall not be treated as a tax for purposes of subtitle F of this title or any other provision of law relating to the administration and enforcement of internal revenue taxes.

"(f) LIMITS OF NUMBERS OF CHARGES.—For purposes of this subchapter—

"(1) only 1 charge shall be imposed under section 4461(a)(1) with respect to—

"(A) the transportation of the same cargo on the same vessel, and

"(B) the loading and unloading of identical cargo at 1 port, and

"(2) the charge imposed by section 4461(a)(2) shall not be imposed more than 3 times in any calendar year upon any vessel.

"(g) REGULATIONS.—The Secretary may prescribe such additional regulations as may be necessary to carry out the purposes of this subchapter including, but not limited to—

"(1) regulations providing for the manner and method of payment and collection of any charge,

"(2) regulations providing for the posting of bonds to secure payment of any charge,

"(3) regulations exempting any transaction or class of transactions from the charge imposed by this subchapter where the collection of such charge is not administratively practical, and

"(4) regulations providing for the remittance or mitigation of penalties and the settlement or compromise of claims.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1954 is amended by inserting the following before the item relating to subchapter D:

"Subchapter A. Harbor maintenance charge.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1986.

SEC. 803. CREATION OF HARBOR MAINTENANCE TRUST FUND.

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HARBOR MAINTENANCE TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Harbor Maintenance Trust Fund', consisting of such amounts as may be—

"(1) appropriated to the Harbor Maintenance Trust Fund as provided in this section,

"(2) transferred to the Harbor Maintenance Trust Fund by the Saint Lawrence Seaway Development Corporation pursuant to section 13(a) of the Act of May 13, 1954, or

"(3) credited to the Harbor Maintenance Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO HARBOR MAINTENANCE TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN CHARGES.—There are hereby appropriated to the Harbor Maintenance Trust Fund amounts equivalent to the charges received in the Treasury under section 4461 (relating to harbor maintenance charge).

"(c) EXPENDITURES FROM HARBOR MAINTENANCE TRUST FUND.—Amounts in the Harbor Maintenance Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for—

"(1) payments described in section 607 of the Water Resources Development Act of 1985 (as in effect on the date of enactment of this section), and

"(2) payments of rebates of tolls or charges pursuant to section 13(b) of the Act of May 13, 1954 (as in effect on the date of enactment of this section).".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Harbor Maintenance Trust Fund.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1986.

SEC. 804. INLAND WATERWAYS TAX.

(a) IN GENERAL.—Subsection (b) of section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be determined from the following table:

"(1) USES BEFORE 1988.—

"If the use occurs— | The tax per gallon is—

After September 30, 1983, and before October 1, 1985 | .8 cents

After September 30, 1985, and before January 1, 1988 | .10 cents.

"(1) USES AFTER 1987.—

"If the use occurs during calendar year— | The tax per gallon is—

1988 | 11 cents
1989 | 12 cents
1990 | 13 cents
1991 | 14 cents
1992 | 15 cents
1993 | 16 cents
1994 | 17 cents
1995 | 18 cents
1996 | 19 cents
1997 and thereafter | 20 cents.".

(b) FUEL USE ON TENNESSEE-TOMBIGBEE WATERWAY SUBJECT TO INLAND WATERWAY TAX.—Section 206 of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following:

"(27) Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on April 1, 1986.

SEC. 805. INLAND WATERWAYS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9506. INLAND WATERWAYS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Inland Waterways Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Inland Waterways Trust Fund amounts equivalent to the taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Inland Waterways Trust Fund shall be available, as provided by appropriation Acts and subject to the provisions of section 501 of the Water Resources Development Act of 1985 (as in effect on the date of enactment of this section), to the Secretary of the Army to be expended for construction, rehabilitation, modification, and post-authorization planning of navigation lock and dam projects (or any component thereof) on the inland and intracoastal waterways of the United States which are authorized in sections 502 and 504(e) of such Act (as in effect on the date of enactment of this section).".

(b) CONFORMING AMENDMENTS.—Sections 203 and 204 of the Inland Waterways Revenue Act of 1978 (relating to Inland Waterways Trust Fund) are hereby repealed.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 9506. Inland Waterways Trust Fund."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on April 1, 1986.

(2) INLAND WATERWAYS TRUST FUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Inland Waterways Trust Fund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Inland Waterways Trust Fund established by section 203 of the Inland Waterways Revenue Act of 1978. Any reference in any law to the Inland Waterways Trust Fund established by such section 203 shall be deemed to include (wherever appropriate) a reference to the Inland Waterways Trust Fund established by this section.

SEC. 805. SAINT LAWRENCE SEAWAY EXPENDITURES AND REBATES OF TOLLS.

(a) IN GENERAL.—The Act of May 13, 1954 is amended—

(1) by striking out "and" at the end of paragraph (11) of section 4(a),

(2) by striking out the period at the end of paragraph (12) of section 4(a) and inserting in lieu thereof "; and",

(3) by adding at the end of section 4(a) the following new paragraph:

"(13) shall accept such amounts as may be transferred to the Corporation under section 9505(c)(1) of the Internal Revenue Code of 1954, except that such amounts shall be available only for the purpose of operating and maintaining those works which the Corporation is obligated to operate and maintain under subsection (a) of section 3 of this Act.", and

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

"REBATE OF CHARGES OR TOLLS

"SEC. 13. (a) The Corporation shall transfer to the Harbor Maintenance Trust Fund, at such times and under such terms and conditions as the Secretary of the Treasury may prescribe, all revenues derived from the collection of charges or tolls established under section 12 of this Act.

"(b)(1) The Corporation shall certify to the Secretary of the Treasury, in such form and at such times as the Secretary of the Treasury shall prescribe, the identity of any person who pays a charge or toll to the Corporation pursuant to section 12 of this Act with respect to a commercial vessel (as defined in section 4462(a)(6) of the Internal Revenue Code of 1954)

"(2) Within 30 days of the receipt of a certification described in paragraph (1), the Secretary of the Treasury shall rebate, out of the Harbor Maintenance Trust Fund, to the person described in paragraph (1) the amount of the charge or toll paid pursuant to section 12 of this Act.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1986.

SEC. 806. REPORT ON REDUCTION OR ELIMINATION OF TOLLS ON THE GREAT LAKES AND THE SAINT LAWRENCE SEAWAY.

Not later than 2 years after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall initiate discussions with the Government of Canada with the objective of reducing or eliminating all tolls on the international Great Lakes and the Saint Lawrence Seaway, and the Secretary of Transportation shall report to the Congress on the progress of such discussions and on the economic effects upon waterborne commerce in the United States of any proposed reduction or elimination in tolls.

SEC. 807. STUDY OF CARGO DIVERSION.

The Secretary of the Treasury, in consultation with the United States Customs Service and other appropriate Federal agencies, shall conduct a study to determine the impact of the port use charge imposed under section 4461(a)(1) of the Internal Revenue Code of 1954 on potential diversions of cargo to Canada and Mexico from United States ports. The report of the study shall be submitted to the Ways and Means Committee of the House of Representatives and the Committee on Finance of the United States Senate not later than 1 year from the date of the enactment of this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1985".

TITLE I

Notwithstanding any other provision of law, the Secretary of the Army (hereinafter in this Act referred to as the "Secretary"), shall, from funds appropriated, obligate no sums in excess of the sums specified in this title for the combined purpose of the "Construction, General" account and the "Flood Control, Mississippi River and Tributaries" account:

(1) For the fiscal year ending September 30, 1986, the sum of $1,300,000,000.

(2) For the fiscal year ending September 30, 1987, the sum of $1,300,000,000.

(3) For the fiscal year ending September 30, 1988, the sum of $1,300,000,000.

(4) For the fiscal year ending September 30, 1989, the sum of $1,300,000,000.

(5) For the fiscal year ending September 30, 1990, the sum of $1,300,000,000.

Nothing contained herein limits or otherwise amends authority conferred under section 10 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 621). Any amounts obligated against funds furnished or reimbursed by Federal or non-Federal interests shall not be counted against the limitation on obligations provided for in this Act.

TITLE II—GENERAL PROVISIONS

SEC. 201. (a) Prior to initiating construction of any water resources project authorized prior to this Act, in this Act, or subsequent to the Act, which is under the jurisdiction of the Secretary and which can be anticipated to provide flood control benefits, more than 10 per centum of which are produced by an increase in anticipated land values to a land owner, the Secretary shall enter into an agreement with each such owner that provides that such owner will repay to the Secretary, for deposit in the Treasury, either prior to construction or when such benefits are realized, 50 per centum of that portion of the project's costs allocated to the owner's benefits.

(b) For any study initiated by the Secretary subsequent to the enactment of this Act, the Secretary shall, if appropriate, include information in such study report on the likelihood that the requirements of subsection (a) of this section are applicable.

SEC. 202. Any report describing a project having recreation benefits that is submitted subsequent to the enactment of this Act to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or by the Secretary of Agriculture under authority of Public Law 83-566, as amended, shall describe the usage of other, similar public recreational facilities within the general area of the project, and the anticipated impact of the proposed project on the usage of such existing recreational facilities.

SEC. 203. (a) Any project, or separable element thereof, that is under the responsibility of the Secretary, and for which construction has not commenced within ten years following the date of the authorization of such project, shall no longer be authorized after such ten-year period unless the Secretary, after consultation with the affected State or States, notifies the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives that continued authorization of such project, or separable element thereof, remains needed and justified.

(b) Any project, or separable element thereof, qualifying for deauthorization under the terms of this section upon enactment of this Act or which will qualify within one year of enactment of this Act, shall not be deauthorized until such one year period has elapsed.

SEC. 204. Any study authorized by any resolution of a committee or Act of Congress to be undertaken by the Secretary is automatically rescinded and is no longer authorized if no funds are appropriated for such study within five full fiscal years following its approval.

SEC. 205. The second sentence of the definition of "works of improvement", contained in section 2 of Public Law 83-566, as amended, is further amended by adding after $250,000" the following: "but not more than $10,000,000, for any projects submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives after January 1, 1986: *Provided,* That any such project with an anticipated Federal cost exceeding $10,000,000 must be authorized by Act of Congress.".

SEC. 206. Section 2 of Public Law 83-566, as amended, is further amended by deleting the period and inserting a colon at the conclusion of the proviso, and adding the following: *"And provided further,* That each such project submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives must contain benefits directly related to agriculture that account for at least 20 per centum of the total benefits of the project.".

SEC. 207. The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives by April 1, 1987, on the feasibility, the desirability, and the public interest involved in requiring that full public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to Public Law 83-566, as amended.

SEC. 208. Subsection (a) of section 134 of Public Law 94-587 is amended to read as follows:

"(a) The Secretary of the Army, as expeditiously as possible, shall institute a procedure enabling the engineer officer in charge of each district under the direction of the Chief of Engineers to certify, at the request of non-Federal interests, that particular local improvements for flood control can reasonably be expected to be compatible with a specific, potential project then under study or other form of consideration. Such certification shall be interpreted to assure interests that they may go forward to construct such compatible improvements at non-Federal expense with the understanding that such improvements can be reasonably expected to be included within the scope of the Federal project, if later authorized, both for the purposes of analyzing the cost and benefits of the project and assessing the local participation in the noncash contribution toward such project. In no event shall this section be utilized to overturn agreements made prior to the enactment of the Water Resources Development Act of 1985.".

SEC. 209. (a) The Secretary shall undertake a program of research for the control of river ice, and to assist communities in breaking up such ice, which otherwise is likely to cause or aggravate flood damage or severe streambank erosion.

(b) The Secretary is further authorized to provide technical assistance to local units of government to implement local plans to control or break up river ice. As part of such authority, the Secretary shall acquire necessary ice-control or ice-breaking equipment, which shall be loaned to local units of government together with operating assistance, where appropriate.

(c) For the purposes of subsections (a) and (b) of this section, the sum of $5,000,000 is authorized to be appropriated to the Secretary in each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

(d) To implement further the purposes of this section, the Secretary, in consultation and cooperation with local officials, is authorized and directed to undertake a demonstration program for the control of river ice at Hardwick, Vermont. The work authorized by this subsection shall be designed to minimize the danger of flooding due to ice problems in the vicinity of such community. In the design, construction, and location of ice-control structures for this project, full consideration will be given to the recreational, scenic, and environmental values of the reach of river affected by the project, in order to minimize project impacts on these values. Full opportunity shall be given to interested environmental and recreational organizations to participate in such planning. For the purposes of this subsection, the sum of $900,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sum to remain available until expended.

(e) No later than March 1, 1988, the Secretary shall report to the Congress on activities under this section.

SEC. 210. (a) The Secretary shall, upon the request of local public officials, survey the potential and methods for rehabilitating former industrial sites, millraces, and similar types of facilities already constructed for use as hydroelectric facilities. The Secretary shall, upon request, provide technical assistance to local public agencies, including electric cooperatives, in designing projects to rehabilitate sites that have been surveyed, or are qualified for such survey, under this section.

(b) There is authorized to be appropriated to the Secretary, to implement this section, the sum of $5,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

SEC. 211. (a) Section 221(b) of the Flood Control Act of 1970 (Public Law 91-611) is

amended by deleting the period at the end thereof, inserting a colon, and adding the following: *"Provided,* That where the non-Federal interest is the State itself, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with State constitutional limitations.".

(b) The Secretary, in consultation with the Secretary of the Treasury, shall promulgate by rule provisions governing penalties and interest for any payments by non-Federal interests required pursuant to section 221(b) of the Flood Control Act of 1970 that may fall delinquent.

(c) The Secretary is authorized to determine that no funds appropriated to the Corps of Engineers for operation and maintenance, including operation and maintenance of the project for flood control, Mississippi River and Tributaries, are to be used for the particular benefit of projects within the jurisdiction of any non-Federal interest when such non-Federal interest is in arrears for more than twenty-four months in the payment of charges due under an agreement entered into with the United States pursuant to section 221(b) of the Flood Control Act of 1970 (Public Law 91-611).

SEC. 212. Notwithstanding any other provision of law, construction or modification of any project, or separable element thereof, authorized in this Act and under the responsibility of the Secretary shall not commence until the project has been studied by the Chief of Engineers and reported favorably thereon.

SEC. 213. Subject to the provisions and requirements of titles V, VI, and VII of this Act, the sums to be obligated for any project authorized by this Act shall not exceed the sum listed in this Act for the specific project, as of the month and year listed for such project (or, if no date is listed, the cost shall be considered to be as of the date of the enactment of this Act), plus such amounts, if any, as may be justified solely by reason of increases in construction costs, as determined by engineering cost indices applicable to the type of construction involved, and by reason of increases in land costs.

SEC. 214. The Secretary shall not require, under section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889), and the Federal Water Project Recreation Act, non-Federal interests to assume operation and maintenance of any recreational facility operated by the Secretary at any water resources project as a condition for the construction of new recreational facilities at such project or any other water resources project.

SEC. 215. (a) The Secretary may enter into a contract providing for the payment or recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall include the power to collect a portion of the transfer price from any transaction involving the sale, transfer, or change in beneficial ownership of lands and improvements within the district boundaries.

(b) Cost recovery pursuant to the provisions of this section shall be deemed to meet cost recovery requirements of other provisions of Federal law if the economic study required by subsection (c) of this section demonstrates that income to the Federal Government equals or exceeds that required over the term of repayment required by that cost recovery provision.

(c) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

SEC. 216. Section 202 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to all projects authorized by this Act.

SEC. 217. Section 111 of the River and Harbor Act of 1968 (82 Stat. 735, 33 U.S.C. 426i) is amended to read as follows:

"The Secretary of the Army is authorized, at his discretion, to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works: *Provided,* That a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary. The costs of implementing measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project causing the shore damage. No project shall be initiated without specific authorization by Congress if the Federal first cost exceeds $1,000,000.".

SEC. 218. (a) Notwithstanding any other provision of law, the Secretary shall not initiate the construction of any water resources project, or separable element thereof, if such project has been modified to increase any of the following project parameters by more than 25 per centum:

(1) acreage of land acquisition;

(2) linear miles of stream channel inundated;

(3) width or depth of any navigation channel;

(4) displacement of dwelling units;

(5) hydroelectric generating capacity; or

(6) linear miles of stream channelization.

(b) Not later than one hundred and eighty days after a water resource project is proposed by the Secretary to be modified in excess of the limitation described in subsection (a) of this section, the Secretary shall prepare and transmit to Congress a report identifying such project and describing the extent of the proposed modification, together with his recommendations thereon, accompanied by the views of other appropriate Federal and non-Federal agencies.

SEC. 219. (a) The Congress finds that—

(1) the Ogallala aquifer lies beneath, and provides needed water supplies to, the six States of the High Plains Region: Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas;

(2) the High Plains region has become an important source of agricultural commodities and livestock for domestic and international markets, providing 15 per centum of the Nation's supply of wheat, corn, feed grains, sorghum, and cotton, plus 38 per centum of the value of livestock raised in the United States; and

(3) annual precipitation in the High Plains region ranges from fifteen to twenty-two inches, providing inadequate supplies of surface water and recharging of the Ogallala aquifer needed to sustain the agricultural productivity and economic vitality of the High Plains region.

(b) It is, therefore, the purpose of this section to establish a comprehensive research and development program to assist those portions of the High Plains region dependent on water from the Ogallala aquifer to—

(1) plan for the development of an adequate supply of water in the region;

(2) develop and provide information and technical assistance concerning water-conservation management practices to agricultural producers in the region;

(3) examine alternatives for the development of an adequate supply of water for the region; and

(4) develop water-conservation management practices which are efficient for agricultural producers in the region.

(c) The Water Resources Research Act (Public Law 98-242) is amended by adding at the end thereof the following new title:

"TITLE III—OGALLALA AQUIFER RESEARCH AND DEVELOPMENT

"SEC. 301. (a) There is hereby established the High Plains Study Council composed of—

"(1) the Governor of each State of the High Plains region (defined for the purposes of this title as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas, and referred to herein-after in this title as the 'High Plains region'), or a designee of the Governor;

"(2) a representative of the Department of Agriculture; and

"(3) a representative of the Secretary.

"(b) The Council established pursuant to this section shall—

"(1) review research work being performed by each State committee established under section 302 of this Act; and

"(2) coordinate such research efforts to avoid duplication of research and to assist in the development of research plans within each State of the High Plains region that will benefit the research needs of the entire region.

"SEC. 302. (a) The Secretary shall establish within each State of the High Plains region an Ogallala aquifer technical advisory committee (hereinafter in this title referred to as the 'State committee'). Each State committee shall be composed of no more than seven members, including—

"(1) a representative of the United States Department of Agriculture;

"(2) a representative of the Secretary; and

"(3) at the appointment of the Governor of the State, five representatives from agencies of that State having jurisdiction over water resources, the agricultural community, the State Water Research Institute (as designated under this Act), and others with a special interest or expertise in water resources.

"(b) The State committee established pursuant to subsection (a) of this section shall—

"(1) review existing State laws and institutions concerning water management and, where appropriate, recommend changes to

improve State or local management capabilities and more efficiently use the waters of such State, if such a review is not already being undertaken by the State;

"(2) establish, in coordination with other State committees, State priorities for research and demonstration projects involving water resources; and

"(3) provide public information, education, extension, and technical assistance on the need for water conservation and information on proven and cost-effective water management.

"(c) Each State committee established pursuant to this section shall elect a chairman, and shall meet at least once every three months at the call of the chairman, unless the chairman determines, after consultation with a majority of the members of the committee, that such a meeting is not necessary to achieve the purposes of this section.

"SEC. 303. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated for this section for research in—

"(1) water-use efficiency;

"(2) cultural methods;

"(3) irrigation technologies;

"(4) water-efficient crops; and

"(5) water and soil conservation.

Funds distributed under this section shall be allocated to each State committee for use by institution of higher education within each State. To qualify for funds under this section an institution of higher education shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"SEC. 304. The Secretary shall annually divide funds authorized to be appropriated under this section among the States of the High Plains region for research into—

"(1) precipitation management;

"(2) weather modification;

"(3) aquifer recharge opportunities;

"(4) saline water uses;

"(5) desalinization technologies;

"(6) salt tolerant crops; and

"(7) ground water recovery.

Funds distributed under this section shall be allocated by the Secretary to the State committee for distribution to institutions of higher education within such State. To qualify for a grant under this section, an institution of higher education shall submit a research proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"SEC. 305. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated under this section for grants to farmers for demonstration projects for—

"(1) water-efficient irrigation technologies and practices;

"(2) soil and water conservation management systems; and

"(3) the growing and marketing of more water-efficient crops.

Grants under this section shall be made by each State committee in amounts not to exceed 85 per centum of the cost of each demonstration project. To qualify for a grant under this section, a farmer shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed project. Proposals shall be selected by the State committee on the basis of merit. Each State committee shall monitor each demonstration project to assure proper implementation and make the results of the project available to other State committees.

"SEC. 306. The Secretary, acting through the United States Geological Survey and in cooperation with the States of the High Plains region, is authorized and directed to monitor the levels of the Ogallala aquifer, and report annually to Congress.

"SEC. 307. Not later than one year after the date of enactment of this title, and at intervals of one year thereafter, the Secretary shall prepare and transmit to the Congress a report on activities undertaken under this title.

"SEC. 308. (a) For each of the fiscal years ending September 30, 1986, through September 30, 1990, the following sums are authorized to be appropriated to the Secretary to implement the following sections of this title, and such sums shall remain available until expended:

"(1) $500,000 for the purposes of section 302;

"(2) $3,000,000 for the purposes of section 303;

"(3) $1,500,000 for the purposes of section 304;

"(4) $4,000,000 for the purposes of section 305; and

"(5) $500,000 for the purposes of section 306.

"(b) Funds made available under this title for distribution to the States of the High Plains region shall be distributed equally among the States.".

SEC. 220. Whenever the Secretary transmits a report to Congress recommending implementation of a water resources development project and the Secretary determines that proceeding with advance engineering and design pending authorization of the project is in the public interest, the Secretary may initiate advance engineering and design of the project.

SEC. 221. (a) The Congress finds that increasing scientific evidence indicates the level of the oceans will rise significantly over the next seventy-five years.

(b) The Secretary, in cooperation with the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, and other appropriate Federal, State, and local agencies and the private sector, is authorized to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the prospect for long-term increases in the levels of the ocean. Such study shall include, but is not limited to—

(1) an assessment of the probability and the extent of coastal flooding and erosion;

(2) an appraisal of various strategies for managing relocation, disinvestment, and reinvestment in coastal communities exposed to coastal flooding and erosion;

(3) a summary of the legal and institutional impact of rising sea level on riparian lands; and,

(4) recommendations for new or additional criteria for Federal participation in shoreline protection projects.

(c) Within three years after the date of enactment of this Act, the Secretary shall transmit the study prepared pursuant to subsection (b) of this section, together with supporting documentation and the recommendations of the Secretary, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) For the purposes of this section, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

SEC. 222. During the design of each water resources project which has a cost in excess of $10,000,000 and which was authorized prior to, in, or subsequent to this Act and undertaken by the Secretary, on which construction has not been initiated as of the date of enactment of this Act, the Secretary shall require a review of the cost effectiveness of such design. The review shall employ cost control techniques which will ensure that such project is designed in the most cost-effective way for the life of the project.

SEC. 223. (a) In the case of any water resources preauthorization study undertaken by the Secretary, the Secretary shall prepare a feasibility report. Such feasibility report shall describe, for each alternative analyzed, the national economic development benefits and costs, the environmental quality impacts, and other impacts of concern to Federal, State, local, and international entities, including appropriate levels of non-Federal financing and the ability of non-Federal interests to contribute such levels. The feasibility report shall also include the views of other Federal agencies and non-Federal agencies with regard to the recommended plan. This subsection shall not apply to any study with respect to which a report has been submitted to Congress before the date of enactment of this Act, or for a study related to any project authorized in this Act.

(b) Before initiating any feasibility study under subsection a) of this section, if such study had not been initiated prior to enactment of this Act, the Secretary shall first perform, at Federal expense, a reconnaissance of the water resources problem in order to identify potential solutions to such problem in sufficient detail to enable the Secretary to determine whether or not planning to develop a project should proceed to the preparation of a feasibility report. Such reconnaissance shall include a preliminary analysis of the Federal interest, costs, benefits, environmental impacts of such project, and an estimate of the costs of preparing the feasibility report. The duration of a reconnaissance shall normally be no more than twelve months, but in all cases is to be limited to eighteen months.

(c)(1) The Secretary shall not initiate any feasibility study after the date of enactment of this Act until appropriate non-Federal interests agree, by contract, to contribute 50 per centum of the cost for such study during the period of such study. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies, or other inkind services necessary to prepare the feasibility report.

(2) This subsection shall not apply to any water resources study primarily designed for the purposes of navigational improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

SEC. 224. (a)(1) In the case of any water resources project authorized to be constructed by the Secretary in this Act, or authorized to be constructed by the Secretary prior or subsequent to the date of enactment of this Act, construction of which has not commenced as of the date of enactment of this Act, and which necessitates the mitigation of fish and wildlife losses, including the acquisition of lands or interests in lands to mitigate losses to fish and wildlife, as a

result of such project, such mitigation, including acquisition of the lands or interests (A) shall be undertaken or acquired before any construction of the project (other than such acquisition) commences, or (B) shall be undertaken or acquired concurrently with lands and interests in lands for project purposes (other than mitigation of fish and wildlife losses), whichever the Secretary determines is appropriate.

(2) For the purposes of this subsection, any project on which more than 50 per centum of the land needed for the project, exclusive of mitigation lands, has been acquired shall be deemed to have commenced construction under this subsection.

(b)(1) After consultation with appropriate Federal and non-Federal agencies, the Secretary is authorized to mitigate damages to fish and wildlife resulting from any water resources project under his jurisdiction, whether completed, under construction, or to be constructed, to the extent that such mitigation features cost no more than $7,500,000 per project. Such mitigation may include the acquisition of lands, or interests therein: *Provided*, That acquisition under this paragraph shall not be by condemnation in the case of projects completed as of the date of enactment of this Act or on which at least 10 per centum of the physical construction on the project has been completed as of the date of enactment of this Act: *Provided further*, That acquisition of water, or interests therein, under this paragraph, shall not be by condemnation. The Secretary, shall, under the terms of this paragraph, obligate no more than $30,000,000 in any fiscal year.

(2) Whenever after his review the Secretary determines that such mitigation features under this subsection are anticipated to cost more than $7,500,000 per project or costs less than $7,500,000 per project and are likely to require condemnation under a proviso in paragraph (1) of this subsection, the Secretary shall transmit to Congress a report on such proposed modification, together with his recommendations.

(c) Costs incurred to mitigate damages to fish and wildlife under the terms of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures, and shall be subject to cost sharing or reimbursement to the same extent as such other project costs are shared or reimbursed: *Provided*, That when such costs are covered by contracts entered into prior to the date of enactment of this Act, such costs shall not be recovered without the consent of the non-Federal interests or until such contracts are complied with or renegotiated.

(d) After the date of enactment of this Act, the Secretary shall not submit any proposal for the authorization of any water resources project to the Congress unless such report contains (1) a recommendation with a specific plan to mitigate fish and wildlife losses created by such project, or (2) a determination by the Secretary that such project will have negligible adverse impact on fish and wildlife. In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.

(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the costs of such enhancement shall be a Federal cost when such enhancement provides benefits that are determined to be national, including benefits to species that are identified by the National Marine Fisheries Service as of national economic importance, species that are subject to treaties or international convention to which the United States is a party, anadromous fish, or when such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of the Interior under the terms of the Endangered Species Act, as amended (16 U.S.C. 1531, et seq.). When benefits of enhancement do not qualify under the preceding sentence, 25 per centum of such enhancement costs shall be provided by non-Federal interests under a schedule of reimbursement determined by the Secretary, except that when benefits are limited to a single State, such non-Federal interests shall provide 33⅓ per centum of such costs.

(f) The provisions of subsections (a), (b), and (d) shall be deemed to supplement the responsibility and authority of the Secretary pursuant to the Fish and Wildlife Coordination Act, and nothing herein is intended to affect that Act.

SEC. 225. (a) The Secretary is authorized to plan, design, and construct streambank erosion control projects not specifically authorized by Congress when, in the opinion of the Secretary, such work is economically justified and environmentally acceptable. Prior to construction of any projects for this purpose, non-Federal interests shall agree to provide, without cost to the United States, all lands, easements, and rights-of-way necessary for construction and subsequent operation of the project; hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and operate and maintain the project upon completion.

(b) For the purposes of this section, the sum of $15,000,000 is authorized to be appropriated to the Secretary for each of the fiscal years beginning with the fiscal year ending September 30, 1986, through the fiscal year ending September 30, 1990. Not more than $2,000,000 shall be allotted for the construction of a project under this section at any single locality and such amount shall be sufficient to complete Federal participation in the project.

SEC. 226. (a) The Congress finds that it is necessary and cost effective to encourage as many bidders as possible for contracts to be let by the Secretary, and it is therefore the policy of Congress to direct the Secretary to prepare any proposal for the construction of a civil works project in a manner that assures, to the greatest extent reasonable, that no potential bidder shall be precluded from competing fairly for such contract because of the size of such bidder.

(b) The Secretary is further directed not to require that contractors on civil works construction projects under his direction be required to perform recordkeeping that is, by law or regulations, the responsibility of the Secretary.

SEC. 227. (a) Section 15 of the River and Harbor Act of 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended as follows:

(1) by deleting the words "voluntarily or carelessly";

(2) by deleting the words "accidentially or otherwise,"; and

(3) by inserting the words ", lessee, or operator" immediately after the word "owner" in each place it appears.

(b) Sections 19 and 20 of the River and Harbor Act of 1899 (30 Stat. 1154; 33 U.S.C. 414 and 415) are amended by inserting "(a)" in front of the first word of each section and adding the following new subsection at the end of each section:

"(b) The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be jointly and severally liable to the United States for the cost of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of said vessel shall be deposited in the general fund of the Treasury of the United States.".

SEC. 228. Section 3036(d) of title 10, United States Code, is amended by deleting the words "and may provide" and inserting in lieu thereof the following: "and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

"(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and

"(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers. The Chief of Engineers may provide".

SEC. 229. Section 14 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 408) is amended by inserting a colon in place of the period at the end of the section and inserting thereafter: "*Provided further*, That the Secretary may, on the recommendation of the Chief of Engineers, grant permission for the alteration or permanent occupation or use of any of the aforementioned public works when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.".

SEC. 230. (a) In the event of a declaration of war, the Secretary, without regard to any other provision of law, may (1) terminate or defer the construction, operation, maintenance, or repair of any Department of the Army civil works project that he deems not essential to the national defense, and (2) apply the resources of the Department of the Army's civil works program, including funds, personnel, and equipment, to construct or assist in the construction, operation, maintenance, and repair of authorized civil works, military construction, and civil defense projects that are essential to the national defense.

(b) The Secretary shall immediately notify the appropriate committees of Congress of any actions taken pursuant to the authorities provided by this section, and shall cease to exercise such authorities not later than one hundred and eighty calendar days after the termination of the state of war.

SEC. 231. Section 111 of the Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555), is amended by (1) inserting "no more than $50,000" in lieu of "$100"; and, (2) inserting a new sentence at the end thereof as follows: "In addition, the Secretary may assess a civil penalty of up to $25,000, per violation, against any person or entity that fails to provide timely, accurate statements required to be submitted pursuant to this section by the Secretary.".

SEC. 232. (a) The California Debris Commission is hereby abolished and the Act of March 1, 1893, ch. 193, (27 Stat. 507; 33 U.S.C. 661-685), as amended is hereby repealed.

(b) All of the remaining authorities, powers, functions, and duties of the Califor-

nia Debris Commission shall be transferred to the Secretary.

(c)(1) The assets, liabilities, contracts, property, and records of the California Debris Commission, the unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to the Commission, and any funds to be made available pursuant to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) in connection with the functions transferred by this Act, shall be transferred to the Secretary.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated or as provided by contract.

(3) The Secretary is hereby authorized to retain all real property interests presently under the jurisdiction of the California Debris Commission and to take such actions as are necessary to consolidate holdings and perfect title.

SEC. 233. (a) In addition to previous authorizations, there is authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin or project, that is referred to below by name and date of basic authorization, such sums as are necessary for the Secretary to complete the comprehensive plan of development.

Basin	Act of Congress
Alabama-Coosa River Basin	March 2, 1945
Arkansas River Basin	June 28, 1938
Arkansas-Red River Basin	November 7, 1966
Baltimore Harbor	December 31, 1970
Blue River Basin	December 31, 1970
Brazos River Basin	September 3, 1954
Central and Southern Florida	June 30, 1948
Columbia River Basin	May 17, 1950
Connecticut River Basin	June 22, 1936
Cottonwood Creek, California	December 31, 1970
Gulf Intracoastal Waterway, St Marks, Tampa	August 13, 1968
Mississippi River and Tributaries	May 15, 1928
Missouri River Basin	June 28, 1938
North Branch Susquehanna River Basin	July 3, 1958
Ohio River Basin	June 22, 1936
Ouachita River Basin	May 17, 1950
Red Run Drain and Lower Clinton River	December 31, 1970
Red River Waterway	August 13, 1968
Sabine River Basin	December 31, 1970
Sacramento River Basin	December 22, 1944
San Joaquin River Basin	December 22, 1944
Santa Ana River Basin	June 22, 1936
South Platte River Basin	May 17, 1950
Tampa Harbor	December 31, 1970
Trinity River Basin	October 27, 1965
Upper Mississippi River Basin	June 28, 1938
Wabash River Basin	August 13, 1968
White River Basin	June 28, 1938

(b) The sums authorized by this section include those necessary for the Secretary to complete local flood protection in the Columbia River Basin, as authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 178).

SEC. 234. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 235. Notwithstanding any provision of law, the Administrator of the General Services Administration, pursuant to the provisions of sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, may dispose of any Corps of Engineers vessel used for dredging that is declared to be in excess of Federal needs by the Secretary, together with related equipment owned by the United States and under the control of the Chief of Engineers, through sale or lease to a foreign government as part of a Corps of Engineers technical assistance program, or to a Federal or State maritime academy for training purposes, or to a non-Federal public body for scientific, educational, or cultural purposes, or through sale solely for scrap to foreign or domestic interests. Any such vessel shall not be disposed of under this section or any other provision of law for use within the United States for the purpose of engaging in dredging activities. Amounts collected from the sale or lease of any such vessel or equipment shall be deposited into the revolving fund authorized by section 101 of the Civil Functions Appropriations Act, 1954 (67 Stat. 199; 33 U.S.C. 576), to be available, as provided in appropriations Acts, for the operation and maintenance of vessels under the control of the Corps of Engineers.

SEC. 236. The Secretary shall not require any payment for waters withdrawn by a State, or its political subdivisions, or by a nonprofit entity, for municipal or industrial uses within the State of withdrawal from any Missouri River mainstem reservoir that is under the Secretary's control if the existence of the reservoir involved will not enhance the dependability of the withdrawal under conditions of one hundred year, seven day low flow in the Missouri River.

SEC. 237. Unless otherwise specified, the costs of any project or program authorized in this Act and not assigned to the purposes of commercial navigation shall be subject, as appropriate, to the cost sharing and financing provisions of titles V, VI, or VII of this Act.

TITLE III—PROJECT PROVISIONS

SEC. 301. (a) The Secretary is authorized and directed to take such action as may be necessary at a cost of $4,118,000, and substantially in accordance with the study directed by the Mobile district engineer and dated July 20, 1981, to correct erosion problems along the banks of the Warrior River in order to protect Mound State Park, near Moundville, Alabama.

(b) The Secretary is authorized to preserve and protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama, by instituting bank stabilization measures, in accordance with alternative B contained in the Mobile district engineer's design supplement report entitled "Jones Bluff Reservoir, Alabama River, Alabama, Fort Toulouse, Design Report, National Historic Landmark", dated July 1975, at a cost of $15,400,000 (October 1982).

(c) The Secretary in order to protect the cultural, economic, environmental, and historical resources of Tangier Island, Virginia, located in Chesapeake Bay, is authorized and directed to design and construct a structure approximately eight thousand two hundred feet in length on the western shore of Tangier Island, adequate to protect such island from further erosion at a cost of $5,400,000.

(d) Prior to any construction under this section, non-Federal interests shall provide without cost to the United States all necessary lands, easements, rights-of-way, and relocations, agree to operate and maintain the structures after construction, and hold and save the United States free from damages due to the construction works.

(e) Notwithstanding the provisions of this section, the Secretary shall give priority in the allocation of funds for design and construction of projects for the purposes of erosion control to projects authorized prior to the enactment of this Act.

SEC. 302. The project for hurricane-flood protection and beach erosion control along the Delaware Coast from Cape Henlopen to Fenwick Island at the Delaware-Maryland State Line, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90-483), is hereby modified by deleting hurricane-flood protection and authorizing the construction of sand bypass facilities and stone revetment erosion control measures at Indian River Inlet, Delaware, as described in the reevaluation report of the Philadelphia district engineer, dated January 1984, at a Federal cost for such additional facilities of $4,000,000 (October 1983): *Provided*, That project costs shall be allocated under the terms of section 111 of Public Law 90-483, if that is determined by the Secretary to be appropriate.

SEC. 303. (a) The Secretary is authorized to construct, at Federal expense, a set of emergency gates in the conduit of the Abiquiu Dam, New Mexico, to increase safety and enhance flood and sediment control: *Provided*, That such feature, which was eliminated during original construction due to cost constraints, shall be considered as completing the original design concept for the project.

(b) For purposes of this section, the sum of $2,500,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sums to remain available until expended.

SEC. 304. The Secretary shall promptly transfer to the responsibility of the Corps of Engineers district engineer in Albuquerque, New Mexico, those portions of the State of New Mexico that, as of the date of enactment of this Act, are under the responsibility of the district engineers in Sacramento, California, and Los Angeles, California.

SEC. 305. The Waterbury, Vermont, project in the Winooski River Basin, authorized for modification in section 10 of the 1944 Flood Control Act, approved as Public Law 78-534 of December 22, 1944, is hereby further modified to provide that restoration to the concrete work on such dam shall be undertaken by the Secretary. Nothing in this section shall be construed as altering the conditions established in the Federal Power Commission license numbered 2090, issued on September 16, 1954.

SEC. 306. The city waterway navigation channel project, Tacoma Harbor, Washington, authorized by the first section of the River and Harbor Act of June 13, 1902 (32 Stat. 347), is hereby modified to direct the Secretary to redefine the boundaries of such project in accordance with the recommendations contained in the report of the Chief of Engineers dated May 3, 1983.

SEC. 307. Section 56 of Public Law 93-251 is amended to read as follows: "The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, is authorized to pay the drainage districts and owners of leveed and unleveed tracts, in Kootenai Flats, Boundary County, Idaho, for modification to facilities, including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows or water fluctuations during drawdown and power generation operations at Libby Dam, and shall pay landowners in Kootenai Flats for erosion of their property which has occurred since commencement of the draw-

down and power generation operations at Libby Dam and as a result of those operations without regard to historic patterns of erosion, maintenance of existing levees, erosion that might otherwise have occurred without the construction of the dam; or any special and direct benefits to the lands within the project area as a result of the construction of Libby Dam, and shall control erosion caused by the duration of higher flows of water fluctuation during the drawdown and power generation operations at Libby Dam, except that the total of all such erosion payments shall not exceed $1,500,000.".

SEC. 308. The second paragraph under the center heading "BRAZOS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 641) is amended by inserting "or water supply" after "irrigation".

SEC. 309. The Pick-Sloan Missouri Basin Program shall be prosecuted, as authorized and in accordance with applicable laws including the requirements for economic feasibility, to its ultimate development on an equitable basis as rapidly as may be practicable, within the limits of available funds and the cost recovery and repayment principles established by Senate Report Numbered 470 and House of Representatives Report Numbered 282, Eighty-ninth Congress, first session.

SEC. 310. The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbors Act of 1950 (Public Law 81-516), is hereby modified to provide that the operation and maintenance of the project, and additions and modifications thereto constructed by non-Federal sponsors, shall be the responsibility of the Secretary: *Provided*, That non-Federal sponsors shall pay the initial $35,000 in cash or materials of any such cost expended in any one year, together with inflation as of the date of enactment of this Act.

SEC. 311. The project for flood protection for the Rio Grande Floodway, Truth or Consequences Unit, New Mexico, authorized by the Flood Control Acts of 1948 and 1950, is hereby modified to provide that the Secretary is authorized to construct a flood control dam on Cuchillo Negro Creek, a tributary of the Rio Grande, in lieu of the authorized floodway.

SEC. 312. (a)(1) The Congress finds that the irrigation ditch systems in New Mexico, known as the Acequia systems, date from the eighteenth century, and that these early engineering works have significance in the settlement and development of the western portion of the United States.

(2) The Congress, therefore, declares that the restoration and preservation of the Acequia systems has cultural and historic values, as well as economic values, to the region.

(b) The Secretary is authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore the river diversion structures and associated canals attendant to the operations of the community ditch and Acequia systems in New Mexico that are declared to be a political subdivision of the State of New Mexico: *Provided*, That the State of New Mexico, or other non-Federal sponsors, shall pay 25 per centum of the cost of any work undertaken under this section.

(c) For the fiscal year ending September 30, 1986, and thereafter, the sum of $40,000,000 is authorized to be appropriated to the Secretary for the purposes of subsection (b) of this section, such sums to remain available until expended.

(d) The Secretary is further authorized and directed to consider the historic Acequia systems (community ditches) of the Southwestern United States as public entities, if these systems are chartered by the respective State laws as political subdivisions of that State. This public entity status will allow the officials of these Acequia systems to enter into agreements and serve as local sponsors of water-related projects of the Secretary.

SEC. 313. (a) The Secretary is authorized to implement a program of research in order to demonstrate the cropland irrigation and conservation techniques described in the report issued by the New England division engineer, dated May 1980, for the Saint John River Basin, Maine.

(b) For the purposes of this section, there is authorized to be appropriated to the Secretary the sums of $1,825,000 in the fiscal year ending September 30, 1986, $820,000 in the fiscal year ending September 30, 1987, and $785,000 for the fiscal year ending September 30, 1988, such sums to remain available until expended.

SEC. 314. (a) Bank protection activities conducted under the Rio Grande Bank protection project pursuant to the Act of April 25, 1945 (59 Stat. 89), may be undertaken in Starr County, Texas, notwithstanding any provision of such Act establishing the counties in which such bank protection activities may be undertaken.

(b) Any bank protection activity undertaken in Starr County, Texas, pursuant to subsection (a) of this section shall be—

(1) in accordance with such specifications as may be prepared for such purpose by the International Boundary and Water Commission, United States and Mexico; and

(2) except as provided in subsection (a) of this section, subject to the terms and conditions generally applicable to activities conducted under the Rio Grande Bank protection project.

SEC. 315. (a) The Secretary, upon completion of any necessary recordation of the survey and/or plat of each townsite specified under this section, is authorized to—

(1) sell those lands and improvements in each townsite which are suitable for residential, commercial, or industrial use, all in accordance with the provisions of subsection (b) of this section;

(2) transfer, without cost, municipal facilities to the appropriate local government entity or entities; and

(3) transfer, without cost, all school buildings, facilities, related equipment, and land used for educational purposes to the appropriate school district.

(b)(1) All property authorized to be sold, at fair market value, under this section shall be offered for sale in accordance with the following:

(A) First preference shall be given to residents of improved residential properties within a townsite or to an operator of a commercial concession within a townsite for a period of thirty days to purchase the property in which they so reside or operate.

(B) In lieu thereof, said resident or operator shall have the preference, denoted as the second preference, to purchase another available improved residential or commercial lot, or an unimproved residential or commercial lot, in the same townsite for a period of thirty days which may, in the discretion of the Secretary, run concurrently with that in (A) above.

(C) Thereafter, for a period of thirty days, a preference, denoted the third preference, to purchase an available residential lot, improved or unimproved, shall be given, without difference or distinction, to project-connected employees who are eligible to be tenants of Federal housing in a townsite, to any public employees who work in a townsite, and to retired employees or their surviving spouses who, during their years of employment, lived in one of the townsites.

(D) Subsequent thereto, for an additional thirty-day period, a preference, denoted the fourth preference, to purchase improved residential property in a townsite shall be given to any person, corporation or agency agreeing to lease said property to a person or persons who has elected not to exercise a preference to purchase property under (A) or (B) above.

(E) After all preference rights have expired, the remaining property which, in the judgment of the Secretary, is suitable for development, shall be offered for sale to the public.

(F) The Secretary is further authorized to transfer, without cost, to a local government entity or entities any property not purchased under the preference rights set forth in subparagraphs (A) through (E) of this paragraph and any other remaining property within the townsite boundaries.

(2) The purchase of property pursuant to the first, second, or third preference right under subsection (b)(1) of this section shall render the purchaser and his/her spouse ineligible to purchase any other property under such preferences.

(c) When financing for purchasers of residential property under subsections (b)(1)(A) through (b)(1)(E) cannot reasonably be obtained from other sources, the Secretary may accept, in partial payment of the purchase price of the residential property, notes secured by mortgages on the property, subject to such terms and conditions as he determines appropriate: *Provided*, That the interest rate charged to the purchasers will not be more favorable than that then being charged by the Farmers Home Administration for its Single Family Rural Housing Loan Program. The Secretary may sell such notes and transfer, assign, or convey the mortgages securing such notes on terms that he deems appropriate.

(d) The Secretary is further authorized to provide temporary financial assistance to the appropriate local government entity or entities for the townsites specified in this section for a period of five years, in amounts equal to the following percentages of the entity's budget for operating expenses:

First year—100 per centum;
Second year—80 per centum;
Third year—60 per centum;
Fourth year—40 per centum; and
Fifth year—20 per centum.

(e) The Secretary is hereby authorized to perform those acts necessary to delegate authority, to prescribe such rules and regulations, and to establish such terms and conditions as he may deem appropriate for the purpose of carrying out the provisions and objectives of this section.

(f)(1) For the purposes of this section "townsite" means—

(A) the area referred to as Riverdale, North Dakota, containing eight hundred and ninety-two acres, more or less, as depicted on drawing numbered MGR160-2E1, dated November 10, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska; and

(B) the area referred to as Pickstown, South Dakota, containing three hundred

and ninety-three acres, more or less, as depicted on drawing numbered MR315-2E1, dated November 3, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska.

(2) For the purposes of this section, the terms—

(A) "local government entity" shall mean any public or quasi-public organization, including an incorporated municipality, that in the judgment of the Secretary would be able to provide any or all of those public facilities or services essential to the operation of the townsite; and

(B) "municipal facilities" shall include fire and police protection systems, waste treatment plants, water treatment and distribution facilities, parks, streets and roads, cemeteries, power distribution systems, municipal government buildings, and other property suitable for use for local municipal purposes, together with underlying lands, easements, and rights-of-way, as well as equipment, materials, and supplies therefor.

SEC. 316. (a)(1) To improve water quality and fulfill the goals of the Clean Lakes Program established in section 314 of the Clean Water Act, the Secretary is authorized to initiate a demonstration program to remove excess silt from Lake Herman, Lake County, South Dakota.

(2) For the purpose of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $5,000,000, such sum to remain available until expended.

(b) The Secretary is authorized and directed to undertake a demonstration project for the removal of silt and aquatic growth, in Lake Worth, Tarrant County, Texas, to construct silt traps and to provide other devices or equipment to prevent and abate the further deposit of sediment in Lake Worth, and to use the dredged material in the reclamation of despoiled land, and other actions necessary to the success of the demonstration, at a cost of $1,750,000 (October 1983).

(c) The Secretary is authorized and directed to conduct mitigation activities recommended in the 1982 Environmental Protection Agency diagnostic feasibility study for Gorton's Pond in Warwick, Rhode Island. Activities will include the installation of retention basins, the dredging of inlets and outlets in recommended areas and the disposal of dredge material, and weed harvesting and nutrient inactivation. For purposes of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $730,000, such sum to remain available until expended.

SEC. 317. (a) The Secretary, after consultation with the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the United States Fish and Wildlife Service, and other appropriate governmental agencies, and the National Research Council of the National Academy of Sciences, is authorized and directed to undertake studies to identify the impacts on the United States of potential Canadian tidal power development in the Bay of Fundy, and submit such studies to the appropriate committees of the Congress.

(b) The Secretary shall conduct the studies authorized in subsection (a) of this section in two phases:

(1) Studies to be completed not later than October 1, 1986, to (A) identify effects of any such projects on tidal ranges and resulting impacts to beaches and estuarine areas, and (B) identify further studies which would be needed to meet the requirements of paragraph (2) of this subsection; and

(2) Studies to be completed not later than October 1, 1989, to (A) determine further environmental, social, economic, and institutional impacts of such tidal power development, and (B) determine what measures could be taken in Canada and the United States to offset or minimize any adverse impacts of such development on the United States.

(c) In the fiscal year ending September 30, 1986, or in any fiscal year thereafter, there is authorized to be appropriated to the Secretary the sum of $1,100,000 for the purposes of subsection (b)(1) of this section, and the sum of $8,900,000 for the purposes of subsection (b)(2) of this section, such sums to remain available until expended.

SEC. 318. (a)(1) Downstream recreation on the Gauley River is declared to be an additional project purpose of the Summerville Lake project, West Virginia, under the direction of the Secretary. Releases at times and levels (minimum two thousand four hundred cubic feet per second) suitable for such recreation shall commence on the first weekend after Labor Day of each year and continue during each weekend thereafter (and during such weekday periods as the Secretary finds appropriate) for approximately five weeks.

(2) Releases shall also be made at other times during the year as appropriate: *Provided*, That such releases are not injurious to other purposes of the Summerville Lake project. The Secretary shall schedule such releases as early as practical and provide adequate advance public notice of such whitewater release.

(b) The Secretary may temporarily suspend (for such period as may be necessary) or modify any release required under subsection (a)(1) of this section or scheduled under subsection (a)(2) of this section when necessary for purposes of flood control or any other project purpose, or for reasons of public health and safety.

SEC. 319. The three flood water control structures on the Johns Creek tributary and the program of land treatment for erosion and sediment control in the Nonconnah Creek Basin, Tennessee, are authorized to be constructed in accordance with the recommendations contained in the joint report of the district engineer and the State conservationist contained in Senate Document 95-96, at a total cost of $24,065,300 (June 1984).

SEC. 320. The Secretary is authorized to participate with appropriate non-Federal sponsors in a project to demonstrate, on an expedited basis, the feasibility of non-Federal cost sharing for rural flood protection under the provisions of sections 212 and 215 and title VII of this Act and section 134 of Public Law 94-587, as amended. Such project shall consist of channel restoration and improvements on the James River in South Dakota, and may include consideration of offstream storage, small impoundments on tributaries, and other features identified by the Secretary to alleviate flood damage and to regulate flows on such river, at a total cost not to exceed $20,000,000: *Provided*, That the Secretary shall report to Congress no later than September 30, 1988, on the extent to which additional features may be required to alleviate flood damage and regulate flows on such river.

SEC. 321. The last sentence under the center heading "ARKANSAS-RED RIVER BASIN" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall be initiated in the Red River Basin in accordance with the recommendations regarding general design memorandum numbered 25 by the director of civil works on behalf of the Chief of Engineers, dated August 8, 1977. Based on such recommendations, the Chief of Engineers shall issue a Report no later than December 31, 1985: *Provided*, That for the purposes of this Act, general design memorandum numbered 25 shall be considered the Report of the Chief of Engineers if no such Report has been issued by December 31, 1985. Cost sharing for construction initiated under this section shall be the same as the cost sharing for area VIII of this project.".

SEC. 322. The project on Milk River for local flood protection at Havre, Montana, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 897), is hereby modified to authorize the Secretary to reconstruct or replace, whichever he determines necessary and appropriate, the water supply intake weir of the city of Havre, Montana, at a cost of $1,400,000.

SEC. 323. The Secretary is authorized and directed to improve public access to, and lessen a health and safety hazard, at Pearson-Skubitz Big Hill Lake, Kansas, by upgrading existing roads to the extent feasible acquiring additional rights-of-way, and constructing new roads as required, at a cost of $3,000,000.

SEC. 324. That portion of the Hudson River in the New York Bay lying within the area described in Senate Report 98-340 for section 326 is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States, except for the purposes of the Federal Water Pollution Control Act.

SEC. 325. (a) The portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1189), which is to be located on the Sangamon River, Illinois, about one mile upstream from Decatur, Illinois, and which is known as the William L. Springer Lake project is not authorized after the date of enactment of this Act.

(b) Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, before any lands acquired by the United States for the William L. Springer Lake project referred to in subsection (a) of this section are sold or otherwise disposed of or used for any purpose other than to carry out such project, such lands shall first be made available for purchase by the city of Decatur, Illinois, at the price at which such lands were acquired by the United States: *Provided*, That such lands remain in public ownership for use for public purposes, and that if any of such lands are not so owned or used, then such lands shall revest in the United States.

SEC. 326. Section 108(k) of Public Law 93-251, as amended, is amended further by striking the figure "$103,522,000" and inserting in lieu thereof "$156,122,000".

SEC. 327. For purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (33 U.S.C. 551 et seq.), the Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles up-

stream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge for all purposes of such Act. The Secretary of Transportation is authorized to reimburse the bridge owner for work done prior to the date of enactment of this section which work, under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), would be the responsibility of the United States if performed after the date of enactment of this section: *Provided,* That any reimbursement under this section shall not exceed $450,000.

SEC. 328. (a) The Secretary is authorized to undertake the following reconnaissance studies in the State of Utah in order to determine if improvements for the purposes of flood control and related purposes are economically and environmentally justified, then report on such studies to Congress:

(1) the Provo River, from the mouth of Provo Canyon to Utah Lake;

(2) the existing levees along Utah Lake from the Provo River south along Interstate Highway 15;

(3) Interstate Highway 15, adjacent to Utah Lake;

(4) Rock, Little Rock, and Slate Canyons in the city of Provo;

(5) the Bear River, its tributaries and outlets;

(6) the Weber River, its tributaries and outlets; and

(7) the Sevier River, its tributaries and outlets.

(b) For the purposes of this section, the sum of $1,600,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sums to remain available until expended.

SEC. 329. Section 110(f) of the River and Harbor Act of 1958 (72 Stat. 303), as amended, is amended further by striking the figure "$6,528,000" and substituting the figure "$13,195,000".

SEC. 330. (a) The comprehensive plan for the control of floodwaters in the Connecticut River Basin, Vermont, New Hampshire, Massachusetts, and Connecticut, authorized by section 5 of the Flood Control Act of 1936 (49 Stat. 1570, 1572), as amended, is amended further to authorize and direct the Secretary to design, construct, operate, and maintain facilities at Townshend Dam, West River, Vermont, to enable upstream migrant adult Atlantic salmon to bypass that dam and Ball Mountain Dam, Vermont, and to provide at both Townshend and Ball Mountain Dams facilities as necessary for the downstream passage of juvenile Atlantic salmon.

(b) Prior to construction of the work authorized by this section, non-Federal interests shall agree to hold and save the United States harmless for any damages incurred in the construction and operation of such fish-passage facilities, and provide all lands, easements, rights-of-way, and relocations as may be reasonably necessary for the construction and operation of the fish-passage facilities.

(c) There is authorized to be appropriated to the Secretary in the fiscal year ending September 30, 1986, or thereafter, the sum of $1,000,000 for the construction of facilities authorized by this section, such sums to remain available until expended.

SEC. 331. (a) The Secretary is authorized, and upon the request of any appropriate State or local authority in the Washington metropolitan area in Maryland, to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at any other point on such water system, to any such appropriate State or local authority. All of the expenses of installing a connection or connections and appurtenances thereto, and any subsequent changes therein, as may be necessary to make such delivery of water, shall be paid by the requesting entity, which shall also pay those charges for the use of such water as may be determined from time to time, in advance, by the Secretary. Payments shall be made at such time and under such regulations as the Secretary may prescribe. The Secretary may revoke at any time any permit for the use of water which may have been granted.

(b) The Secretary is authorized to purchase water from any appropriate State or local authority in the Washington metropolitan area in Maryland which has completed a connection with the District of Columbia water system. The Secretary is authorized to pay charges as may be agreed upon, for the use of such water by the Secretary.

SEC. 332. Section 44 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12) is amended by striking subsection (b)(2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section, including the Olson 2d addition, shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreational purposes: *Provided,* That the park commission may designate a portion of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereof. The Secretary of the Army is authorized to execute and file an amended deed to reflect the provisions of this Act.".

SEC. 333. The authorization for the Lake Brownwood modification project, Pecan Bayou, Texas, contained in the Flood Control Act of 1968 (Public Law 90-483), is hereby terminated.

SEC. 334. For purposes of this Act, work authorized by section 111 of Public Law 97-88 (95 Stat. 1138) shall be considered as a nonseparable element of the flood control project for Minot, North Dakota, authorized under section 201 of the Flood Control Act of 1965.

SEC. 335. (a)(1) For the multiple purposes of preserving, enhancing, interpreting, and managing the water and related land resources of an area containing unique cultural, fish and wildlife, scenic and recreational values and for the benefit and enjoyment of present and future generations and the development of healthful outdoor recreation, there is hereby established the Cross Florida National Conservation Area (hereinafter in this section referred to as the "Conservation Area").

(2) The Conservation Area shall consist of all lands and interests in lands held by the Secretary for the barge canal project referred to in subsection (b) of this section, all lands and interests in lands held by the State of Florida or the Canal Authority of such State for such project, and all lands and interests in lands held by such State or such Canal Authority and acquired pursuant to section 104 of the River and Harbor Act of 1960.

(3) Subject to the provisions of subsection (c) of this section, the State of Florida shall retain jurisdiction and responsibility over water resources planning, development, and control of the surface and ground waters pertaining to the Conservation Area, except to the extent that any uses of such water resources would be inconsistent with the purposes of this section.

(b) In order to further the purposes set forth in subsection (a)(1) of this section, the portion of the high-level lock barge canal from the Saint Johns River across Florida to the Gulf of Mexico, authorized by the Act of July 23, 1942 (56 Stat. 703), which is located between the Eureka Dam and the Inglis Dam (exclusive of such dams), is not authorized after the date this subsection becomes effective, and shall not be authorized without a further Act of Congress enacted after the date this subsection becomes effective.

(c) Those portions of the barge canal project referred to in subsection (a) of this section, which are located between the Gulf of Mexico and the Inglis Dam and between the Atlantic Ocean and the Eureka Dam shall be operated and maintained by the Secretary for the purposes of navigation, recreation, fish and wildlife enhancement, and for the benefit of the economy of the region.

(d)(1) Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the United States Forest Service, the United States Fish and Wildlife Service, and the State of Florida, shall develop, transmit to Congress, and begin implementation of a comprehensive management plan with respect to lands (including water areas) located in the Conservation Area.

(2) Such plan shall, at a minimum, provide for—

(A) enhancement of the environment;

(B) conservation and development of natural resources;

(C) conservation and preservation of fish and wildlife;

(D) scenic and recreational values;

(E) a procedure for the prompt consideration of applications for easements across Conservation Area lands, when such easements are requested by local or State governmental jurisdictions for a public purpose; and

(F) preservation and enhancement of water resources and water quality, including ground water.

(3) Such plan shall establish, among the Secretary, the Forest Service, the Fish and Wildlife Service, and the State of Florida, responsibility for its implementation.

(4) The Secretary shall transmit recommendations for protecting and enhancing the values of the Conservation Area to Congress, together with such plan.

(5) Until transmittal of such plan to Congress, the Secretary shall operate, maintain, and manage the lands and facilities held by the Secretary for the barge canal project referred to in subsection (b), other than those lands described in subsection (c).

(6) The Secretary shall consult and cooperate with other department and agencies of the United States and the State of Florida in the development of measures and programs to protect and enhance water resources and water quality with the Conservation Area.

(e) The Secretary shall operate the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 703), in a manner which will assure the continuation of the reservoir known as Lake Ocklawaha. The Secretary shall not operate the Eureka Lock and Dam

in a manner which would create a reservoir on lands not flooded on January 1, 1984.

(f)(1) The Secretary shall acquire all lands and interests in lands held on the date of the enactment of this Act by the Canal Authority of the State of Florida for the barge canal project referred to in subsection (b). For acquisition of such lands and interests in lands, the Secretary shall pay the purchase price paid by the Canal Authority, plus interests compounded annually at the average rate at which the Canal Authority borrowed funds for project purposes over the total period of financial commitment by the Canal Authority. In addition, the Secretary shall reimburse the Canal Authority for the purchase price paid by the Canal Authority for any lands and interests in lands for such project, which lands and interests were transferred to the Secretary before the date of the enactment of this Act. The Secretary shall operate, maintain, and manage the lands and facilities acquired under this subsection.

(2) From amounts received under paragraph (1) of this subsection, the Canal Authority shall make payments to the counties of Duval, Clay, Putnam, Marion, Levy, and Citrus. Such payments shall, in the aggregate, be equal to $32,000,000. The amount of payment under this paragraph to each such county shall be determined by multiplying such aggregate amount by the amount of ad valorem taxes paid to the Cross Florida Canal Navigation District by such county and dividing such product by the amount of such taxes paid by all such counties.

(g) Subsection (b) shall not become effective until—

(1) the State of Florida enacts a law which assures that, on and after the date on which construction of the portion of the barge canal project referred to in subsection (b) is no longer authorized, all lands and interests in lands held by the State of Florida or the Canal Authority of such State and acquired pursuant to section 104 of the River and Harbor Act of 1960 will continue to be held by such State or Canal Authority, as the case may be, to carry out the objectives of this section;

(2) the State of Florida enacts a law which assures that, on and after such date, the State of Florida will never transfer to any person (except the Federal Government) any lands owned by such State and contained within the expanded boundary of the Ocala National Forest as proposed and shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia; and

(3) the State of Florida enacts a law which assures that, on and before such date, the interests in the lands described in paragraph (1) held by the State of Florida is sufficient to carry out the purposes of this section.

SEC. 336. In order to alleviate a navigational hazard in the Seekonk River in Providence, Rhode Island, the Secretary is authorized to demolish and remove the center span of the India Point Railroad Bridge. For the purpose of this section, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $500,000, such sum to remain available until expended. Revenue derived from the sale of scrap from this structure shall be deposited to the general fund of the Treasury.

TITLE IV—DAM SAFETY

SEC. 401. (a) Section 1 of Public Law 92-367 (86 Stat. 506) is amended by replacing the final period with a comma and inserting the following after the comma: "unless such barrier, due to its location or other physical characteristics, is likely to pose a significant threat to human life or property in the event of its failure.".

(b) Public Law 92-367 is further amended by inserting after section 6 the following sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army (hereafter in this Act referred to as the 'Secretary'), $13,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990. Sums appropriated under this section shall be distributed annually among those States on the following basis: One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost of implementing an approved dam safety program in such State.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

"(1) a procedure, whereby, prior to any construction the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been constructed and will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every five years, except that such inspections shall be required at least every three years for any dam the failure of which is likely to result in the loss of human life;

"(4) a procedure for more detailed and frequent safety inspections, when warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary emergency funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under section 9 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

"SEC. 9. (a) There is authorized to be established a National Dam Safety Review Board (hereinafter in this Act referred to as the 'Board'), which shall be responsible for reviewing and monitoring State implementation of this Act. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section.

"(b) The Board shall consist of seven members selected for their expertise in dam safety, to represent the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, the Federal Emergency Management Agency, and the Department of Agriculture, plus two members, selected by the President, from employees or officials of States having an approved program under section 8 of this Act.

"SEC. 10. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 11. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $500,000 during each of the fiscal years ending September 30, 1986, through September 30, 1990.

"SEC. 12. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States and the Congress of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

"SEC. 13. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act. For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary $500,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.".

"SEC. 14. No funds authorized in this Act shall be used to construct or repair any Federal or non-Federal dam."

SEC. 402. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility.

SEC. 403. This title shall be known as the "Dam Safety Act of 1985".

TITLE V—INLAND NAVIGATION

SEC. 501. (a) One-half of the cost of construction of the navigation lock and dam projects authorized in sections 502 and 504(e)(1) of this title, shall be paid only from amounts appropriated out of the general fund of the Treasury. One-half of such cost shall be paid only from amounts appropriated out of the Inland Waterways Trust Fund established pursuant to section 203 of Public Law 95-502.

SEC. 502. The following works of improvement to the inland waterways of the United States are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the figures listed in this title shall be subject to the limitations provided under sections 212, 213, and 218 of this Act:

(1) Oliver lock replacement, Black Warrior-Tombigbee Rivers, Alabama: Report of the Chief of Engineers, dated September 26, 1984, at a total cost of $147,211,000 (October 1984);

(2) Gallipolis locks and dam replacement, Ohio River, Ohio and West Virginia: Report of the Chief of Engineers dated April 8, 1982, at a total cost of $256,000,000 (October 1984);

(3) Bonneville lock and dam, Oregon and Washington-Columbia River and Tributaries Interim Report: Reports of the Chief of Engineers dated March 14, 1980, and February 10, 1981, at a total cost of $191,020,000 (October 1984);

(4) Lock and dam 7 replacement, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated September 24, 1984, at a total cost of $95,100,000 (October, 1984); and

(5) Lock and dam 8 replacement, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated September 24, 1984, at a total cost of $68,000,000 (October, 1984).

SEC. 503. (a) The Secretary is authorized to reimburse the State of New York for 50 per centum of the cost of operating, maintaining, and rehabilitating the New York State Barge Canal: *Provided,* That control and operation of such canal shall continue to reside with the State of New York: *And provided further,* That the Federal contribution to the costs of rehabilitating the New York State Barge Canal shall be limited in any fiscal year to $5,000,000, or 50 per centum of the expenditures in that fiscal year, whichever is the lesser.

(b) For the purposes of this section, the New York State Barge Canal is defined to be—

(1) the Erie Canal, which connects the Hudson River at Waterford with the Niagara River at Tonawanda;

(2) the Oswego Canal, which connects the Erie Canal at Three Rivers with Lake Ontario at Oswego;

(3) the Champlain Canal, which connects the easterly end of the Erie Canal at Waterford with Lake Champlain at Whitehall; and

(4) the Cayuga and Seneca Canals, which connect the Erie Canal at a point near Montezuma with Cayuga and Seneca Lakes and through Cayuga Lake and Ithaca and through Seneca Lake with Montour Falls.

SEC. 504. (a) To ensure the coordinated development and enhancement of the Upper Mississippi River System, the Congress declares that the purpose of this section is to recognize such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that such System provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

(b) For purposes of this section—

(1) the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this section referred to as the "Act of October 21, 1978"; and

(2) the terms "Upper Mississippi River System" and "System" mean those river reaches having commercial navigation channels on the following rivers: the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; the Black River, Wisconsin; the Saint Croix River, Minnesota and Wisconsin; the Illinois River and Waterway, Illinois; and the Kaskaskia River, Illinois.

(c)(1) The Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(2) Section 101 of the Act of October 21, 1978, is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

(d)(1) The Congress hereby gives its consent to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements.

(2) Each officer or employee of the United States responsible for management of any part of the System is authorized in accordance with such officer's or employee's legal authority to assist and participate, when requested by any agency established under paragraph (1) of this subsection, in programs or deliberations of such agency.

(e) Notwithstanding the provisions of Section 212 of this Act, but subject to the provisions of section 213 and 218 of this Act, the Secretary is authorized to provide for the engineering, design, and construction, at a total cost of $220,000,000 (October 1984), of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri. Such second lock, shall be one hundred and ten feet by six hundred feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502.

(f)(1) The Secretary, acting in consultation with the Secretary of Transportation and the States in the System, shall monitor traffic movements on the System for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluations so as to verify the need for future capacity expansion of the System as well as the future need for river rehabilitation and environmental enhancement.

(2) There are authorized to be appropriated to the Secretary for the first fiscal year beginning after the date of enactment of this Act, and for each of nine fiscal years following thereafter, such sums as may be necessary to carry out paragraph (1) of this subsection.

(g)(1) The Secretary of the Interior, in concert with any appropriate State agency, is authorized to undertake with respect to the Upper Mississippi River System, substantially in accordance with the recommendations of the master plan—

(A) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enhance, or rehabilitate acquatic and terrestrial habitats lost or threatened as a result of man-induced activities or natural factors;

(B) the implementation of a long-term resource monitoring program; and

(C) the implementation of a computerized inventory and analysis system.

(2) For the purposes of carrying out subparagraph (g)(1)(A) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $8,200,000 for the fiscal year beginning after the date of enactment of this Act, not to exceed $12,400,000 for the second fiscal year beginning after the date of enactment of this Act, and not to exceed $13,000,000 for each of the succeeding eight fiscal years.

(3) For purposes of carrying out subparagraph (g)(1)(B) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $7,680,000 for the first fiscal year beginning after the date of enactment of this Act and not to exceed $5,080,000 for each of the succeeding nine fiscal years.

(4) For the purposes of carrying out subparagraph (g)(1)(C) of this subsection, there are authorized to be appropriated to the Secretary of the Interior—

(A) not to exceed $40,000 for the first fiscal year beginning after the date of enactment of this Act;

(B) not to exceed $280,000 for the second fiscal year beginning after the date of enactment of this Act;

(C) not to exceed $1,220,000 for the third fiscal year beginning after the date of enactment of this Act; and

(D) not to exceed $775,000 for each of the succeeding seven fiscal years.

(h)(1) The Secretary of the Interior, in consultation with the Secretary and working through an agency, if any, established by the States for management of the System under subsection (d) of this section, is authorized to implement a program of recreational projects for the System and to conduct an assessment of the economic benefits generated by recreational activities in the System.

(2) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act, and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $300,000 for the first and second fiscal years and $150,000 for the third fiscal year beginning after the computerized inventory and analysis system implemented pursuant to subsection (g)(1)(C) of this section is fully functional.

(i) None of the funds appropriated pursuant to the authorization contained in subsections (g) and (h) of this section shall be considered to be attributable to commercial navigation.

(j) This section may be cited as the "Upper Mississippi River System Management Act of 1985".

TITLE VI—HARBOR CONSTRUCTION

SEC. 601. (a) Following the date of enactment of this Act, the Secretary shall not initiate studies on any proposed commercial channel or harbors project or plan until an appropriate non-Federal sponsor has contracted with the Secretary to pay 50 per centum of the cost of such study in accordance with the provisions of this Act.

(b)(1) A non-Federal sponsor may on its own undertake such a study and submit it to the Secretary. To assist non-Federal sponsors, the Secretary shall, as soon as practicable, promulgate guidelines for studies of commercial channels or harbors to provide sufficient information for the formulation of studies.

(2)(A) The Secretary shall review all such studies submitted by non-Federal sponsors under paragraph (b)(1) of this subsection for the purpose of determining whether or not such studies were carried out in accordance with the guidelines promulgated under such paragraph and developed in compliance with Federal laws and regulations applicable to Federal navigation projects.

(B) Not later than one hundred and eighty days after receiving any study under the terms of paragraph (b)(1) of this subsection, the Secretary shall transmit to the Congress in writing the results of such study and any recommendations the Secretary may have concerning the possible authorization of the project described in such study.

(3) The costs of any study under this subsection shall be a non-Federal responsibility, except that whenever such a study results in the construction of a project by the Secretary, 50 per centum of the cost of such study shall be credited toward the non-Federal sponsor's cost-sharing requirement for construction under the terms of section 602(b) of this title.

SEC. 602. (a) For the purposes of cooperative financial development of projects for commercial channel or harbor construction initiated after January 1, 1985, the Secretary shall initiate no such construction project unless an appropriate non-Federal sponsor agrees to construct at its own expense all project facilities other than those for general navigation and by contract to provide during the period of the construction of such project, or separable element thereof, the following percentages of the construction cost for general navigation facilities of the project, or separable element thereof, assigned to commercial navigation based on the depths below mean low water listed herein:

(1) no deeper than twenty feet: 10 per centum;

(2) deeper than twenty feet but less than, or equal to, forty-five feet: 25 per centum; and

(3) deeper than forty-five feet: 50 per centum.

(b)(1) In addition to the sums required to be paid during the period of construction under the terms of subsection (a) of this section, each non-Federal sponsor shall contract with the Secretary to repay to the United States, over a period not to exceed thirty years following completion of the project or element, 10 per centum of the total cost of construction of general navigation facilities for the project assigned to commercial navigation, with interest at a rate determined by the Secretary of the Treasury. In determining such rate of interest, the Secretary of the Treasury shall consider the average market yields during the year preceding such calculation on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds are first disbursed, plus a premium of one-eighth of one percentage point for transaction costs: *Provided*, That the Secretary of the Treasury shall recalculate the rate of interest every five years. Funds paid under this paragraph shall be deposited in the general fund of the Treasury.

(2) Under the terms of this subsection, the Secretary may permit a non-Federal sponsor to include toward sums to be reimbursed all or part of the value of any lands, easements, rights-of-way, and dredged material disposal areas and relocations contributed or expended by the non-Federal public sponsor as a part of such project.

(c) For purposes of this section, a project shall be deemed to have commenced construction if, as of December 31, 1984, the non-Federal sponsor entered into a written contract with the Secretary to provide local cooperation required pursuant to the project authorization, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended.

(d) Prior to initiation of construction pursuant to this section, the Secretary and the non-Federal sponsor shall enter into a cooperative agreement according to procedures set forth in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501). The non-Federal sponsor shall agree to—

(1) provide to the Federal Government lands, easements, and rights-of-way, and to provide dredged material disposal areas and perform the necessary relocations required for construction, operation, and maintenance of such project;

(2) hold and save the United States free from damages due to the construction or operation and maintenance of such project except for damages due to the fault or negligence of the United States or its contractors;

(3) provide to the Federal Government the non-Federal share of all other costs of construction of such projects; and

(4) on projects constructed by the Secretary to depths greater than forty-five feet below mean low water following enactment of this Act, be responsible for 50 per centum of the incremental maintenance below forty-five feet below mean low water.

SEC. 603. (a) Nothing in this title shall be construed to prohibit or otherwise interfere with the Secretary or other Federal authority to operate, maintain, or improve any harbor for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and material.

(b) Whenever the Secretary undertakes improvements to a harbor, the Secretary may reduce proportionally the percentage share required by the non-Federal sponsor relating to the portion of traffic that provides direct benefits to such national defense requirements of the United States.

SEC. 604. (a) In addition, to projects undertaken pursuant to section 602 of this title, any non-Federal sponsor is authorized to undertake navigational improvements in commercial channels or harbors of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

(b) When requested by an appropriate non-Federal sponsor the Secretary is authorized to undertake all necessary studies and engineering for any construction to be undertaken under the terms of subsection (a) of this section, and assist in obtaining all necessary permits: *Provided*, That the non-Federal sponsor contracts with the Secretary to furnish the United States funds for such studies and engineering during the period that they are conducted.

(c) The Secretary is authorized to complete and transmit to the appropriate non-Federal sponsor any study for improvements to commercial channels or harbors of the United States which were initiated prior to the date of enactment of this Act, or, upon the request of such non-Federal sponsor, to terminate such study and transmit such partially completed study to the non-Federal sponsor. Studies under this subsection shall be completed without regard to the requirements of subsection (b) of this section.

(d) On any activity undertaken pursuant to subsection (a) of this section, the non-Federal sponsor shall provide 50 per centum of the costs expended on any relocation and alteration of existing pipelines, cables, and related facilities (but not to include any cost for upgrading or improvements to such pipelines, cables, and related facilities necessary for the construction of harbors), and the owner of such existing pipeline, cables, and related facility shall provide 50 per centum.

(e) Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal sponsor an amount equal to the estimate of Federal share, without interest, of the cost of any commercial channel or harbor improvement, or separable element thereof, constructed under the terms of this section if, subsequent to authorization of the project and prior to initiation of construction of the project or separable element thereof, the Secretary approves the plans of construction of such project by such non-Federal sponsor and if such non-Federal sponsor

enters into an agreement to pay the non-Federal share, if any, of the cost of operation and maintenance of such project. The Secretary shall regularly monitor and audit any project for a commercial channel or harbor constructed under this subsection by a non-Federal sponsor in order to ensure that such construction is in compliance with the plans approved by the Secretary, and that costs are reasonable. In reviewing such plans, the Secretary shall consider budgetary and programmatic priorities, potential impacts on the cost of dredging projects nationwide, and other factors that the Secretary deems appropriate.

(f) Whenever a non-Federal sponsor constructs improvements to any harbors, the Secretary shall be responsible for maintenance to forty-five feet below mean low water, and 50 per centum of the costs of incremental maintenance below forty-five feet below mean low water: *Provided*, That the Secretary certifies that the project is constructed in accordance with appropriate engineering and design standards.

SEC. 605. (a) The Secretary, upon receipt from an appropriate non-Federal sponsor of a written notice of intent to construct improvements in the commercial channels or harbors, shall initiate procedures to establish a schedule of compliance for the purpose of joint processing of all Federal permits required prior to initiation of such construction activities.

(b)(1) Within fifteen days of the receipt of correspondence under the terms of subsection (a) of this section, the Secretary shall publish such notice in the Federal Register. The Secretary shall also notify in writing all State and local agencies that may be required to issue permits for construction of such improvements and related activities that such construction is proposed. The Secretary shall solicit the cooperation of such agencies and request that they also become parties to a memorandum of agreement (hereinafter in this Act referred to as the "agreement"). If within thirty days following publication of notice in the Federal Register any such agency advises the Secretary in writing of its willingness to become a signatory to the agreement, the Secretary shall include such agency in the agreement.

(2) Within ninety days of the Secretary's receipt of the correspondence described in subsection (a) of this section, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any State or local agencies which have notified the Secretary in writing shall enter into the agreement with the Secretary to establish a schedule of compliance with the necessary Federal permits required for undertaking such improvements. The schedule of compliance shall not exceed two years from the date of the agreement.

(c)(1) The agreement shall, to the extent possible, consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting process with data collection and analysis associated with the feasibility study conducted by the non-Federal sponsor. The agreement will also detail the non-Federal sponsor's responsibilities with respect to data development, and information necessary to process each permit, including a schedule of dates when such information and data will be provided to the appropriate Federal, State, or local agency.

(2) Such agreement shall also include a scheduled date by which the Secretary, taking into consideration the views of all of the affected Federal agencies, shall determine whether there is a reasonable likelihood the necessary permit or permits will not be issued, in which case the Secretary shall so notify the appropriate non-Federal sponsor. The Secretary may revise the agreement only once to extend the schedule of compliance for a period not to exceed one hundred and twenty days for the purpose of allowing the non-Federal sponsor to revise the original application to meet the objectives of the Federal agencies.

(d) Six months prior to the final day of the schedule the Secretary shall provide to Congress a written progress report. The report shall be transmitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Public Works and Transportation of the United States House of Representatives. The report will summarize all work completed in accordance with the agreement and shall include a detailed work plan which shall assure completion of all remaining work in accordance with the agreement.

(e) Not later than the final day of the compliance schedule, the Secretary shall notify the non-Federal sponsor as to whether the permit or permits are issued.

(f) Not later than March 1, 1987, the Secretary shall prepare and trasmit to the Congress a report describing the amount of time required to issue Federal environmental permits related to construction of improvements to commercial channels or harbors. The Secretary shall include in such report recommendations for reducing the amount of time required to issue such permits, including any proposed changes in existing law.

SEC. 606. (a) Notwithstanding any other provision of law, any appropriate non-Federal sponsor, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for construction under the terms of section 602 or 604 of this title, together with its costs for incremental maintenance work undertaken pursuant to section 602(d)(4) or 604(f) of this title, and associated administrative expenditures, by the collection of fees for use of such projects by vessels in commercial waterway transportation. Such fees shall be established after a public hearing held pursuant to applicable law or procedure, shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel, and shall be used only for the purposes of paying for the non-Federal share of the cost of construction and any incremental maintenance work under the terms of section 602(d)(4) or 604(f) of this title.

(b) Fees authorized by this section shall not be imposed on—

(1) vessels not engaged in commercial activity which are owned by, or under bareboat charter or time charter to, or for any purpose under the control or custody of the United States, or any of its officers, agents, employees, or of any corporation wholly owned by the United States;

(2) vessels not engaged in commercial activity that are owned by, or under bareboat charter or time charter to, any other nation, or any of its officers, agents, employees, or of any corporation wholly owned by such other nation;

(3) vessels used by a State, or political subdivision thereof, transporting persons or property in the business of the State or political subdivision and not engaged in commercial service;

(4) vessels engaged in dredging activities or in intraport movements; and

(5) vessels with design drafts of fourteen feet or less when utilizing projects within the terms of sections 602(a) (2) and (3) of this title.

SEC. 607. (a) There are authorized to be appropriated out of the Harbor Maintenance Trust Fund, established pursuant to part B of title VIII of this Act, for each fiscal year such sums as may be necessary to pay—

(1) 100 per centum of the eligible operations and maintenance costs of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation for such fiscal year; and

(2) not more than 40 per centum of the eligible operations and maintenance costs assigned to commercial navigation of—

(A) all commercial channels and harbors within the United States; and

(B) all Great Lakes navigation improvements operated or maintained by the Secretary.

(b) There are authorized to be appropriated out of the General Fund of the Treasury of the United States for each fiscal year such sums as may be necessary to pay the balance of all eligible operations and maintenance costs not provided by payments from the Harbor Maintenance Trust Fund, as provided in this section.

SEC. 608. For the purposes of this Act, the terms—

(1) "commercial channel or harbor" shall mean any channel or harbor, or element thereof, which channel or element is not considered an inland waterway and which is open to public navigation, and which is capable of being utilized in the transportation of commercial cargo in domestic or foreign waterborne commerce by means of commercial vessels; or any channel or harbor, or element thereof, to the depths and widths the construction of which was initiated by non-Federal sponsors after July 1, 1970, and prior to January 1, 1981; or any channel or harbor, or element, to the depths and widths that may be constructed under the terms of sections 602 or 604 of this title: *Provided*, That such term does not mean local access or berthing channels or channels or harbors constructed or maintained by non-public interests: *And provided further*, That such term shall be considered for the Columbia River, Oregon and Washington, to include the channels only up to the downstream side of Bonneville lock and dam, Oregon and Washington;

(2) the term "non-Federal sponsor" means, with respect to a commercial channel or harbor improvement project, a non-Federal public body which has entered into a written agreement with the Secretary to provide the non-Federal share of operation and maintenance costs or construction costs for the project has the meaning such term has under section 221 of Public Law 91-611, as amended;

(3)(A) except as provided in subparagraph (B), the term "eligible operations and maintenance" shall mean all operations, maintenance, repair and rehabilitation, including maintenance dredging reasonably necessary to maintain the nominal depth and width of any commercial channel or harbor, including any commercial channels or harbors located within the Great Lakes;

(B) as applied to the Saint Lawrence Seaway and any Great Lakes navigation improvement, the term "eligible operations and maintenance" shall include all operations, maintenance, repair and rehabilitation, including maintenance dredging, rea-

sonably necessary to keep such Seaway or navigation improvements operated or maintained by the Saint Lawrence Seaway Development Corporation or the United States in operation and reasonable state of repair;

(C) for purposes of subparagraphs (A) and (B), the term "eligible operations and maintenance" does not include providing any lands, easements, rights-of-way or dredged material disposal areas, or performing relocations required for project operations and maintenance;

(4) the term "Great Lakes navigation improvement" shall mean any lock, channel, harbor, or navigational facility located in the Great Lakes of the United States or their connecting waterways, including, but not limited to the Detroit River, Saint Clair River, Lake Saint Clair, and the Saint Marys River, but shall not include the Saint Lawrence Seaway;

(5) the term "nominal depth" shall mean, in relation to the stated depth for any navigation improvement project, such depth, including any greater depths which must be maintained for any channel or harbor or element(s) thereof included within such project in order to ensure the safe passage at mean low tide of any vessel requiring the stated depth: *Provided,* That with respect to operations and maintainance of channels authorized prior to the date of enactment of this Act, the term "nominal depth" shall include such anchorages necessary to ensure safe passage of vessels utilizing such channels; and

(6) the term "United States" shall mean all areas included within the territorial boundaries of the United States, including the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory of possession over which the United States exercises jurisdiction.

SEC. 609. Subject to the provisions of sections 212, 213, 218, and 602 of this Act, the following works for improvement of commercial harbors are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated:

(1) Mobile Harbor, Alabama: Report of the Chief of Engineers dated November 18, 1981, at a total cost of $468,933,000 (October 1984);

(2) Kodiak Harbor, Alaska: Report of the Chief of Engineers dated September 7, 1976, at a total cost of $14,641,000 (October 1984);

(3) Saint Paul Island Harbor, Alaska: Report of the Chief of Engineers dated August 10, 1983, at a total cost of $24,756,000 (October 1984);

(4) Oakland Outer Harbor, California: Report of the Chief of Engineers dated January 7, 1980, at a total cost of $42,400,000 (October 1984);

(5) Richmond Harbor, California: Report of the Chief of Engineers dated August 8, 1982, at a total cost of $43,800,000 (October 1984);

(6) Sacramento River, deepwater Ship Channel, California: Report of the Chief of Engineers dated November 20, 1981, at a total cost of $125,300,000 (October 1984);

(7) New Haven Harbor, Connecticut: Report of the Chief of Engineers dated July 26, 1982, at a total cost of $25,900,000 (October 1984);

(8) Jacksonville Harbor, Mill Cove, Florida: Report of the Chief of Engineers dated February 12, 1982, at a total cost of $6,575,000 (October 1984);

(9) Manatee Harbor, Florida: Report of the Chief of Engineers dated May 12, 1980, at a total cost of $16,115,000 (October 1984);

(10) Tampa Harbor, East Bay Channel, Florida: Report of the Chief of Engineers dated January 25, 1979, to assume maintenance;

(11) Savannah Harbor, widening, Georgia: Report of the Chief of Engineers dated December 19, 1978, at a total cost of $19,175,000 (October 1984);

(12) Hilo Harbor, Hawaii: Report of the Chief of Engineers dated December 4, 1984, at a total cost of $4,390,000 (October 1984);

(13) Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana: Report of the Chief of Engineers dated April 9, 1983, at a total cost of $456,000,000 (October 1984);

(14) Grand Haven Harbor, Michigan: Report of the Chief of Engineers dated October 9, 1979, at a total cost of $17,200,000 (October 1984);

(15) Monroe Harbor, Michigan: Report of the Chief of Engineers dated November 25, 1981, at a total cost of $139,400,000 (October 1984);

(16) Duluth-Superior Harbor, Minnesota and Wisconsin: Report of the Chief of Engineers dated August 16, 1984, at a total cost of $12,200,000 (October 1984);

(17) Gulfport Harbor, Mississippi: Report of the Chief of Engineers dated January 16, 1978, except that the Chief of Engineers is authorized to construct the project in the most cost effective and environmentally sound manner at a total cost not to exceed $78,968,000 (October 1984);

(18) Wilmington Harbor, Northeast Cape Fear River, North Carolina: Report of the Chief of Engineers dated September 16, 1980, at a total cost of $9,718,000 (October 1984);

(19) Portsmouth Harbor and the Piscataqua River Basin, Maine and New Hampshire: Report of the Chief of Engineers dated February 25, 1984, at a total cost of $21,700,000 (October 1984);

(20) Barnegat Inlet, New Jersey, phase I GDM: Report of the Chief of Engineers dated January 20, 1983, as modified by the Supplemental Chief of Engineers Report dated May 21, 1984, at a total cost of $36,435,000 (October 1984);

(21) Gowanus Creek, Channel, New York: Report of the Chief of Engineers dated September 14, 1982, at a total cost of $3,440,000 (October 1984);

(22) Kill Van Kull and Newark Bay Channels, New York and New Jersey: Report of the Chief of Engineers dated December 14, 1981, at a total cost of $248,100,000 (October 1984);

(23) Lorain Harbor, Ohio: Report of the Chief of Engineers dated February 5, 1985, at a total cost of $5,500,000 (October 1984);

(24) San Juan Harbor, Puerto Rico, phase I GDM: Report of the Chief of Engineers dated December 23, 1982, at a total cost of $86,334,000 (October 1984);

(25) Charleston Harbor, South Carolina: Report of the Chief of Engineers dated August 27, 1981, at a total cost of $84,032,000 (October 1984);

(26) Wando River, Charleston Harbor, South Carolina: Report of the Chief of Engineers dated May 1, 1985, at a total cost of $3,561,000 (October 1984);

(27) Brazos Island Harbor, Texas, Brownsville Channel: Report of the Chief of Engineers dated December 20, 1979, at a total cost of $31,417,000 (October 1984);

(28) Hampton Roads and vicinity, Virginia (drift removal): Report of the Chief of Engineers dated October 19, 1983, at a total cost of $6,870,000 (October 1984);

(29) Norfolk Harbor and Channels, Virginia: Report of the Chief of Engineers dated November 20, 1981, at a total cost of $538,000,000 (October 1984);

(30) Crown Bay Channel-Saint Thomas Harbor, Virgin Islands: Report of the Chief of Engineers dated April 9, 1982, at a total cost of $8,124,000 (October 1984);

(31) Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers dated February 8, 1977, at a total cost of $35,816,000 (October 1984); and

(32) Grays Harbor, Washington: Report of the Chief of Engineers, dated May 5, 1985, at a total cost of $93,187,000 (October 1984).

TITLE VII—COST SHARING AND PROJECTS

SEC. 701. (a) Excluding projects for inland waterway locks and dams and commercial navigation projects in the commercial channels and harbors of the United States, the construction of Corps of Engineers water or related land resources projects (including small projects not specifically authorized by Congress), or separable elements thereof, on which physical construction has not been initiated prior to June 30, 1985, shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary, agreeing to pay 100 per centum of operation, maintenance, and rehabilitation costs, and agreeing to share in the assigned joint and separable costs of construction as follows:

(1) urban and rural flood protection and rural drainage: not less than 35 per centum, including a cash payment amounting to at least 5 per centum of project construction costs, to be made during the construction period; except—

(A) for a project covered by section 3 of the Flood Control Act of 1936, as amended, for which the value of lands, easements, rights-of-way, and relocations required by that Act is greater than 20 per centum of total project construction costs, the required non-Federal contribution shall be the value of such items plus 5 per centum of total project construction costs, to be paid by the non-Federal sponsor in cash during the construction period;

(B) for a project covered by section 3 of the Flood Control Act of 1936, as amended, for which the value of lands, easements, rights-of-way, and relocations required by that Act is less than or equal to 20 per centum of total project construction costs, the Secretary shall consider a non-Federal contribution of 25 per centum, including payment by the non-Federal sponsor of not less than 5 per centum in cash, made during the construction period, to constitute fulfillment of this paragraph;

(C) for a project covered by section 3 of the Flood Control Act of 1936, as amended, for which the value of lands, easements, rights-of-way, and relocations required by that Act is less than 20 per centum of total project construction costs, the non-Federal sponsor or sponsors may elect to make a cash payment of 5 per centum of total project construction costs during the construction period, in addition to providing lands, easements, rights-of-way, and relocations, and to repay in accordance with the terms of this title the additional amount necessary to equal a total non-Federal contribution of 35 per centum; and

(D) for a project that includes urban and rural flood damage reduction benefits provided by the acquisition of land for non-

structural flood control, no cash contribution shall be required from the non-Federal sponsor to the extent benefits are provided by such nonstructural measures;

(2) hydroelectric power: 100 per centum, except that costs of constructing such projects shall be recovered in accordance with existing law;

(3) municipal and industrial water: 100 per centum;

(4) agricultural water supply: 35 per centum;

(5) recreation, including recreational navigation: 50 per centum;

(6) hurricane and storm damage reduction: 35 per centum; and

(7) aquatic plant control: 50 per centum.

(b) The agreement required pursuant to subsection (a) of this section shall be in accordance with the requirements of section 221 of the Flood Control Act of 1970 (84 Stat. 1818) and shall provide for the rights and duties of the United States and the non-Federal sponsor with respect to the construction, operation, and maintenance of the project, including, but not limited to, provisions specifying that, in the event the project sponsor fails to provide the required non-Federal share of costs for such work, the Secretary—

(1) shall terminate or suspend work on the project unless the Secretary determines that continuation of the work is in the interest of the United States or is necessary in order to satisfy agreements with non-Federal sponsors in connection with the project; and

(2) may terminate or adjust the rights and privileges of the non-Federal sponsor to project outputs under the terms of the agreement.

(c) Costs of constructing projects or measures for beach erosion control, water quality enhancement, and fish and wildlife mitigation shall be assigned to appropriate project purposes listed in subsection (a) and shall be shared in the same percent as the purposes to which the costs are assigned: *Provided,* That all costs assigned to benefits to privately owned shores or to prevention of losses of non-Federal land shall be borne by non-Federal interests.

(d) Except as otherwise provided in this title, the Secretary may permit the full non-Federal contribution to be made, without interest, during construction of the project, or, with interest, over a period of not more than thirty years from the date of project completion. Repayment contracts shall provide for recalculation of the interest rate at five-year intervals.

(e) Any repayment by any non-Federal sponsor under this title shall include the rate of interest determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds for the construction of the project are first disbursed (or in the case of recalculation the fiscal year in which the recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs: *Provided,* That such rates for hydroelectric power shall be in accordance with existing law.

(f) At the request of any non-Federal private or public sponsor the Secretary may permit such non-Federal sponsor to delay the initial payment of any non-Federal contribution under this title for up to one year after the date when construction is begun on the project for which such contribution is to be made.

(g) At the request of any non-Federal sponsor, the Secretary shall consider the cost of work undertaken in accordance with section 134(a) of Public Law 94-587, as amended, by a non-Federal sponsor to be in satisfaction or partial satisfaction of the requirements of subsection (a) of this section if—

(1) the work undertaken has been previously approved in accordance with procedures established by the Secretary; and

(2) the credit sought is only for non-Federal funds expended for such work.

(h) Any cost-sharing agreement under the terms of this title for flood control, rural drainage, or agricultural water supply shall be subject to the ability of a non-Federal sponsor to pay. The ability of any non-Federal sponsor to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

SEC. 702. Subject to the provisions of sections 212, 213, 218, and 701 of this Act, the following works of improvement of rivers and harbors and other waterways for flood control and other purposes are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated:

(a) FLOOD CONTROL.—

(1) Village Creek, Jefferson County, Alabama: Report of the Chief of Engineers dated December 23, 1982, at a total cost of $28,100,000 (October 1984);

(2) Threemile Creek, Mobile, Alabama: Report of the Chief of Engineers dated April 20, 1984, at a total cost of $19,070,000 (October 1984);

(3) Eight Mile Creek, Paragould, Arkansas: Report of the Chief of Engineers dated August 10, 1979, at a total cost of $14,950,000 (October 1984);

(4) Fourche Bayou Basin, Little Rock, Arkansas: Report of the Chief of Engineers dated September 4, 1981, at a total cost of $32,400,000 (October 1984);

(5) Helena and vicinity, Arkansas: Report of the Chief of Engineers dated June 23, 1983, at a total cost of $13,700,000 (October 1984);

(6) West Memphis and Vicinity, Arkansas: Report of the Chief of Engineers dated September 7, 1984, at a total cost of $20,600,000 (October 1984);

(7) Little Colorado River at Holbrook, Arizona: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $11,700,000 (October 1984);

(8) Cache Creek Basin, California: Report of the Chief of Engineers dated April 27, 1981, at a total cost of $30,700,000 (October 1984): *Provided,* That the Secretary acts in coordination with the State of California to assure that such project poses no danger to any component of its State park system;

(9) Redbank and Fancher Creeks, California: Report of the Chief of Engineers dated May 7, 1981, at a total cost of $84,100,000 (October 1984);

(10) Santa Ana River mainstem, including Santiago Creek, California: Report of the Chief of Engineers dated January 15, 1982, at a total cost of $1,211,000,000 (October 1983): *Provided,* That construction is restricted to the following elements of the project: Improvements at Prado Dam which limit the reservoir taking line to no greater than an elevation of five hundred and sixty-six feet; Santa Ana River Channel improvements in Orange County; improvements along Santiago Creek; improvements of the Oak Street drain; and improvement of the Mill Creek levees; features for mitigation of project effects and preservation of endangered species, and recreation features identified in the Chief of Engineers' report for these project elements;

(11) Fountain Creek, Pueblo, Colorado, phase I GDM: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $8,400,000 (October 1984);

(12) Metropolitan Denver and South Platte River and tributaries, Colorado, Wyoming, and Nebraska: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $10,563,000 (October 1984);

(13) Oates Creek, Georgia: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $13,500,000 (October 1984);

(14) Agana River, Guam: Report of the Chief of Engineers dated March 14, 1977, at a total cost of $9,530,000 (October 1984);

(15) Alenaio Stream, Hawaii: Report of the Chief of Engineers dated August 15, 1983, at a total cost of $7,860,000 (October 1984);

(16) Big Wood River and tributaries, Idaho, interim report—Little Wood River, vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers dated November 2, 1977, at a total cost of $4,420,000 (October 1984);

(17) North Branch of Chicago River, Illinois: Report of the Chief of Engineers dated October 29, 1984, at a total cost of $14,390,000 (October 1984);

(18) Rock River at Rockford and vicinity, Illinois, Loves Park interim: Report of the Chief of Engineers dated September 15, 1980, at a total cost of $27,720,000 (October 1984);

(19) South Quincy Drainage and Levee District, Illinois: Report of the Chief of Engineers dated January 24, 1984, at a total cost of $11,688,000 (October 1984);

(20) The project for flood control, Little Calumet River, Indiana: In accordance with plan 3A contained in the Report of the Chief of Engineers dated July 2, 1984, provided that all of the features of the plan 3A as recommended by and described in the report of the District Engineer are included, at a total cost of $83,460,000 (October 1984);

(21) Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers dated July 22, 1977, at a total cost of $15,340,000 (October 1984);

(22) Mississippi River, Coon Rapids Dam to Ohio River Green Bay Levee and Drainage District No. 2, Iowa: Report of the Chief of Engineers dated Octo- ber 21, 1981, at a total cost of $6,770,000 (October 1984);

(23) Interim report on Perry Creek, Iowa: Report of the Chief of Engineers dated February 4, 1982, at a total cost of $44,200,000 (October 1984);

(24) Halstead, Kansas: Report of the Chief of Engineers dated May 8, 1979, at a total cost of $7,100,000 (October 1984);

(25) Upper Little Arkansas River Watershed, Kansas: Report of the Chief of Engineers dated December 15, 1983, at a total cost of $12,200,000 (October 1984);

(26) Atchafalaya Basin Floodway system, Louisiana: Report of the Chief of Engineers dated Febru- ary 28, 1983, at a total cost of $245,398,000 (October 1984);

(27) Bushley Bayou, Louisiana, phase I GDM: Reports of the Chief of Engineers dated April 30, 1980, and August 12, 1982, at a total cost of $44,700,000 (October 1984);

(28) Louisiana State penitentiary levee, Mississippi River: Report of the Chief of

Engineers dated December 10, 1982, at a total cost of $22,646,000 (October 1984);

(29) Quincy Coastal Streams, Massachusetts, Town Brook interim: Report of the Chief of Engineers dated December 14, 1981, at a total cost of $26,500,000 (October 1984);

(30) Roughans Point, Revere Massachusetts: Report of the Chief of Engineers dated May 4, 1985, at a total cost of $8,200,000 (October 1984);

(31) Mississippi River at St. Paul, Minnesota: Report of the Chief of Engineers dated June 16, 1983, at a total cost of $8,454,000 (October 1984);

(32) Redwood River at Marshall, Minnesota: Report of the Chief of Engineers dated November 16, 1981, at a total cost of $4,280,000 (October 1984);

(33) Root River Basin, Minnesota: Report of the Chief of Engineers dated May 13, 1977, at a total cost of $8,195,000 (October 1984);

(34) South Fork Zumbro River Watershed at Rochester, Minnesota: Report of the Chief of Engineers dated February 23, 1979, at a total cost of $60,470,000 (October 1984);

(35) Horn Lake Creek and tributaries, Including Cow Pen Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated January 4, 1983, at a total cost of $3,400,000 (October 1984);

(36) Sowashee Creek, Mississippi: Report of the Chief of Engineers dated February 25, 1985, at a total cost of $17,500,000 (October 1984);

(37) Brush Creek and tributaries, Missouri and Kansas: Report of the Chief of Engineers dated January 3, 1983, at a total cost of $15,770,000 (October 1984);

(38) Maline Creek, Missouri: Report of the Chief of Engineers dated November 2, 1982, at a total cost of $61,900,000 (October 1984);

(39) Saint Johns Bayou and New Madrid Floodway, Missouri phase I GDM: Report of the Chief of Engineers dated January 4, 1983, at a total cost of $108,900,000 (October 1984);

(40) Cape Girardeau, Missouri: Report of the Chief of Engineers dated December 8, 1984, at a total cost of $24,600,000 (October 1984);

(41) Robinson's branch of the Rahway River at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers dated October 10, 1975, at a total cost of $25,907,000 (October 1984);

(42) Rahway River and Van Winkles Brook at Springfield, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at a total cost of $17,500,000 (October 1984);

(43) Green Brook Subbasin, Raritan River Basin, New Jersey: Report of the Chief of Engineers dated September 4, 1981, at a total cost of $101,832,000 (October 1984);

(44) Ramapo and Mahwah Rivers, New Jersey and New York: Report of the Chief of Engineers dated November 27, 1984, at a total cost of $6,200,000 (October 1984);

(45) Middle Rio Grande flood protection, Bernalillo to Belen, New Mexico: Report of the Chief of Engineers dated June 23, 1981, at a total cost of $43,900,000 (October 1984): *Provided*, That the Secretary is authorized also to increase flood protection through the dredging of the bed of the Rio Grande in the vicinity of Albuquerque, New Mexico, to an elevation lower than existed on the date of enactment of this Act;

(46) Puerco River and tributaries, Gallup, New Mexico: Report of the Chief of Engineers dated September 4, 1981, at a total cost of $4,160,000 (October 1984);

(47) Cazenovia Creek Watershed, New York: Report of the Chief of Engineers dated September 8, 1977, at a total cost of $3,025,000 (October 1984);

(48) Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut: Report of the Chief of Engineers dated April 4, 1979, at a total cost of $63,070,000 (October 1984);

(49) Tonawanda Creek Watershed, New York: Report of the Chief of Engineers dated July 2, 1984, at a total cost of $32,000,000 (October 1984);

(50) Sugar Creek Basin, North Carolina and South Carolina: Report of the Chief of Engineers dated February 1, 1985, at a total cost of $29,100,000 (October 1984);

(51) Park River, at Grafton, North Dakota: Report of the Chief of Engineers dated April 17, 1984, at a total cost of $18,790,000 (October 1984);

(52) Sheyenne River, North Dakota: Report of the Chief of Engineers dated August 22, 1984, at a total cost of $55,400,000 (October 1984): Provided that such project shall include a dam and reservoir of approximately thirty-five thousand acre-feet of storage for the purpose of flood protection on the Maple River; and provided further that modification of the Baldhill Dam for dam safety considerations shall not preclude the implementation of those project features not dependent on such safety modifications;

(53) Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers dated June 23, 1978, at a total cost of $7,760,000 for Logan and $8,020,000 for Nelsonville (October 1984);

(54) Miami River, Fairfield, Ohio: Report of the Chief of Engineers dated June 23, 1980, at a total cost of $14,360,000 (October 1984);

(55) Miami River, Little Miami River, interim report numbered 2, West Carrollton, Holes Creek, Ohio: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $8,910,000 (October 1984);

(56) Muskingum River Basin, Ohio (Mansfield): Report of the Chief of Engineers dated February 3, 1978, at a total cost of $4,256,000 (October 1984);

(57) Scioto River at North Chillicothe, Ohio: Report of the Chief of Engineers dated September 4, 1981, at a total cost of $10,740,000 (October 1984);

(58) Fry Creeks, Oklahoma: Report of the Chief of Engineers dated September 7, 1983, at a total cost of $13,000,000 (October 1984);

(59) Mingo Creek, Tulsa, Oklahoma: Report of the Chief of Engineers dated November 16, 1981, at a total cost of $133,000,000 (October 1984);

(60) Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Chief of Engineers dated May 30, 1980, at a total cost of $43,000,000 (October 1984);

(61) Harrisburg, Pennsylvania, phase I GDM: Report of the Chief of Engineers dated May 16, 1979, at a total cost of $132,900,000 (October 1984);

(62) Lock Haven, Pennsylvania, phase I GDM: Report of the Chief of Engineers dated December 14, 1981, at a total cost of $79,225,000 (October 1984);

(63) Saw Mill Run, Pittsburgh, Pennsylvania: Report of the Chief of Engineers dated January 30, 1978, at a total cost of $7,853,000 (October 1984);

(64) Wyoming Valley, Pennsylvania, phase I GDM: Report of the Chief of Engineers dated October 19, 1983, at a total cost of $234,700,000 (October 1984);

(65) Big River Reservoir, Rhode Island: Report of the Chief of Engineers dated March 9, 1983, at a total cost of $84,700,000 (October 1984);

(66) Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated December 23, 1982, at a total cost of $25,900,000 (October 1984);

(67) Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers dated June 13, 1978, at a total cost of $90,670,000 (October 1984);

(68) Boggy Creek, Austin, Texas: Report of the Chief of Engineers dated January 19, 1981, at a total cost of $21,300,000 (October 1984);

(69) Lake Wichita, Holliday Creek, Texas: Report of the Chief of Engineers dated July 9, 1979, at a total cost of $27,300,000 (October 1984);

(70) Lower Rio Grande, Texas: The project for flood control, Lower Rio Grande Basin, Texas: Report of the Board of Engineers for Rivers and Harbors, dated April 29, 1983, at a total cost of $195,304,000 (October 1984);

(71) Sims Bayou, Texas: Report of the Chief of Engineers, dated April 17, 1984, at a total cost of $123,979,000 (October 1984);

(72) James River Basin, Richmond, Virginia, phase I GDM: Report of the Chief of Engineers dated November 16, 1981, at a total cost of $101,200,000 (October 1984);

(73) Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers dated February 8, 1977, at a total cost of $21,940,000 (October 1984);

(74) Yakima Union Gap, Washington: Report of the Chief of Engineers dated May 7, 1980, at a total cost of $8,789,000 (October 1984);

(75) Centralia, Chehalis River and tributaries, Washington: Report of the Chief of Engineers dated June 20, 1984, at a total cost of $19,500,000 (October 1984);

(76) Mount Saint Helens Sediment Control, Washington: Report of the Chief of Engineers dated April 3, 1985, at a total cost of $214,100,000 (October 1984): *Provided*, That the Secretary shall construct, operate, and maintain a sediment retention structure near the confluence of the Toutle and Green Rivers, Washington, with such design features and associated down-stream actions as are necessary, including justified measures to mitigate adverse environmental impact associated with the project; and

(77) Wisconsin River at Portage, Wisconsin: Report of the Chief of Engineers dated May 20, 1985, at a total cost of $6,300,000 (October 1984).

(b) HYDROPOWER DEVELOPMENT.—

(1) Scammon Bay, Alaska (hydropower): Report of the Chief of Engineers dated August 9, 1983, at a total cost of $1,600,000 (October 1984);

(2) South Central Railbelt Area, Alaska, hydroelectric power, Valdez and Copper River Basin: Report of the Chief of Engineers dated October 29, 1982, at a total cost of $44,000,000 (October 1984);

(3) Murray Lock and Dam, hydropower, Arkansas: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $98,600,000 (October 1984);

(4) Arkansas River and tributaries, Arkansas and Oklahoma, hydropower, locks and dams numbered 13 and 9 and Toad Suck Ferry lock and dam (numbered 8): Report of the Chief of Engineers dated September 1, 1983, at a total cost of $285,700,000 (October 1984);

(5) Metropolitan Atlanta area water resources management study, Georgia: Report of the Chief of Engineers dated June 1,

1982, at a total cost of $26,445,000 (October 1984);

(6) W.D. Mayo lock and dam 14, hydropower, Oklahoma: Report of the Chief of Engineers dated December 23, 1981, at a total cost of $119,300,000 (October 1984);

(7) Fort Gibson Lake, Powerhouse Extension, Oklahoma: Report of the Chief of Engineers dated August 16, 1984, at a total cost of $24,100,000 (October 1984);

(8) Blue River Lake, hydroelectric power, Willamette River Basin, Oregon: Report of the Chief of Engineers dated August 9, 1983, at a total cost of $30,101,000 (October 1984);

(9) McNary lock and dam second powerhouse, Columbia River, Oregon and Washington, phase I GDM: Report of the Chief of Engineers dated June 24, 1981, at a total cost of $649,000,000 (October 1984); and

(10) Gregory County hydroelectric pumped storage facility, stages I and II, South Dakota: Report of the Chief of Engineers dated April 26, 1983, together with such additional associated multipurpose water supply and irrigation features as are generally described in the final feasibility report of the District Engineer, at a total cost of $1,380,000,000, not to exceed $100,000,000 of which may be used to construct such associated water supply and irrigation features: *Provided*, That the additional associated multipurpose water supply and irrigation features shall be undertaken concurrently by the Secretary of the Interior in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto), as a unit of the Pick-Sloan Missouri River Basin Program: *Provided further*, That the Secretary of the Interior is authorized to undertake a feasibility study of the additional associated multipurpose water supply and irrigation features of the Gregory County hydroelectric pumped storage facility and that construction of the Gregory County hydroelectric pumped storage facility and such additional associated multipurpose water supply and irrigation features shall not be undertaken until the Secretary of the Interior has completed the feasibility report on such additional features and submitted such report to the Congress along with his certification that, in his judgment, the benefits of such features will exceed the costs and that such additional features are physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof.

(c)(1) SHORELINE PROTECTION.—

(A) Charlotte County, Florida: Report of the Chief of Engineers dated April 2, 1982, at a total cost of $2,255,000 (October 1984);

(B) Indian River County, Florida: Report of the Chief of Engineers dated December 21, 1981, at a total cost of $4,934,000 (October 1984);

(C) Panama City Beaches, Florida: Report of the Chief of Engineers dated July 8, 1977, at a total cost of $41,731,000 (October 1984);

(D) Saint Johns County, Florida: Report of the Chief of Engineers dated February 26, 1980, at a total cost of $9,679,000 (October 1984);

(E) Dade County, North of Haulover Beach Park, Florida: Report of the Chief of Engineers dated December 27, 1983, at a total cost of $15,605,000 (October 1984);

(F) Monroe County, Florida: Report of the Chief of Engineers dated April 27, 1984, at a total cost of $3,142,000 (October 1984);

(G) Jekyll Island, Georgia: Report of the Chief of Engineers dated March 3, 1976, at a total cost of $10,450,000 (October 1984);

(H) Casino Beach, Illinois Shoreline, Illinois: Report of the Chief of Engineers dated September 26, 1984, at a total cost of $5,370,000 (October 1984);

(I) Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers dated November 18, 1983, at a total cost of $7,920,000 (October 1984);

(J) Atlantic Coast of Maryland and Assateague Island, Virginia: Report of the Chief of Engineers dated September 29, 1981, at a total cost of $35,200,000 (October 1984);

(K) Cape May Point, New Jersey: Report of the Chief of Engineers, for beach erosion control and storm protection, dated September 30, 1975, at a total cost of $6,600,000 (October 1984), subject to the completion of Phase I Advanced Engineering and Design;

(L) Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York: Report of the Chief of Engineers dated August 18, 1976, at a total cost of $7,910,000 (October 1984);

(M) Wrightsville Beach, North Carolina: Report of the Chief of Engineers dated December 19, 1983, to extend the period of Federal participation in the periodic nourishment of the existing project;

(N) The project for shoreline protection for the southeast shore of Maumee Bay, Lake Erie, Ohio, from Cedar Point National Wildlife Refuge to West Bay Shore Road, Oregon, Ohio: Report of the Chief of Engineers, dated July 9, 1984, at a total cost of $15,800,000 October 1984: *Provided*, That the Secretary is further authorized to contract with the State of Ohio on the items of local cooperation for such project, which are to be assumed by the State, notwithstanding that the State may elect to make its performance of any obligation contingent upon the State legislature making the necessary appropriations and funds being allocated for the same or subject to the availability of funds on the part of the State;

(O) Presque Isle Peninsula, Erie, Pennsylvania: Report of the Chief of Engineers dated October 2, 1981, at a total cost of $28,100,000 (October 1984);

(P) Folly Beach, South Carolina: Report of the Chief of Engineers dated March 17, 1981, at a total cost of $3,335,000 (October 1984);

(Q) Willoughby Spit and vicinity, Norfolk, Virginia: Report of the Chief of Engineers dated April 17, 1984, at a total cost of $4,230,000 (October 1984); and

(R) Virginia Beach, Virginia: Report of the Chief of Engineers dated May 22, 1985, at a total cost of $36,500,000 (October 1984).

(2) Construction of the projects authorized in this subsection shall be subject to determinations of the Secretary, after consultation with the Secretary of the Interior, that the construction will be in compliance with the Coastal Barrier Resources Act (Public Law 97-348).

(d) MITIGATION.—

(1) Fish and Wildlife Program for the Sacramento River Bank Protection project, California, first phase: Report of the Chief of Engineers dated September 1, 1981, at a total cost of $1,415,000 (October 1984);

(2) Richard B. Russell Dam and Lake, Savannah River, Georgia and South Carolina, Fish and Wildlife mitigation report: Report of the Chief of Engineers dated May 11, 1982, at a total cost of $20,160,000 (October 1984);

(3) Davenport, Iowa local protection project, fish and wildlife mitigation plan: Report of the Chief of Engineers dated July 9, 1979, at a total cost of $497,000 (October 1984);

(4) Missouri River, fish and wildlife mitigation; Iowa, Nebraska, Kansas, and Missouri: Report of the Chief of Engineers dated April 24, 1984, at a total cost of $50,500,000 (October 1984);

(5) West Kentucky tributaries projects, fish and wildlife mitigation plan, Obion Creek, Kentucky: Report of the Chief of Engineers dated September 16, 1980, at a total cost of $4,900,000 (October 1984);

(6) Red River Waterway Fish and Wildlife Mitigation Plan, Louisiana: Report of the Chief of Engineers dated December 28, 1984, at a total cost of $11,200,000 (October 1984);

(7) Yazoo Backwater project, Mississippi, fish and wildlife mitigation report: Report of the Chief of Engineers dated July 12, 1984, at a total cost of $4,993,000 (October 1984);

(8) Downstream Measures at Harry S. Truman Dam and Reservoir, Missouri: Report of the Chief of Engineers dated December 21, 1981, at a total cost of $2,100,000 (October 1984);

(9) Smithville Lake, Little Platte River, Missouri plan for replacement of the Trimble Wildlife Area: Report of the Chief of Engineers dated September 22, 1977, at a total cost of $7,870,000 (October 1984);

(10) Cape May Inlet to Lower Township, New Jersey, phase I GDM: Report of the Chief of Engineers dated December 23, 1981, including construction of measures at Lower Township to mitigate for the erosion attributed to the existing navigation project generally in accordance with mitigation features for Lower Township of Plan B of the Phase I General Design Memorandum, titled: "Cape May Inlet to Lower Township, New Jersey," dated August 1980, at a total cost of $17,300,000 (October 1984); and

(11) Cooper Lake and Channels project, Texas, Report on Fish and Wildlife Mitigation: Report of the Chief of Engineers dated May 21, 1982, at a total cost of $14,743,000 (October 1984).

(e) INLAND AND RECREATIONAL HARBORS.—

(1) Helena Harbor, Phillips County, Arkansas: Report of the Chief of Engineers dated October 17, 1980, at a total cost of $56,403,000 (October 1984);

(2) White River Navigation to Batesville, Arkansas: Report to the Chief of Engineers dated December 23, 1981, at a total cost of $27,000,000 (October 1984);

(3) Lake Pontchartrain, North Shore, Louisiana: Report of the Chief of Engineers dated February 14, 1979, at a total cost of $1,264,000 (October 1984);

(4) Greenville Harbor, Mississippi: Reports of the Chief of Engineers dated November 15, 1977, and February 22, 1982, at a total cost of $42,600,000 (October 1984);

(5) Vicksburg Harbor, Mississippi: Report of the Chief of Engineers dated August 13, 1979, at a total cost of $77,700,000 (October 1984);

(6) Saint Louis Harbor, Missouri and Illinois: Report of the Chief of Engineers dated April 30, 1984, at a total cost of $30,340,000 (October 1984);

(7) Olcott Harbor, New York: Report of the Chief of Engineers dated June 11, 1980, at a total cost of $12,445,000 (October 1984);

(8) Memphis Harbor, Memphis, Tennessee: Report of the Chief of Engineers dated February 25, 1981, at a total cost of $106,105,000 (October 1984);

(9) Disposition of Kentucky River, Kentucky, Locks and Dams 5 through 14: Report of the Chief of Engineers dated July 2, 1984, for disposition purposes without any construction cost; and

(10) Atlantic Intracoastal Waterway Bridges, North Carolina: Report of the Chief of Engineers dated October 1, 1975, at a total cost of $8,800,000 (October 1984).

(f) BANK STABILIZATION.—

(1) Bethel, Alaska: Report of the Chief of Engineers dated July 30, 1983, at a total cost of $16,110,000 (October 1984).

(g) DEMONSTRATION.—

(1) Cabin Creek, West Virginia, Demonstration Reclamation project: Report of the Chief of Engineers dated March 1, 1979, at a total cost of $43,000,000 (October 1984); and

(2) Lava flow control, Island of Hawaii, Hawaii: Report of the Chief of Engineers dated July 21, 1981, at a total cost of $5,470,000 (October 1984).

TITLE VIII—REVENUE PROVISIONS

SEC. 801. SHORT TITLE.

This title may be cited as the "Harbor Maintenance Revenue Act of 1985".

SEC. 802. IMPOSITION OF HARBOR MAINTENANCE CHARGE.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by inserting after the chapter heading the following new subchapter:

"SUBCHAPTER A—HARBOR MAINTENANCE CHARGE

"Sec. 4461. Imposition of charge.

"Sec. 4462. Definitions and special rules.

"SEC. 4461. IMPOSITION OF CHARGE.

"(a) GENERAL RULE.—There is hereby imposed a charge on—

"(1) any port use, or

"(2) any port maintenance use.

"(b) AMOUNT OF CHARGE.—The amount of the charge imposed by subsection (a) on—

"(1) any port use shall be an amount equal to 0.04 percent of the value of the commercial cargo involved, and

"(2) any port maintenance use shall be an amount equal to $0.005 multiplied by the number of net registered tons of the commercial vessel involved.

"(c) LIABILITY AND TIME OF IMPOSITION OF CHARGE.—

"(1) LIABILITY.—

"(A) PORT USE CHARGE.—The charge imposed by subsection (a)(1) on a port use shall be paid by—

"(i) in the case of cargo entering the United States, the importer,

"(ii) in the case of cargo to be exported from the United States, the exporter, or

"(iii) in any other case, the shipper.

"(B) PORT MAINTENANCE USE CHARGE.—The charge imposed by subsection (a)(2) on a port maintenance use shall be paid by the vessel owner.

"(2) TIME OF IMPOSITION.—

"(A) PORT USE CHARGE.—The charge imposed by subsection (a)(1) on a port use described in section 4462(a)(1)(A) shall be imposed—

"(i) in the case of cargo to be exported from the United States, at the time of loading, and

"(ii) in any other case, at the time of unloading.

"(B) OTHER CHARGES.—Any charge imposed by this subchapter not described in subparagraph (A) shall be imposed at the time prescribed by the Secretary in regulations.

"SEC. 4462. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PORT USE.—The term 'port use' means—

"(A) the loading or unloading of commercial cargo on or from a commercial vessel at a port, or

"(B) the use of any Great Lakes navigation improvement, including any use described in subparagraph (A).

"(2) PORT MAINTENANCE USE.—The term 'port maintenance use' means the use of any port or Great Lakes navigation improvement for—

"(A) the purpose of bunkering, refitting, or repair of a commercial vessel,

"(B) the convenience of a commercial vessel, or

"(C) any similar purpose in connection with a commercial vessel.

"(3) PORT.—

"(A) IN GENERAL.—The term 'port' means any channel or harbor (or component thereof) in the United States, which—

"(i) is not an inland waterway or Great Lakes navigation improvement, and

"(ii) is open to public navigation.

"(B) EXCEPTION FOR CERTAIN FACILITIES.—The term 'port' does not include any channel or harbor with respect to which no Federal funds have been used since 1977 for construction, maintenance, or operation, or which was deauthorized by Federal law before 1985.

"(C) SPECIAL RULE FOR COLUMBIA RIVER.—The term 'port' shall include the channels of the Columbia River in the States of Oregon and Washington only up to the downstream side of Bonneville lock and dam.

"(4) GREAT LAKES NAVIGATION IMPROVEMENT.—

"(A) IN GENERAL.—The term 'Great Lakes navigation improvement' means any lock, channel, harbor, or navigational facility located in the Great Lakes of the United States or their connecting waterways.

"(B) CONNECTING WATERWAYS.—The connecting waterways of the Great Lakes of the United States include, but are not limited to, the Detroit River, the Saint Clair River, Lake Saint Clair, and the Saint Marys River.

"(C) SAINT LAWRENCE SEAWAY.—The term 'Great Lakes navigation improvement' shall not include the Saint Lawrence Seaway (or any component thereof).

"(5) COMMERCIAL CARGO.—

"(A) IN GENERAL.—The term 'commercial cargo' means any cargo transported on a commercial vessel, including passengers transported for compensation or hire.

"(B) CERTAIN ITEMS NOT INCLUDED.—The term 'commercial cargo' does not include—

"(i) bunker fuel, ship's stores, sea stores, or the legitimate equipment necessary to the operation of a vessel, or

"(ii) fish or other aquatic animal life caught on a United States vessel and not previously landed on shore.

"(6) COMMERCIAL VESSEL.—

"(A) IN GENERAL.—The term 'commercial vessel' means any vessel used—

"(i) in transporting cargo by water for compensation or hire, or

"(ii) in transporting cargo by water in the business of the owner, lessee, or operator of the vessel.

"(B) EXCLUSION OF FERRIES.—

"(i) IN GENERAL.—The term 'commercial vessel' does not include any ferry engaged primarily in the ferrying of passengers (including their vehicles) between points within the United States, or between the United States and contiguous countries.

"(ii) FERRY.—The term 'ferry' means any vessel which arrives in the United States on a regular schedule at intervals of at least once each day.

"(7) VALUE.—

"(A) IN GENERAL.—The term 'value' means, except as provided in regulations, the value of any commercial cargo as determined by standard commercial documentation.

"(B) TRANSPORTATION OF PASSENGERS.—In the case of the transportation of passengers for hire, the term 'value' means the actual charge paid for such service or the prevailing charge for comparable service if no actual charge is paid.

"(b) SPECIAL RULE FOR HAWAII AND POSSESSIONS.—

"(1) IN GENERAL.—No charge shall be imposed under section 4461(a)(1) with respect to—

"(A) cargo loaded on a vessel in a port in the United States mainland for transportation to Hawaii or any possession of the United States for ultimate use or consumption in Hawaii or any possession of the United States,

"(B) cargo loaded on a vessel in Hawaii or any possession of the United States for transportation to the United States mainland for ultimate use or consumption in the United States mainland, or

"(C) the unloading of cargo described in subparagraph (A) or (B) in Hawaii or any possession of the United States, or in the United States mainland, respectively.

"(2) UNITED STATES MAINLAND.—For purposes of this subsection, the term 'United States mainland' means the continental United States and Alaska.

"(c) COORDINATION OF CHARGES WHERE TRANSPORTATION SUBJECT TO TAX IMPOSED BY SECTION 4042.—No charge shall be imposed under this subchapter with respect to the loading or unloading of any cargo on or from a vessel if any fuel of such vessel has been (or will be) subject to the tax imposed by section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

"(d) EXEMPTION FOR UNITED STATES.—No charge shall be imposed under this subchapter on the United States or any agency or instrumentality thereof.

"(e) EXTENSION OF PROVISIONS OF LAW APPLICABLE TO CUSTOMS DUTY.—

"(1) IN GENERAL.—Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations shall apply in respect of the charge imposed by this subchapter (and in respect of persons liable therefor) as if such charge were a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the value of the cargo.

"(2) JURISDICTION OF COURTS AND AGENCIES.—For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, the charge imposed by this subchapter shall be treated as if such charge were a customs duty.

"(3) ADMINISTRATIVE PROVISIONS APPLICABLE TO TAX LAW NOT TO APPLY.—The charge imposed by this subchapter shall not be treated as a tax for purposes of subtitle F of this title or any other provision of law relating to the administration and enforcement of internal revenue taxes.

"(f) LIMITS ON NUMBERS OF CHARGES.—For purposes of this subchapter—

"(1) only 1 charge shall be imposed under section 4461(a)(1) with respect to—

"(A) the transportation of the same cargo on the same vessel, and

"(B) the loading and unloading of identical cargo at 1 port, and

"(2) the charge imposed by section 4461(a)(2) shall not be imposed more than 3 times in any calendar year upon any vessel.

"(g) REGULATIONS.—The Secretary may prescribe such additional regulations as may be necessary to carry out the purposes of this subchapter including, but not limited to—

"(1) regulations providing for the manner and method of payment and collection of any charge,

"(2) regulations providing for the posting of bonds to secure payment of any charge,

"(3) regulations exempting any transaction or class of transactions from the charge imposed by this subchapter where the collection of such charge is not administratively practical, and

"(4) regulations providing for the remittance or mitigation of penalties and the settlement or compromise of claims.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1954 is amended by inserting the following before the item relating to subchapter D:

"SUBCHAPTER A. Harbor maintenance charge.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1986.

SEC. 803. CREATION OF HARBOR MAINTENANCE TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HARBOR MAINTENANCE TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Harbor Maintenance Trust Fund', consisting of such amounts as may be—

"(1) appropriated to the Harbor Maintenance Trust Fund as provided in this section,

"(2) transferred to the Harbor Maintenance Trust Fund by the Saint Lawrence Seaway Development Corporation pursuant to section 13(a) of the Act of May 13, 1954, or

"(3) credited to the Harbor Maintenance Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO HARBOR MAINTENANCE TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN CHARGES.—There are hereby appropriated to the Harbor Maintenance Trust Fund amounts equivalent to the charges received in the Treasury under section 4461 (relating to harbor maintenance charge).

"(c) EXPENDITURES FROM HARBOR MAINTENANCE TRUST FUND.—Amounts in the Harbor Maintenance Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for—

"(1) payments described in section 607 of the Water Resources Development Act of 1985 (as in effect on the date of enactment of this section), and

"(2) payments of rebates of tolls or charges pursuant to section 13(b) of the Act of May 13, 1954 (as in effect on the date of enactment of this section).".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Harbor Maintenance Trust Fund.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1986.

SEC. 804. INLAND WATERWAYS TAX.

(a) IN GENERAL.—Subsection (b) of section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be determined from the following table:

"(1) USES BEFORE 1988.—

"If the use occurs—	The tax per gallon is—
After September 30, 1983, and before October 1, 1985	8 cents
After September 30, 1985, and before January 1, 1988	10 cents.

"(2) USES AFTER 1987.—

"If the use occurs during calendar year—	The tax per gallon is—
1988	11 cents
1989	12 cents
1990	13 cents
1991	14 cents
1992	15 cents
1993	16 cents
1994	17 cents
1995	18 cents
1996	19 cents
1997 and thereafter	20 cents.".

(b) FUEL USE ON TENNESSEE-TOMBIGBEE WATERWAY SUBJECT TO INLAND WATERWAY TAX.—Section 206 of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following:

"(27) Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on April 1, 1986.

SEC. 805. INLAND WATERWAYS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9506. INLAND WATERWAYS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Inland Waterways Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Inland Waterways Trust Fund amounts equivalent to the taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Inland Waterways Trust Fund shall be available, as provided by appropriation Acts and subject to the provisions of section 501 of the Water Resources Development Act of 1985 (as in effect on the date of enactment of this section), to the Secretary of the Army to be expended for construction, rehabilitation, modification, and post-authorization planning of navigation lock and dam projects (or any component thereof) on the inland and intracoastal waterways of the United States which are authorized in sections 502 and 504(e) of such Act (as in effect on the date of enactment of this section).".

(b) CONFORMING AMENDMENTS.—Sections 203 and 204 of the Inland Waterways Revenue Act of 1978 (relating to Inland Waterways Trust Fund) are hereby repealed.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 9506. Inland Waterways Trust Fund.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on April 1, 1986.

(2) Inland waterways trust fund treated as continuation of old trust fund.—The Inland Waterways Trust Fund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Inland Waterways Trust Fund established by section 203 of the Inland Waterways Revenue Act of 1978. Any reference in any law to the Inland Waterways Trust Fund established by such section 203 shall be deemed to include (wherever appropriate) a reference to the Inland Waterways Trust Fund established by this section.

SEC. 805. SAINT LAWRENCE SEAWAY EXPENDITURES AND REBATES OF TOLLS.

(a) IN GENERAL.—The Act of May 13, 1954 is amended—

(1) by striking out "and" at the end of paragraph (11) of section 4(a),

(2) by striking out the period at the end of paragraph (12) of section 4(a) and inserting in lieu thereof "; and",

(3) by adding at the end of section 4(a) the following new paragraph:

"(13) shall accept such amounts as may be transferred to the Corporation under section 9505(c)(1) of the Internal Revenue Code of 1954, except that such amounts shall be available only for the purpose of operating and maintaining those works which the Corporation is obligated to operate and maintain under subsection (a) of section 3 of this Act.", and

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

"REBATE OF CHARGES OR TOLLS

"SEC. 13. (a) The Corporation shall transfer to the Harbor Maintenance Trust Fund, at such times and under such terms and conditions as the Secretary of the Treasury may prescribe, all revenues derived from the collection of charges or tolls established under section 12 of this Act.

"(b)(1) The Corporation shall certify to the Secretary of the Treasury, in such form and at such times as the Secretary of the Treasury shall prescribe, the identity of any person who pays a charge or toll to the Corporation pursuant to section 12 of this Act with respect to a commercial vessel (as defined in section 4462(a)(6) of the Internal Revenue Code of 1954).

"(2) Within 30 days of the receipt of a certification described in paragraph (1), the Secretary of the Treasury shall rebate, out of the Harbor Maintenance Trust Fund, to the person described in paragraph (1) the amount of the charge or toll paid pursuant to section 12 of this Act.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1986.

SEC. 806. REPORT ON REDUCTION OR ELIMINATION OF TOLLS ON THE GREAT LAKES AND THE SAINT LAWRENCE SEAWAY.

Not later than 2 years after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall initiate discussions with the Government of Canada with the objective of reducing or eliminating all tolls on the international Great Lakes and the Saint Lawrence Seaway, and the Secretary of Transportation shall report to the Congress on the progress of such discussions and on the economic effects upon waterborne commerce in the United States of any proposed reduction or elimination in tolls.

SEC. 807. STUDY OF CARGO DIVERSION.

The Secretary of the Treasury, in consultation with the United States Customs Service and other appropriate Federal agencies, shall conduct a study to determine the impact of the port use charge imposed under section 4461(a)(1) of the Internal Revenue Code of 1954 on potential diversions of cargo to Canada and Mexico from United States ports. The report of the study shall be submitted to the Ways and Means Committee of the House of Representatives and the Committee on Finance of the United States Senate not later than 1 year from the date of the enactment of this Act.

Mr. STAFFORD. Mr. President, I now yield to the manager of the bill for our side of the aisle, Senator ABDNOR.

Mr. ABDNOR. Mr. President, I am pleased to present to my Senate colleagues S. 1567, the Water Resources Development Act of 1986. This legislation is the product of 6 years of work by the Environment and Public Works Committee.

I thank my colleagues on the committee for their continued support in seeking to resolve the controversies which have hounded the Corps of Engineers program for the last decade.

Mr. MOYNIHAN. Mr. President, may we have order. The chairman of our subcommittee is introducing the first water bill to appear on this floor in a decade. I think he should be heard.

Mr. ABDNOR. I thank my colleague.

The committee chairman, Senator STAFFORD, and the ranking minority member of the committee, Senator BENTSEN, have lent continuous support and encouragement to the Subcommittee on Water Resources in its effort to produce an omnibus water bill which reforms and redirects the civil works construction program of the Corps of Engineers.

I must also express a very special thanks to my colleague, Senator MOYNIHAN, the ranking minority member of the Subcommittee on Water Resources. Without his continual help and guidance and also having to give from time to time, this bill would never have come about. I thank him sincerely for the great contribution he has made to this legislation.

His commitment to wise water resource development and his constant involvement in the many facets of this legislation have made it possible for me to present to the Senate a fair and balanced water resources development act.

I am sure that the aspects of this bill which my colleagues have heard the most about are the user fee and cost sharing provisions.

Let us not get these two things confused Mr. President.

The term "user fees" refers to charges assessed for making use of Federal navigation facilities. The provisions of S. 1567 which relate to such charges are found in title VIII. I will not now address them since the Finance Committee managers will be discussing these provisions in detail.

Cost sharing refers to the percentage of total project construction costs which are to be provided by non-Federal interests. Cost sharing may be required during the period of actual construction, repayed over time, or some combination of payments over time and during construction.

I do not think that there is anyone who still believes corps projects can be built in the future without increasing the non-Federal cost sharing.

If there is, they have not been paying much attention to the decade long debate which has kept omnibus water legislation from passing in Congress.

Let us face it: This debate has been a debate over how much cost sharing is appropriate, not a debate over the necessity of establishing a new cost sharing policy.

We just cannot build these projects in the future without having a larger financial commitment from project sponsors.

On the other hand, local sponsors cannot be expected to put up additional costs without having a greater say in the entire process of developing a project. Nor can they be expected to put up additional costs if they simply do not have the ability to do so.

Under S. 1567 the limits and scope of feasibility studies for all types of corps projects will be determined in a process of continuing consultation and collaboration between the Corps of Engineers and the non-Federal sponsors of project development.

In the future, the desires of local interests as to the type of project to be implemented, the size of the project, the area to be included, and many other factors will have to be negotiated and jointly determined, instead of being mandated and imposed by the corps.

The cost sharing provisions of this legislation for project construction are neither burdensome nor disruptive. They are the minimum necessary to provide for a market test of project viability.

Very briefly, this bill requires a 25–35 percent local share for flood control projects that includes the cost of lands and a 5-percent contribution in cash during construction. This would be subject to an ability to pay determination made by the Secretary of the Army.

Let me reiterate that statement. The projects authorized in this legislation would subject to the ability-to-pay determination made by the Secretary of the Army.

For port projects less than 20 feet deep, it requires 10 percent of the project costs to be paid during construction, and 10 percent to be paid back over time.

For port projects between 20 and 45 feet deep, it requires 25 percent of the project costs to be paid during construction, and 10 percent to be paid back over time.

For port projects deepened below 45 feet, 50 percent of the project cost is required to be paid during construction, and 10 percent is to be paid back over time.

And while it is technically not cost sharing, this bill requires that 50 percent of the costs of the inland waterway locks and dam projects in the bill are to be paid for from the inland waterway trust fund.

Mr. President I ask unanimous consent that a table which gives more detail on the cost sharing provisions of the legislation be printed in the RECORD.

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

TITLE VI

Project purpose	Present non-Federal share		New non-Federal share	
	Cost-share	Financing options	Cost-share	Financing options
Commercial navigation—				
less than 20 feet	0 percent; lands, easements, etc., and dredge disposal costs.	No repayment.	10 percent cash during construction, plus all lands, easements, etc., and dredge disposal costs, plus 10 percent repayed over time.	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
20 to 45 feet	0 percent; lands, easements, etc., and dredge disposal costs.	No repayment.	25 percent cash during construction, plus all lands, easements, etc., and dredge disposal costs, plus 10 percent repayed over time.	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.

TITLE VI—CONTINUED

Project purpose	Present non-Federal share		New non-Federal share	
	Cost-share	Financing options	Cost-share	Financing options
deeper than 45 feet	0 percent; lands, easements, etc., and dredge disposal costs.	No repayment.	50 percent cash during construction, plus all lands, easements, etc., and dredge disposal costs, plus 10 percent repayed over time.	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.

TITLE VII

Project purpose	Present non-Federal share		New non-Federal share	
	Cost-share	Financing options	Cost-share	Financing options
Urban and rural flood protection	For a dam 0 percent; if other structural solution lands, easements, rights-of-way; if nonstructural 20 percent; rebates if lands, easements, etc., exceed 50 percent	No repayment	5 percent cash during construction, plus all lands, easements, etc. Where this total is less than 25 percent either an additional cash contribution can be made during construction to equal 25 percent or an additional contribution can be made over time to equal 35 percent. An ability to pay determination is made; 5 percent cash waived if nonstructural	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Hydroelectric power	100 percent	Repayment in accord with multiple statutes	No change in existing law	
Municipal and industrial water supply	100 percent	50 year maximum repayment with interest set at a nonmaket rate: option of 10 year interest free development period	100 percent	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Agricultural water supply	50 percent (lands, easements, etc., included)	During construction	35 percent (lands, easements, etc., included). An abililty to pay determination is made	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Recreation, including recreational navigation	50 percent (lands, easements, etc., included)	During construction, or 50 year maximum repayment, with interest set at a nonmarket rate	50 percent (lands, easements, included)	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Hurricane and storm reduction	30 percent (lands, easements, etc., included)	During construction	35 percent (lands, easements, etc., included)	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Aquatic plant control	30 percent (lands, easements, etc., included)	During construction (usually 1 year)	50 percent (lands, easements, etc., included)	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.

Further explanation: The new standardized repayment time period is flexible. In cases where the non-Federal share is not paid during the construction period, repayment is to be in a maximum of 30 years. It is anticipated that any payment which may be required for aquatic plant control or hurricane and storm damage reduction, will be made in the same general time frame as in the past.

Mr. ABDNOR. Mr. President, these cost sharing provisions are the heart of this legislation, and the committee has struggled with the problem of how much for over 6 years. We have heard from literally hundreds of witnesses in 26 hearings held around the country. I believe that the cost sharing which this bill requires is the minimum amount on which all the interested and affected parties, including the administration, can agree. Therefore, as I have indicated with my colleagues on the Environment and Public Works Committee, we will strenuously oppose any watering down of these provisions here today. We cannot expect the President to sign a water bill which falls below his minimum requirements for cost sharing.

Mr. President a second interest of my colleagues concerns the costs of this legislation.

Nothing in this legislation is required to proceed to construction. What we are doing today is authorizing projects that the Congress may choose to provide funds for in the future.

Furthermore, we are establishing obligation ceilings on the level of construction activity which the corps may program over the next 5 years. These ceilings are in agreement with current projections of the Congressional Budget Office.

Through this mechanism, we have insured that there is not going to be a huge jump in the corps budget as a result of enacting this bill, and I think that the administration's support for this legislature is based in large part on the fact that we have taken the necessary precautions to insure that this is the case.

This bill provides for the authorization of $11 billion in new construction projects for the Corps of Engineers: 181 major projects are authorized. And every single one of them has completed planning by the Corps of Engineers.

If a project has favorably completed corps planning, it is in the bill. If a project is still in the pipeline then it is not in the bill, and I don't believe it should be. Until the corps plan is completely reviewed the precise costs are not finalized, the environmental impacts are not defined and accounted for, and the engineering may not even be complete. In addition, it is not until the final corps plan is being reviewed by the Chief of Engineers that affected local, State, and Federal agencies are given an opportunity to review the proposed plan of development, and comment formally on its specifics.

This is the most conservative, consistently applied, and objective criteria ever employed in the selection of corps projects for inclusion in an Omnibus water bill. It is another reason the administration supports this legislation.

At some point though, enough is enough, Mr. President, and I believe we are at that point with this bill right now. If the corps stopped all current construction activity and programmed funds only for the 179 projects included in this bill, the current level of construction could be carried out for at least 12 years.

The most serious threat to this legislation is that we turn it into a Christmas tree and authorize every project in the corps planning pipeline, no matter how premature.

The President is going to approve a water development bill that is sensible and reasonable when it comes to project authorizations. He is not going to sign a Christmas tree, and we all know it, and I cannot emphasize that enough.

So, as my colleagues are aware, the Enivronment and Public Works leadership will oppose the addition of any new project or program authorization to this bill.

Mr. President, to take advantage of the great economic opportunities this Nation's water resources offer to us requires a new partnership between Federal and non-Federal interests. While this new partnership extends beyond cost sharing, there can be no doubt that new cost sharing policies are at its heart.

Without a new agreement such as the one which we have worked out in S. 1567, the Nation will not be able to benefit from the wise and prudent development of its water resources.

We have already spent a decade on the debate of these issues. Either we possess the wisdom to move forward with this new partnership, or in many cases we will miss the opportunites for the economic, environmentally sound

growth which the projects in this bill provide.

This bill represents an important investment in this Nation's future, and I urge my colleagues to support its passage in the Senate.

Mr. President, I would like now to describe in some detail the eight titles of S. 1739 as reported by the Committee on Environment and Public Works. I urge my colleagues to study the committee's report on this bill for a more complete explanation of many of these provisions. For the convenience of my colleagues, I will indicate which of the bill's provisions as reported by the Committee on Environment and Public Works are modified or deleted by the committee leadership's amendment which was reproduced in the CONGRESSIONAL RECORD of March 11, 1986, on page S2432. A detailed explanation of that amendment can be found along with the amendment itself.

Title I limits the amount of money which can be obligated on an annual basis by the Corps of Engineers for all water resources construction. Under this title, Corps of Engineers construction obligations would be limited to $1.3 billion annually for each of the fiscal years 1986-90. This limitation on expenditures reflects the Congressional Budget Office estimates of spending for corps construction work and the Mississippi River and Tributaries project. This title is fundamental to shaping the impact S. 1567 will have on the Corps of Engineers construction program and on the Federal budget.

Even though the primary purpose of S. 1567 is to revitalize and reform the water resources program of the Corps of Engineers, we should not do this at the expense of an increased Federal deficit. So, while S. 1567 authorizes over $10 billion in new construction projects, the title I cap on annual construction obligations prevents adverse budgetary consequences. The cap on construction costs exempts the outyears of multiyear construction contracts and any amounts obligated by the Corps against reimbursement expected by other Federal agencies or local project sponsors for work they have performed.

The committee leadership amendment sets back by 1 year, each of the dates in title I.

Title II contains a number of provisions which are crafted to encourage more efficient operation, management, and development in programs of the Corps of Engineers and in certain aspects of Soil Conservation Service Programs.

Under section 201, if any particular landowner is expected to receive more than 10 percent of the flood control benefits of a corps project, that landowner is required to pay 50 percent of the costs allocated to providing that benefit. This section will prevent any individual's receiving windfall flood control benefits at the expense of the Federal Government or non-Federal project sponsors. This section is clarified by the committee leadership's amendment.

Section 202 requires that reports on projects of the Soil Conservation Service and the Army Corps of Engineers with recreation benefits must contain information on similar recreation facilities in the project area and the impact of the proposed project on the usage of those facilities.

It should be noted that this section, as well as section 205, 206, and 207 involve the work of the Soil Conservation Service. These sections involve only those projects under the jurisdiction of the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. Projects submitted to the Agriculture Committees of the Congress are not affected by these sections.

Section 203 initiates a new deauthorization procedure for Corps of Engineers water resources projects. The Corps of Engineers estimates that there is presently a $36.2 billion backlog of corps projects. More of these projects are seriously outdated or are presently infeasible. The existing deauthorization procedure developed by the Corps of Engineers has proven to be a cumbersome and ineffective method for eliminating this enormous backlog. Section 203 would require that any corps project on which construction had not begun within 10 years of its authorization, be automatically deauthorized. Exceptions are made for those projects still considered viable and justified by the Chief of Engineers in consultation with the affected State or States. This section is clarified by the committee leadership amendment.

Section 204 rescinds authority for the Corps of Engineers to conduct a project survey if no funds have been spent on that survey within 5 years of its congressional authorization. As with authorized corps construction projects, there is also a large backlog—estimated to be $366 million—of corps water project surveys which were authorized years ago and for one reason or another are unneeded or outdated. Should the need to address a water resources problem remain strong, either Public Works Committee can pass a resolution authorizing the corps to study the problem and consider solutions.

Section 205 requires that all SCS small watersheds projects submitted to the Senate and House Public Works Committees after January 1, 1986, and having a Federal cost greater than $10 million, must be authorized by an act of Congress. Presently, these projects, regardless of cost, are authorized by resolutions of the Senate and House Public Works Committees. Projects with a Federal cost exceeding $10 million are too large to be authorized solely by committee resolution; they deserve the consideration of the full Congress. Requiring such an act of Congress will help to focus congressional attention on this important program and its larger projects.

Section 206 requires that any Soil Conservation Service small watersheds project submitted to the Senate and House Public Works Committee must have at least 20 percent of its benefits directly related to agriculture.

A major intent of Public Law 83-566 was to provide benefits to agriculture and agriculture-related purposes. In a significant number of projects reviewed by the Committee on Environment and Public Works, agriculture benefits have been low. At the same time, the SCS has become involved in a few predominantly urban projects which would seem more appropriately to fall within the province of the Corps of Engineers, rather than a primarily agricultural/rural program such as the Public Law 566 program.

In light of the importance of agriculture to the viability of the Nation and its economy, and in light of the vast unmet needs to this sector of our society, the Public Law 566 Small Watershed Program should retain its primary purpose. The intent of this section is therefore two-fold: First, to insure that agriculture remains an important element of those Public Law 566 projects the committee reviews, and second, to discourage the use of this program for primarily urban projects.

Section 207 would require the Soil Conservation Service to study the desirability, feasibility, and policy implications of requiring that full public access be provided to any or all water impoundments that have recreation potential and were constructed under the Small Watersheds Program—Public Law 83-566. The Soil Conservation Service is required to report to Congress by April 1987 on the results of this study.

Section 208 authorizes the Secretary to certify that locally constructed improvements for flood control would be compatible with a Federal project under study, so that local interests may proceed with such work with the understanding that the local improvements will be considered a part of the Federal project for purposes of benefit/cost analysis and subsequent cost-sharing.

This authority was originally granted by the Water Resources Development Act of 1976. It works as follows: If the local sponsors of a potential Corps flood control project involving, for example, channel and levee work, wish to go ahead and build the levees

at their own expense, they may, under this provision, request that the corps' district engineer certify that this levee would be a part of a potential project and is compatible with it. If certification is received, local sponsors are guaranteed that their expense in building the levee will be counted toward their required share of the whole project's expenses—subject to the cost-sharing provisions of this act—and will remain part of the project for the purpose of the calculation of the benefit-cost ratio.

Section 209 authorizes the corps to undertake a 5-year program of research and assistance for the control of river ice in northern communities which frequently suffer flooding as a result of the buildup of ice dams during the winter and early spring; $5 million for each of 5 years is authorized for this purpose. This section also authorizes an ice control demonstration project for Hardwick, VT, at a cost of $900,000. The Secretary is required to report to Congress on activities undertaken pursuant to this section by March 1, 1988.

Section 210 authorizes the Secretary on the request of local interests, to provide technical assistance on the design and construction of projects to tap the hydroelectric potential of former small scale hydroelectric facilities and other industrial sites. A total of $5 million for each of 5 years is authorized for this assistance. Recent studies have shown that significant electric generating potential exists at these sites. Local interests would of course be responsible for the full cost of construction of any project resulting from collaboration with the corps under this section.

Subsection (a) of section 211 amends section 221(b), the 1970 Flood Control Act, to allow a State or a body politic of the State—such as a city, county, levee district—to enter into long term, legally enforceable, and binding contracts to pay for its share of a corps water resources project without obligating future State legislative appropriations or other funds in a manner that would be inconsistent with the State's constitutional limitations.

Without this change in the 1970 Flood Control Act, many States and sub-State entities would be unable to enter into payback agreements with the Secretary. This is particularly important given the increased local cost-sharing that is required by this bill.

Subsection (b) of section 211 requires the Secretary, in consultation with the Secretary of the Treasury, to promulgate rules governing interest and penalties for delinquent payments required by cost-sharing agreements with the Secretary. This provision is meant to help insure that non-Federal project sponsors live up to their part of the agreement on a corps water project.

Subsection (c) allows the Secretary the discretion to stop funds from being obligated for operation and maintenance of a project if non-Federal sponsors are more than 24 months overdue in their payments to the United States which are required by a cost-sharing agreement.

This section is clarified by the committee leadership amendment.

Section 212 assures that all projects authorized by this bill have the approval of the Chief of Engineers before construction can begin on them. The project planning process of the Corps of Engineers is elaborate and thorough. Once a project has made it up through the several layers of the process and has received the approval of the Chief of Engineers, it has been thoroughly studied, has a final environmental impact statement, and has received the comments of the public and other Federal and State agencies. Almost all of the projects authorized by this legislation have already completed this process and have received the approval of the Chief of Engineers. The committee leadership amendment clarifies this section.

Sections 213 and 218 work together to insure that the projects actually built pursuant to this act closely coincide with the proposals examined and authorized by Congress. In the past, numerous problems and controversies have resulted from significant changes being made to corps project subsequent to their authorization. Section 213 limits the sums which can be appropriated for any corps project in this bill to those costs listed in the bill, plus any incremental increase justified solely by increases in construction or land costs. This language is clarified by the committee leadership amendment. Section 218 prohibits the corps from constructing any project that has been authorized by Congress on which, subsequent to that authorization, any of the following project elements or parameters is increased by more than 25 percent: Acreage of land acquisition, linear miles of stream channel inundated, housing units displaced, width or depth of navigation channel, hydroelectric generating capacity, or linear miles of stream channelization. If any of these parameters are exceeded, the project must be reauthorized by a subsequent act of Congress. It is intended that some flexibility and judicious determinations be exercised by the Chief of Engineers in interpreting this section. This section is also clarified by the committee leadership amendment.

Section 215 will allow the sponsors of a project to create a repayment district which can recover project costs from local project beneficiaries. For example, it is commonly known that land values increases in an area after the installation of a flood control project. A repayment district created under this section could, for example, levy a tax on this increase in land value to help recover the local share of the project cost. In drafting the cost sharing reforms of S. 1567, the committee has tried its utmost to give a maximum degree of flexibility to local interests in meeting their share of project costs. Section 215 is one way we have sought to do this. It is modified by the committee leadership amendment.

Section 216 insures that all Missouri River projects authorized by this bill conform to the so-called "O'Mahoney-Milliken" provision of the Flood Control Act of 1944. This provision guarantees that consumptive users of Missouri River water, such as irrigators, industries, and municipalities, may continue to use the river's water during times of low flow without fear of legal recourse by navigators, even though during times of irrigation withdrawals, the river level may be reduced below minimum levels needed for navigation.

Section 217 amends section 111 of the 1968 River and Harbor Act to allow the Secretary to implement nonstructural measures to mitigate shore damage attributable to corps navigation projects. Section 111 of the 1968 act presently authorizes the Secretary to investigate, study, and construct projects for the prevention and mitigation of shore damages caused by Federal navigation works, but the Federal Government bears the full cost of installing, operating, and maintaining these small projects.

In many instances, nonstructural measures could accomplish the goals of section 111 at less cost to the Federal Government and in a more environmentally acceptable manner than construction of a share protection project.

Under this section, the Secretary could on a discretionary basis, acquire shoreline property for such mitigation. A non-Federal project sponsor must agree to share the initial cost in the same proportion as the project causing the shore damage, and then operate and maintain the property for a public purpose.

Section 218 was discussed previously along with section 213.

Section 219 creates a program of research and demonstration programs necessary to help meet the growing water deficit in the area overlying the Ogallala Aquifer. An increasing body of evidence indicates that the Ogallala Aquifer, the largest and perhaps most important body of groundwater in the United States, is becoming seriously depleted. This vast underground reserve of water not only plays a critical role in the economics of the six high plains States which lie on top of it—Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas—but it is also an important national resource.

Its depletion is a dangerous trend which must be reversed. This section establishes a technical advisory committee in each of the six high plains States overlying the Ogallala Aquifer. The advisory committees are charged with reviewing existing State laws and institutions as they relate to water use efficiency and management, establishing State priorities for research and development, education and providing technical assistance to the public, and reviewing research grant applications.

To oversee and coordinate the activities of the advisory committees in each State, the section creates a high plains study council composed of the six Sate Governors and representatives of the Departments of Interior and Agriculture. A total of $11 million is authorized for each of 5 years by this section and is divided as follows: $500,000 for operation of the advisory committees; $5 million for research into efficient water use techniques; $1.5 million for research into innovative water supply technologies and techniques; and $4 million for demonstration projects.

Each of these sums is to be divided equally among the six States. In addition, $500,000 is authorized annually to the U.S. Geological Survey to monitor the condition of the Ogallala Aquifer.

Section 220 allows preconstruction advance engineering and design on projects for which the Secretary has also submitted final feasibility reports. If a report recommends implementation of the project, and if the Secretary determines that continuation of project planning is in the public interest, the corps may initiate advance engineering and design of the project.

Advanced engineering and design of a project was, in the past, undertaken only subsequent to congressional authorization for project construction. However, since 1981, appropriations acts have allowed funding of detailed studies, plans, and specifications without further authorization. This has permitted the corps to continue engineering and design on projects where a final report has not yet been submitted to Congress and in some instances has increased the efficiency of the corps planning process.

Section 221 authorizes the Corps of Engineers to undertake a study of the implications for shoreline erosion control of a possible future rise in the sea level. Increasing evidence seems to indicate that global temperatures will gradually increase with a resultant rise in sea levels as the polar ice caps melt. Such a future scenario would have important and in some cases devastating consequences for coastal areas. Since the Federal Government and others presently spend tens of millions of dollars yearly to protect property from coastal erosion, it is only prudent to examine this problem and study strategies to cope with any eventual rise in sea level; $3 million is authorized for this study, the results of which are to be transmitted to Congress with supporting documentation and recommendations in 3 years.

Section 222 requires that corps projects costing over $10 million undergo an engineering review to insure that each project and its individual components are designed in the most cost-effective way possible. In the past it has appeared that certain project designs implemented by the Corps of Engineers have not been the most cost-effective. General Accounting Office studies show there exists substantial opportunity for lowering the cost of water resources projects. Engineering reviews as required by this section can typically lower the cost of large construction projects by as much as 3 to 10 percent without compromising the quality of the end-product.

Section 223 establishes a two-stage water resources study process for the Corps of Engineers: An initial reconnaissance study at full Federal expense, and if warranted, a full feasibility study that would be performed on a 50/50 cost share basis with local project interests. Since requesting that the Corps of Engineers study a water resources problem costs a community nothing, such requests are frequently made. The corps then, on approval by resolution of either of the Public Works Committees of the Congress, undertakes a feasibility study of the problem at full Federal cost. The wasteful nature of this procedure is evidenced by the fact that only 30 percent of all project studies ever produce a positive recommendation by the Chief of Engineers; the remainder are terminated at some point because they are found to be unwarranted.

The two-stage planning process required by this section is quite similar to the two-stage process which the corps has recently implemented on its own. This process will help insure that a water resources problem is serious enough and the local interests committed enough that study for a possible Federal project is warranted. In addition to screening out unjustified studies, this local cost sharing requirement will result in more significant local sponsor participation in the study outcome and project design.

Section 224 reforms and streamlines existing Corps of Engineers authority and policy with respect to fish and wildlife mitigation for water resources projects. First, this section requires that necessary mitigation be undertaken prior to or concurrent with project construction. Second, the Corps of Engineers is authorized—not mandated—to provide mitigation costing less than $7.5 million for any project, constructed or unconstructed, without any further congressional authorization. Annual obligations for this work is limited to $30 million. Third, this section requires that mitigation costs be allocated among project purposes and that they be subject to the applicable cost-sharing and reimbursement for those purposes. Fourth, future proposals for water resources projects are required to have a recommendation for a specific plan of mitigation or a determination that the project will have negligible adverse effects on fish and wildlife: This will help insure that mitigation work is fully integrated into project design. And last, this section requires that fish and wildlife enhancement measures are 100 percent Federal cost when their benefits are national, such as instances involving endangered species or species of national economic importance, or 33⅓ percent, when benefits are confined to one State, or 25 percent if the benefits are regional. The committee leadership amendment modifies this section.

Section 225 provides the Corps of Engineers with a new small project authority to plan and construct streambank erosion control projects costing less than $2 million if such work is economically justified and environmentally acceptable. The authorization for this section is $15 million for each of the fiscal years 1986–90. Although streambank erosion is a natural process in most instances, it causes severe problems in many areas of the country. The Streambank Erosion Demonstration Program authorized by the 1974 Water Resources Development Act proved that in many instances there exists cost-effective techniques to control this erosion.

Section 226 is designed to cut water project construction costs by requiring more competition. It expresses the sense of the Senate that the Secretary, before offering an invitation to bid on a project should, to the extent it is reasonable and efficient, split that project—and hence its separate contracts—into small enough packages so that many engineering and construction firms can compete for the work, not just a few of the largest firms.

In addition, the Secretary, under this section, is forbidden to require construction contractors on water resources projects to perform any record keeping that is, by law, the Secretary's responsibility. This section is changed by the committee leadership amendment.

Section 227 involves vessels that have sunk or otherwise been wrecked. Under present law, corps costs for removal can be offset only by the salvage value of the wreck. In the case of abandoned vessels, this is usually far less than the cost of removal.

The section amends the River and Harbor Act of 1899 and provides that any owner or operator of a sunken or wrecked vessel must reimburse the United States for expenses covering its salvage. Any money received from

such reimbursement, or from the sale or disposition of any such wreck, shall be deposited in the general fund of the Treasury.

Section 228 allows the corps to provide a wider range of services, including construction services, to non-Federal public agencies on a reimbursable basis.

Although the corps presently has the authority to provide a variety of technical, planning, design, and construction services, on a reimbursable basis, to other Federal agencies, it lacks authority to provide anything more than "specialized and technical services" to requesting States or other non-Federal entities. This existing authority is interpreted to preclude actual construction assistance to non-Federal entities, even on a reimbursable basis.

Section 229 is eliminated by the committee leadership amendment.

Section 230 augments the ability of the Secretary to utilize the resources of the corps in the event of war. The civil works resources of the corps constitute valuable reserve capability that could be used to meet mobilization needs in times of extreme national need. Under this section, the Secretary may draw upon those civil works resources if required during war.

Subsection (a) authorizes the Secretary to free civil works resources, including funds, personnel, and equipment, from projects not essential to the national defense and to apply those resources to authorized civil works, military construction, and civil defense projects critical to the national defense.

This authority would be available only in a very limited situation; in time of war declared by Congress. This section does not provide authority to construct any project not otherwise authorized by law.

Subsection (b) requires the Secretary to notify the appropriate congressional committees immediately upon exercising the authorities provided by subsection (a). In addition, this subsection specifies that those authorities shall cease no later than 180 days after the termination of the state of war.

This section is modified by the committee leadership amendment.

Section 231 amends a 1922 law, increasing to $50,000 from $100, the criminal penalty for failure to provide statements relative to vessels, passengers, freight, and tonnage required by the Secretary. Such information is used to compile statistics on the waterborne commerce of the United States, which are published annually. This section allows the Secretary to assess a civil penalty of up to $25,000 per violation for failure to provide information required by that act. The committee leadership amendment clarifies this section.

Section 232 abolishes the California Debris Commission, together with its authority to regulate hydraulic mining. The commission's remaining navigation and flood control responsibilities would be transferred to the corps, together with the commission's assets and liabilities.

Originally, the commission's primary role was to control the vast amounts of soil and debris which were being released into California rivers and streams by miners using the hydraulic method of gold recovery. Between 1853 and 1909, hydraulic mines poured over 1.5 billion cubic yards of debris into California water, interfering with navigation and frequently caused flooding. The commission was authorized to regulate hydraulic mining, but hydraulic mining has since become uneconomic. The industry no longer exists, making regulation unnecessary.

Under this section, the corps would be authorized to retain all real property interests presently under the commission's jurisdiction and to take such actions as are necessary to consolidate holdings and perfect title. These real property interests are needed for the continued operation of existing commission projects.

Should hydraulic mining or related activities again become feasible, these activities would be regulated adequately under the permit requirements of sections 10 and 13 of the Rivers and Harbors Act of 1899 and section 402 and 404 of the Federal Water Pollution Control Act Amendments of 1972.

Section 233 authorizes additional appropriations necessary to complete all construction of comprehensive river basin plans for flood control, navigation, and other purposes in each of 28 river basins now subject to limits on the amount of funds that can be appropriated.

This section eliminates the need for periodic consideration by the President and Congress of river basin monetary authorization legislation. It is not intended to diminish congressional oversight for the civil works program. It promotes efficiency in the exercise of that oversight function.

The river basin monetary limits no longer serve a useful role of assuring oversight. Since the passage of the Congressional Budget and Impoundment Control Act of 1974, the authorization committee of both Houses of Congress have developed procedures to provide for annual review of the entire civil works budget. These annual reviews of the overall program reduce the need for the periodic reviews involved in the river basin monetary authorization limits.

Section 234 provides that should any section or subsection of this act be held invalid in the courts, that determination does not affect the validity or legality of any other provision in this act.

Section 235 authorizes the corps to dispose of obsolete hopper dredges and spare parts using existing Federal surplus property procedures. The dredges may be disposed of by sale or lease to foreign governments, to a Federal or State maritime academy for training purposes, to a non-Federal public agency for scientific, educational, or cultural purposes, or by sale for scrap, or by sale or lease to non-Federal public bodies in the United States. No disposal can be made in the United States if the vessel will be used in any way for commercial dredging. Funds shall go to a revolving fund for corps vessel maintenance.

The corps has in floating storage 12 hopper dredges, which were retired in accordance with Public Law 95-269. These dredges are obsolete, and, since little attempt was made to preserve them when they were laid up, they have deteriorated badly. Rehabilitation costs may exceed their present value.

A number of public bodies, including one in Texas, have stated an interest in obtaining one of these dredges for use as a maritime museum or restaurant. Such a use for vessels, in light of the current storage cost to the Federal Government of over $100,000 annually, would prove wise. This section is modified by the committee leadership amendment.

Section 236 is deleted by the committee leadership amendment.

Section 237 assures that the cost of every project, project increment, and program authorized in this act will, unless specified otherwise, be subject to the appropriate cost sharing and financing provisions of titles 5, 6, and 7 of this act.

The primary intent of this section is to insure sponsors of that project modification or programs in titles 2 and 3 pay a share of project or program costs consistent with the new cost sharing policies set forth in the act. However, this section is also meant to assure that increments of projects, and work providing benefits for a multiple purpose project, shall be cost-shared in an appropriate manner.

Title III of S. 1739 authorizes a variety of specific water resources development work as well as changes in existing projects under the direction of the Army Corps of Engineers. Section 237 of this act assures that projects in this title will be cost shared in accord with the new cost sharing provisions in this bill.

Section 301 augments the new small project authority for streambank erosion created by section 225 of this bill. It does so by authorizing bank stabilization efforts at three specific locations of particularly severe erosion: Moundville and Fort Toulouse, AL; and Tangier Island, VA.

Under this section, non-Federal sponsors must agree to provide lands, easements, and right-of-way, and to agree to operate and maintain any work undertaken under this section.

At Moundville, AL, the Secretary is directed to correct serious sloughing and erosion of the left bank of the Black Warrior River. This erosion endangers the structures and cultural resources of the Mound State Park. Correction involves the construction of a dike, and other activities, at a cost of $4,118,000.

The Fort Toulouse National Historic Landmark is located on the Coosa River at its confluence with the Tallapoosa River in Elmore County, AL. The corps is directed to make a 6,900-foot cutoff in the river, isolating the unstable slope and to stabilize the bank upstream and downstream of the fort. The cost is $15,400,000.

On Tangier Island in Chesapeake Bay, VA erosion is so rapid on the western shore that the island's airport, a critical link with the mainland, could become unusable within 10 years. Eventually, the island's 800 residents may have to be evacuated. To correct this, the corps is directed to build a 8,200-foot-long riprap seawall, at a cost of $5,400,000.

Erosion problems, of course, exist at many locations across the Nation. Corrective work at various locations has been authorized prior to this act, and awaits funding. This section states that erosion control projects authorized prior to this law will receive priority consideration in funding.

Section 302 is a modification of the existing Delaware coast beach protection project. It does the following:

It eliminates hurricane protection as a purpose of the already authorized project, reducing its cost (the State no longer supports this portion of the project); and it authorizes construction of a permanent sand-bypass facility on the south side of the Indian River Inlet jetties.

The Federal Government already spends about $1,000,000 every 2 or 3 years for beach replenishment under current authority. Under this section, the State and Federal Governments will share the $383,000 annual cost to operate the new sand-bypass facility, which will pump sand from the south side of the inlet to the north side.

This section also directs the corps to construct erosion protection facilities at the Inlet to protect a road, a sewage treatment facility, and other public facilities.

Section 303 authorizes the corps to install a set of emergency gates at the conduit of Abiquiu Dam in New Mexico, at a cost of $2,500,000. The elimination of this safety feature as a cost saving measure during construction of the dam has resulted in inefficient and expensive routine maintenance operations at the dam.

Section 304 places those areas of New Mexico which are now under the responsibility of the corps district engineers in Sacramento, CA, and Los Angeles, CA, under the responsibility of the district engineer in Albuquerque, NM. The existing division of responsibility for corps planning and assistance for New Mexico has resulted in water resources concerns of the western portion of the State being inadequately addressed. This section would remedy this situation by putting these responsibilities under the jurisdiction of a district engineer closer to the problems that need to be addressed.

Section 305 directs the Corps of Engineers to undertake safety-related repairs at Waterbury Dam in Vermont. Abnormal leakage at this federally constructed and owned dam has required that the water behind it be drained. This section makes it clear that needed safety-related work on the dam is a Federal responsibility.

Section 306 eliminates the navigational servitude over portions of the City Waterway in Tacoma, WA, and thus will allow several small boat marinas in the waterway to continue to lease space without the need for certain bonding requirements. Federal control over those portions of the waterway will be ended, thereby eliminating any cloud over the title.

Section 307 is eliminated by the committee leadership amendment.

Section 308 authorizes the use of unneeded irrigation water from the corps' Belton Lake on the Brazos River in Texas for water supply in addition to the other authorized project purposes. This alteration of the existing authority will not interfere with any other present or anticipated use of water from the lake.

Section 309 makes no change in law, but it is intended to underscore and reaffirm the intent of Congress to see that the Pick-Sloan plan is carried out to fulfill the promises made to the upper basin States.

The Pick-Sloan Missouri Basin Program was authorized by section 9 of the Flood Control Act of 1944 as a coordinated, comprehensive plan for flood control, hydroelectric power generation, irrigation, and navigation developments.

Individual unconstructed, or partially constructed, units of the Pick-Sloan plan have, from time to time, been revised with congressional approval to reflect changing conditions or more complete data. However, Congress has adhered steadfastly to the concept that the unconstructed units of Pick-Sloan remain authorized as elements of the plan.

The flood control and navigation benefits of Pick-Sloan have accrued to the lower Missouri River basin. The six massive mainstrean storage reservoirs, which provide those downstream benefits, and located in the upper basin States of Montana, North Dakota, and South Dakota.

To obtain the 75 million acre-feet of storage provided by the six upper basin dams, more than 1,500,000 acres—including over 500,000 acres in each of the States of North Dakota, South Dakota, and Montana—have been permanently inundated. Much of that land was prime agricultural land.

The upper basin reservoirs have been in place and providing flood control and navigation benefits for many years. Development of Pick-Sloan irrigation, with its consequent benefits to the Upper Missouri Basin States, has lagged.

Section 310 modifies the authorization of the Jackson Hole-Snake River project in Wyoming to increase Federal responsibility for maintenance in light of the fact that deficient project design has resulted in high maintenance costs to local project sponsors. This section makes operation and maintenance of the project the responsibility of the Corps of Engineers, provided that non-Federal interests contribute the initial $35,000 of these costs each year. The average annual maintenance cost since 1976 at Jackson Hole-Snake River has been $39,800.

Section 311 modifies the flood control project at Truth or Consequences, NM. Truth or Consequences experienced significant flooding in 1972, and again n 1976. Another flood poses a serious danger of loss of life. The project, as authorized in 1948, consisted of a series of levees along the Rio Grande. Because of urban development in the area since 1948, that project is no longer feasible. As a result, the corps has reformulated the project and determined that the best alternative is the construction of a flood control dam on Cuchillo Negro Creek. This section authorizes this change.

Section 312 authorizes the corps to restore historic community irrigation ditches called acequias in New Mexico. The State of New Mexico, or other non-Federal interest, is required to pay 20 percent of the cost of any work undertaken by this section. In order to further clarify the Federal role, this section. In order to further clarify the Federal role, this section declares that acequia systems are political subdivisions of the State, allowing them to serve as local sponsors of water-related projects of the corps. This subsection overturns legal opinion of the corps' general counsel in 1976 that ruled that corps authority, under section 14 of the 1946 Flood Control Act, failed to apply to the repair or rehabilitation of these community ditches. This section authorizes $40 million beginning in fiscal year 1986 for this restoration work.

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Section 313 authorizes the corps to implement a program of research and demonstration on sound farming practices as described in the report issued by the New England division engineer in May, 1980, for the St. John River Basin. The St. John River Basin in Aroostook County, ME, covers nearly one-quarter of the State, and produces 85 percent of the truck crops, principally potatoes, grown in New England. Aroostook County is 1 of 16 counties across the Nation judged to have the most severe erosion problems and most in need of immediate conservation work. Because of shallow soils, erosion losses in this area of 3 tons or more per-acre risks long-term damage to farming operations. Approximately 60 percent of Aroostook County cropland loses in excess of 3 tons of soil per acre per year.

Section 314 would make Starr County, TX, eligible for bank protection under the water resources act of April 25, 1945. In the fall of 1932, severe flooding of the Rio Grande created extensive damage throughout the lower Rio Grande Valley. As a result, Congress designated the U.S. section of the International Boundary and Water Commission as the agency to reconstruct and maintain flood control works in Cameron and Hidalgo Counties in Texas. To meet the need to protect the Federal levees against erosion by the river, Congress authorized the Rio Grande Bank Protection Project in 1945. It was limited to Cameron and Hidalgo Counties. Construction of Falcon and Amistad dams upstream on the Rio Grande has further controlled flooding and erosion. However, Starr County, which lies to the north of Hidalgo County and is just south of Falcon Dam, must still contend with serious bank erosion. This provision would provide equity between Starr County and Hidalgo and Cameron Counties.

Section 315 is deleted by the committee leadership's amendment.

Section 316 directs the Corps of Engineers to carry out demonstration projects for removal of excess silt from Lake Herman in South Dakota at a cost of $5 million; and from Gorton's Pond in Rhode Island at a cost of $730,000. Under the section 314 Clean Lakes Program of the Clean Water Act, the Environmental Protection Agency has provided grants to control sediment flowing into Lake Herman, and Gorton's Pond. Nevertheless, both of these sites continue to suffer siltation problems. This section also authorizes a demonstration project for the removal of silt and aquatic growth in Lake Worth, Tarrant County, TX. Lake Worth is part of an overall flood control system serving the Fort Worth area. Certain features of the Lake are maintained at Federal expense. The lake is the primary water supply and provides flood control protection for Carswell Air Force Base, the Dallas-Fort Worth Airport, and Tarrant County. This demonstration effort will cost $1,750,000.

Section 317 authorizes $10,000,000 to be spent by the corps on a two phase study of the possible effects in the United States of constructing tidal power projects in the Bay of Fundy, Canada. In phase one, $1,100,000 is authorized through October 1, 1986. If based on the results of this phase, the corps recommends further studies, then $8,900,000 is to be available for additional studies through October 1,1989.

At a hearing held by the committee last Congress, concerns were raised that potential tidal power development in the Bay of Fundy, Canada, could have adverse effects on the New England coast, from the Gulf of Maine to Boston Harbor, and on fisheries along the Atlantic Coast. Some studies suggest that the Minas Basin project, which is being actively considered for construction in Nova Scotia, would change the tidal fluctuation in Portland, ME, by nearly a foot. Witnesses testified that this could have serious implications for U.S. coastal environment, increasing storm damage to coastal roads and buildings, and alter fisheries and shellfish production.

In carrying out the study, the corps is directed to conduct studies under this section in consultation with appropriate governmental agencies, as well as the National Academy of Sciences. To facilitate this consultation, the corps is expected to establish an advisory committee composed of representatives from appropriate governmental agencies, academic institutions, and the private sector.

Section 318 authorizes a modification of the project purposes for Summersville Lake on the Gauley River, WV. The change in purpose would add whitewater rafting as a project element, allowing the coordination of releases from the reservoir during autumn draw-downs from the lake. Because whitewater rafting is an important use of the Gauley River, the corps is directed to work with local interests to establish a schedule of releases in order to maximize whitewater rafting benefits.

Section 319 authorizes a modification of the project purposes for the Soil Conservation Service portion of a joint corps-SCS project in the Noncannah Creek Basin in the vicinity of Memphis, TN. The corps portion of this project is authorized in title VII of this bill. The SCS measures will include erosion reduction work on 35,000 acres, plus construction of three dams on the Johns Creek tributary of the Noncannah Creek. The SCS portion of the project has a Federal cost set at $16,600,000 as of June 1981.

Section 320 authorizes the corps of engineers to participate with State and local authorities to correct obstructions in the James River in South Dakota. Sand bars, debris, and silt have significantly reduced the channel capacity resulting in more frequent and severe floods. The Federal cost to correct these problems is estimated to be $20,000,000. In addition to this work, the corps is instructed to consider the feasibility and desirability of other flood control and streamflow improvement features, then report to Congress on the need for additional authority to construct such features.

Section 321 authorizes additional work to control salt intrusion on the Red River in Oklahoma and Texas. Approximately $51,000,000 worth of work under this project in the Red River is under construction, building a brine lake where heavily saline waters are evaporated. This section authorizes the remaining phase I work in the Red River, which is estimated to cost another $126,000,000. This section continues the agreement dividing the costs of chloride control on the Red River. The States pay the costs to clean up the manmade chloride contamination, while the Federal Government pays the costs to clean up the naturally occurring chloride. Because the portion of chloride control authorized by this section addresses naturally occurring chloride contamination, it is a Federal cost.

Section 322 authorizes the Corps of Engineers to construct a new water diversion weir on the Milk River in Havre, MT. Prior to the time when the corps completed a flood control project at Havre, in 1957, the city obtained its water from the river at a diversion weir. The flood control project diverted the river around the original weir. A new weir was constructed at Federal expense. This weir has never operated properly and the city of Havre had to pay for its repair many times, most recently in the spring of 1982. A preliminary evaluation of water supply alternatives for the city completed by the corps' Omaha District Office indicated construction of a new weir would be the best long-term solution for providing a water supply source for the city. The estimated cost of the new weir is $1,400,000.

Section 323 authorizes $1,800,000 for the construction of a paved road to the Pearson-Skubitz Big Hill Reservoir in the State of Kansas. Since water was impounded at the reservoir in March 1981, it has become a popular recreation site. The roads leading to the reservoir, however, are unpaved, and fail to accommodate the traffic demands. This section authorizes the construction of a safe and paved access road to the reservoir to facilitate the heavy recreational use of this reservoir.

Section 324 declares 126 acres of filled land in the Hudson River in

Jersey City, to be non-navigable, thereby ending Federal navigational servitude and control over this land. Jersey City wishes to use this land, with surrounding lands as part of an urban redevelopment plan. This declaration of nonnavigability will allow title insurance to be made available for the land, currently owned by the city of Jersey City. It is understood that these lands are expected to remain in public ownership, thus any benefits from the increase of land values as a result of this declaration will accrue to a public agency. In addition, this provision assures that the area declared nonnavigable in this section is still subject to all the requirements of the Clean Water Act. This section is corrected by the committee leadership amendment.

Section 325 deauthorizes the William L. Springer Lake project, located near Decatur, IL. This project was authorized in 1962, and has a present cost estimated at $245,000,000.

This section also provides the city of Decatur with the first right to buy back the lands that were acquired for the project. Those lands shall be offered to the city at a price at which they were sold to the Federal Government, provided that the lands remain in public ownership to be used for public purposes. The city of Decatur is expected to construct a sewage treatment facility at the site.

Section 326 amends the monetary authorization limit for the Big South Fork National River and recreation area in Tennessee and Kentucky from $103,552,000 to $156,122,000.

When the corps completes work with the money now authorized, the national recreation area will be able to accommodate only an estimated 30 percent of its potential visitors. Hence, this national recreation area will fall far short of meeting the objectives for which it was authorized.

This additional $52.6 million in authorization will increase visitor use to half of its original potential. It will provide for construction of Bear Creek Road, recreation areas, and ranger stations.

Section 327 declares Greens Bayou Bridge in Texas to be a lawful bridge for all purposes of the Truman-Hobbs Act. Under this act, Federal funds are provided for moving or raising such bridges if they are determined to be hazardous to navigation. The Greens Bayou Bridge was determined to be such a hazard and subsequently the Port of Houston raised the bridge at a cost of $948,087. This section would reimburse the Port of Houston for a portion of that cost. The reimbursement is limited to no more than $450,000.

Section 328 authorizes the Corps of Engineers to conduct a number of studies to determine specific ways and means for lessening the danger and potential impact of flooding in the State of Utah. Last Congress many of us were shocked and saddened as we read press reports of how the citizens and public and private property were threatened by severe flooding in Utah. Given the uncertain nature of flood control protection in many areas of Utah, studies of the problem are certainly warranted. A total of $1,600,000 is authorized for these studies.

Section 329 would increase by $6,667,000 the amount of Federal funds available for rehabilitation of the Illinois-Mississippi Canal. By a series of agreements between the State of Illinois and the Federal Government, the canal was turned over to the State in 1970, for use as a park.

As part of the transfer, Public Law 85-500 specified rehabilitation work to be completed by the corps. The work was started in the 1960's and continued until 1974 when it was suspended due to a law suit. A total of $6,528,000 has been spent on the rehabilitation work.

The Illinois Department of Conservation has recently completed a master plan for the park which includes rehabilitation work consistent with work authorized to be done by the Federal Government. At current price levels it is estimated that a total authorization of $13,195,000 would be required to complete the rehabilitation work by the corps.

Section 330 directs the Secretary to construct and operate a facility enabling Atlantic Salmon to bypass two Corps of Engineers dams in Vermont during migrations from and to their spawning grounds.

In recent years, Atlantic Salmon have been returned to the Connecticut River for the first time since the 18th century. The revival of this important fishery has occurred because fish ladders and other bypass systems have been constructed at dams on the river's main stem. These systems permit salmon to move from fresh water to the sea and back.

The reaches of the West River above Ball Mountain and Townshend Dams offer excellent potential spawning grounds for salmon. But the dams bar access. Federal and State fisheries experts have concluded that the optimum solution involves construction of a fish trap below Townshend Dam. The salmon would then be placed into tanks, and transported by truck to release points above the dams. Modifications at the dams will also be needed to permit passage of juvenile salmon swimming down to the sea.

This section authorizes both aspects of fish passage facilities as well as the operation of the system once it is in place. For the purposes of cost sharing, this section will be controlled by provisions of section 224(e) of this act involving mitigation costs related to anadromous fish species.

Section 331 would permit the sale of water from the Washington Aqueduct directly to authorities in the State of Maryland in a manner similar to the presently authorized sale of water to Virginia communities. It would also permit the Washington Aqueduct to purchase water from Maryland authorities when necessary to meet emergency conditions.

These authorities would allow the construction of a major new interconnection between the two largest water utilities in the Washington area, the Washington Aqueduct Division and the Washington Suburban Sanitary Commission [WSSC].

This type of interconnection has been recommended in several studies in order to provide for mutual assistance between Washington area utilities in times of water shortage. The WSSC would finance construction of all pipelines and pumping stations required.

In addition, this section would authorize the Secretary to revoke a water sales agreement at any time. The Secretary could use this authority to protect the aqueduct's current customers during an amergency.

This section would also permit the Washington Aqueduct to purchase water from Maryland water systems that are interconnected with it. This would help to ensure that sufficient water is available for aqueduct customers during emergency situations.

Section 332 is eliminated by the committee leadership's amendment.

Section 333 deauthorizes the Lake Brownwood modification project at Pecan Bayou, TX. This project, which was authorized by the Flood Control Act of 1968, would make safety-related modifications to a non-Federal dam. Such projects have traditionally been viewed as a non-Federal responsibility.

Section 334, which addresses the Lake Darling modification project in North Dakota, is substantially changed by the committee leadership's amendment.

The provisions of section 335 are meant to resolve longstanding problems with regard to a proposed deauthorization of the uncompleted Cross-Florida Barge Canal.

The Cross-Florida Barge Canal was authorized by Congress in 1942 to promote a safer flow of military goods between the Atlantic Intercoastal Waterway and the Gulf of Mexico.

Construction of the canal was begun in 1964, but was halted by a presidential directive in 1971 for environmental reasons. A 1977 restudy by the corps concluded that further investment in the project was not warranted because of projected severe environmental effects.

This section leaves authorized the components of the barge canal projects which have already been com-

pleted, and it deauthorizes the portion of the canal not constructed. The Corps of Engineers will continue to manage and operate the existing structures of the project.

In addition, this section establishes the Cross-Florida National Conservation Area and calls for the development of a comprehensive management plan for the conservation area with 1 year from the date of enactment of this act. This plan is to be developed by the Secretary, in consultation with the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the State of Florida.

Deauthorization of the uncompleted components of the barge canal shall not become effective until the State of Florida enacts laws to insure that lands and interests under subsection (b) will continue to be held by the State or Canal Authority to carry out the objectives of the section, assure that the State will never transfer any lands of the Ocala National Forest to anyone other than the Federal Government, and assure that the interests in lands held by the State are sufficient to carry out the purposes of this section. This section is modified by the committee leadership amendment.

Section 336 authorizes the Secretary to dismantle and remove the center span of the India Point Railroad Bridge located in Providence, RI. The removal of this structure will alleviate a hazard to navigation now existing in the Seekonk River. The total Federal cost on this work will not exceed $500,000, and those revenues derived from the sale of scrap from the structure will be returned to the Treasury.

Title IV contains provisions which are designed to assist and encourge programs to increase the safety of non-Federal dams. This title amends the National Dam Inspection Act (Public Law 92-376) to encourage and assist State dam safety programs, establish a Federal Dam Safety Review Board, and authorize a program of research into innovative dam safety inspection techniques.

Section 401(A) requires that dams having certain safety-related characteristics, and those exceeding the minimum size requirements set forth in Public Law 92-367; be included in the National Inventory of Dams and come under the effect on the amendments in this title.

Section 401(B) comprises the bulk of title IV and amends the National Dam Inspection Act by adding eight new sections to that law. A new section 7 which authorizes the Corps of Engineers to administer a 5-year, $13 million a year, grant program to encourage adequate State dam safety programs. The grants are to be allocated on a matching basis to States that have or develop dam safety programs meeting the requirements of the new section 8, created in this title. One-third of this money is to be equally divided among those States and two-thirds is to be distributed according to the number of dams on the National Inventory in those States.

A new section 8 which establishes criteria that a State's dam safety program must meet to be eligible for funding under the preceding section.

To determine if a State is eligible for funds, under section 7, this section requires that the Secretary establish that a State has adequate procedures to review dam construction plans, to assure the safe construction and operation of dams, and to perform dam inspection. The State must also have authority to require modifications necessary to assure the safety of any non-Federal dam, emergency plans and procedures with respect to dams, assure that necessary safety repairs will be undertaken by the party responsible for a dam, and also must have emergency funds available to take immediate measures to protect human life and property in dam-related emergency situations.

The Secretary is also required to review, with the assistance of the National Dam Safety Review Board created in the new section 9, the implementation and effectiveness of approved State dam safety programs. The corps shall revoke a State's funding under section 7 if that State's program is shown to be inadequate. Funds may only be renewed when the State's program has been reapproved.

A new section 9 establishes a seven-member Federal Dam Safety Review Board consisting of one representative each from the Corps of Engineers, the Bureau of Reclamation, the Tennessee Valley Authority, the Soil Conservation Service, and the Federal Emergency Management Agency. In addition, two Presidentially appointed members who are not employees of the Federal Government are to be members, with two of these to represent States having dam safety programs approved under section 8.

Because of the importance of dam safety, a need exists for a central authority to provide ovesight, coordination, and information exchanged on dam safety. The Board established here is required to review State implementation of dam safety programs approved pursuant to this act.

A new section 10 requires that any Federal agency that owns, operates, or plans to construct a dam consult with the appropriate State or States on the design and safety of the dam and allow State officials to participate in any safety inspections of that dam.

While this section confers no actual decisionmaking role on the States regarding Federal dam construction or design, the Federal agencies should give full consideration to the views of the State on the safety-related features of a Federal dam.

A new section 11 authorizes the Chief of Engineers to provide training for dam safety inspectors of States either having or developing a dam safety program approved under section 8. A serious problem for many States in establishing and maintaining effective dam safety programs is a lack of adequately trained personnel. The Corps of Engineers possesses a great deal of expertise in all aspects of dam safety and previously conducted training sessions for State personnel pursuant to expired authority in Public Law 92-367. For this purpose, $500,000 is authorized for each of the fiscal years 1986-90.

A new section 12 authorizes $1 million annually for 5 years for the Secretary, in cooperation with the National Bureau of Standards, to undertake research and development on improved techniques and equipment for dam safety inspections and monitoring. Present methods for dam inspection and monitoring have remained unchanged for many years. Improvement in these and the development of new techniques hold out the hope of increased public safety and greatly decreased costs of evaluating the safety of dams.

A new section 13 authorizes $500,000 for each of fiscal years 1986-89, for the Corps of Engineers to maintain the National Inventory of Dams. The Inventory of Dams catalogs the location, size, owner, condition, and other information on over 67,000 dams that could present a hazard in the event of their failure. Authorization for the upkeep of this important information tool currently has expired and should be renewed.

The new section 14 states clearly that funds authorized by this title are to be used only for operating and supporting dam safety programs, not for the construction, reconstruction, or repair of any dam, whether non-Federal or Federal. The purpose of this title is to provide incentives and aid to the States in developing and operating their own dam safety programs—not to assist the States in repairing or reconstructing any structure.

Section 402 requires that any water resources study report submitted to the Senate Committee on Environment and Public Works and House Committee on Public Works and Transportation by the Corps of Engineers and the Soil Conservation Service that proposes the construction of a dam must include information on the consequences of its failure and factors which might contribute to that failure.

The risk associated with properly designed, constructed, and maintained dams is minimal, but the science of predicting the probability of any particular dam's failure is undeveloped. Since the consequences of a dam's fail-

ure, however unlikely or unpredictable, could be catastrophic, it is reasonable to expect that such information be included in project reports.

Section 403 designated title IV as the Dam Safety Act of 1985.

This title is modified by the committee leadership amendment.

Title V authorizes several new inland waterway improvement projects and programs and establishes a policy for the use of the existing Inland Waterways Trust Fund.

Section 501 provides that one-half of the construction costs for the six navigation lock and dam projects authorized in this title will be financed from money in the Inland Waterways Trust Fund. The other half of the costs are to come from general revenues.

Moneys in the trust fund began to accumulate in 1980, when the Federal Government began to collect a barge fuel tax which was established under Public Law 95-502. In fiscal year 1986, there will be $196 million in the trust fund and that amount will increase by $100-150 million in each of the succeeding years under existing law.

Section 503 authorizes five inland navigation lock and dam projects at a total cost of $757.2 million. These five projects are as follows:

First. Oliver lock replacement, Black Warrior-Tombigee River, AL, at a total cost of $147,211,000;

Second. Gallipolis Locks and Dam replacement, Ohio and West Virginia, at a total cost of $256 million;

Third. Bonneville navigation lock, Washington and Oregon, at a total cost of $191,020,000;

Fourth. Lock and dam 7 replacement, Pennsylvania, at a total cost of $95,100,000;

Fifth. Lock and dam 8 replacement, Pennsylania, at a total cost of $68 million.

Section 503 authorizes the Secretary to reimburse the State of New York for 50 percent of its costs in operating, maintaining, and rehabilitating the New York State Barge Canal. Control and operation of the canal will remain the responsibility of the State of New York.

The system was constructed originally during the 19th century, then reconstructed to its present configuration in 1918, with 46 locks over 512 miles of waterways. In 1981, the annual cost of operating and maintaining the Barge Canal was $21 million. The Federal contribution toward rehabilitation is limited to 50 percent of spending that year, or $5 million, whichever is less.

Section 504 authorizes certain provisions of the Upper Mississippi River master plan, which was developed by the Upper Mississippi River Basin Commission pursuant to Public Law 95-502. The commission's 3-year study sought to answer several questions posed in Public Law 52-502:

The impacts on the Upper Mississippi River system of the expansion of commercial navigation on fish and wildlife, water quality, recreation, potential wilderness areas, national transportation policy, and shippers dependent on rail service;

The carrying capacity of the Upper Mississippi River system;

The economic need for a second lock at Locks and Dam 26, as well as ways to mitigate any damage that might be caused by a second lock;

The costs and benefits of disposal of dredged material outside the floodplain; and

The possibility of a computer information system to analyze alternatives.

Section 504 authorizes a master plan for the Upper Mississippi River, including constructions of a second lock at locks and dam 26 on the Mississippi River, and an assortment of environment mitigation and enhancement activities to be carried out by the Secretary of the Interior.

Specifically, subsection (d) provides the consent of Congress to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any combination of those States, to enter into agreements for cooperative planning on the Upper Mississippi.

Subsection (e) authorizes construction of a second chamber at locks and dam 26 on the Mississippi River at Alton, IL at a total cost of $220 million. This lock chamber will be 600 feet long and 110 feet wide, and will be added to the 1,200-foot lock now under construction.

Subsection (f) directs the Secretary, in consultation with the Department of Transportation and the States, to monitor traffic on the Upper Mississippi River System to verify the need for future expansion, if any. Such sume as may be necessary to carry out this function are authorized for a period of 10 years.

Subsection (g) authorizes the Secretary of the Interior, working with the appropriate State agencies, to undertake the following programs:

A wildlife habitat rehabilitation and enhancement program. This effort would involve the planning and construction of projects for aquatic and terrestrial habitat that has been lost or threatened as a result of human activities or natural factors. During the first fiscal year after enactment, $8,200,000 is authorized to Interior, $12,400,000 during the second fiscal year, then $13 million for each of the next 8 fiscal years;

The implementation of a long-term resource monitoring program, at a cost of $7,680,000 in the initial fiscal year, then $5,080,000 yearly for the next 9 fiscal years; and

The development of a computerized inventory and analysis system, at a cost of $40,000 in the initial fiscal year, $280,000 in the second fiscal year, $1,200,000 in the third fiscal year, and $775,000 in each of the next 7 fiscal years.

In consultation with the Secretary of the Army, the Department of the Interior shall also implement a program of recreational projects at a cost of $500,000 yearly. Beginning after the computerized inventory is available (probably in fiscal year 1987), the Secretary of the Interior is provided $300,000 in each of the next 2 fiscal years, then $150,000 in the following fiscal year to assess the economic benefits of those recreational projects.

Consistent with the objective of section 224 of this act, the habitat rehabilitation and enhancement program for the Upper Mississippi River System must be implemented prior to, or concurrent with, the engineering, design, and construction of the second lock at locks and dam 26.

With the exception of the funds for construction of the second chamber, none of the programs authorized in this section are considered to be commercial components of the inland navigation system.

Section 504 is cited as the "Upper Mississippi River System Management Act of 1985."

This section is clarified by the committee leadership amendment.

Title VI authorizes many important new harbor construction projects and makes sorely needed and profound changes in the relationship between the Federal Government and non-Federal sponsors with respect to the planning and construction of harbor projects.

Section 601 requires that non-Federal sponsors pay 50 percent of the cost of the surveying, planning, designing, and engineering costs of any commercial harbor constructed by the Secretary. This is in line with section 223 of this bill.

However, to expedite feasibility studies, this section also allows non-Federal sponsors to undertake such studies at their own expense, then submit them to the Secretary for review. The Secretary is directed to evaluate any study made by a non-Federal sponsor, then submit it to Congress with the Secretary's recommendations. The study must be submitted within 180 days.

This section also requires the costs of studies performed by non-Federal sponsors (as opposed to those performed by the Secretary) to be borne fully by the non-Federal sponsor. If, however, the study results in the construction of the non-Federal sponsor's recommended project, 50 percent of the cost of that study will be credited toward the non-Federal share of the project's construction cost.

This provision is designed to reduce the delay associated with the current authorization and appropriation pro-

cess in completing studies of harbor projects. In some instances these studies have taken a decade to complete. This provision allows the sponsors of harbor improvements wishing to move forward to do so. These studies will likely be completed much faster than studies requiring Federal funds, providing for earlier consideration by Congress. Non-Federal sponsors could then proceed with development on their own, consistent with provisions of this title. This section is modified by the committee leadership amendment.

Section 602 is the heart of one of the major reforms contained in this legislation: It requires, for the first time in our Nation's history, non-Federal project sponsors to share significantly in the costs of harbor improvement projects.

This section states that no construction on a new harbor improvement project shall go forward until the appropriate non-Federal sponsor agrees to pay the following percentages of the project's costs, in cash, during the period of construction:

For construction of an improvement 20 feet deep or less: 10 percent.

For construction of an improvement 20 to 45 feet deep: 25 percent.

For construction of an improvement deeper than 45 feet: 50 percent.

In all cases, an additional 10 percent shall be repaid, with interest, over a period of up to 30 years following project completion. The rate of interest is to be set by the Secretary of the Treasury.

This section also provides that the Secretary may count against all or part of the 10 percent repayment amount the local contribution for lands, easements, rights-of-way, dredged spoil disposal sites and relocations. In no case are these costs to count against the cash payment during construction, and in no case would the amount waived exceed 10 percent of project costs.

The cash contribution required by this section to be contributed during the construction period is to be paid in annual installments in proportion to the Federal spending on the project, or under other arrangements satisfactory to the Secretary.

In cases where the construction of a project overlaps depths with different cost-sharing requirements, the project sponsor is required to contribute proportionately. In other words, if an existing harbor, with a depth of 42 feet, is to be deepened to 50 feet, the non-Federal share of the first cost would be a cash contribution of 25 percent of the cost of deepening the harbor to 45 feet and a cash contribution of 50 percent of the incremental cost of the additional deepening to 50 feet. The port would, of course, be responsible for the additional 10 percent repayment over time based on the total project cost.

Harbor improvement projects may proceed to construction in useful increments, subject to the provisions of this Act. The non-Federal sponsors of a 42-foot harbor wishing ultimately to deepen the port to 50 feet may first wish to increase the depth to 45 feet, then wait until some future time to deepen further. Alternatively, a port with two channels, one for incoming vessels and one for outgoing vessels, may conclude that its immediate needs require deepening only the outgoing channel. Incremental construction options such as these are permissible under this section.

Under the provisions of section 602, harbor projects are considered to have commenced construction if the non-Federal sponsor of the project has entered into a written contract with the Secretary to provide local cooperation requirements including, where applicable, an agreement under section 221 of Public Law 91-611 as amended, as of December 31, 1984.

This section also provides that in the future non-Federal sponsors of harbor projects shall enter into an agreement with the Secretary to:

Provide to the Federal Government lands, easements and rights-of-way, and dredged material disposal areas; hold and save the United States free from damages; provide to the Federal Government the non-Federal share of project construction costs as defined in this title; and be responsible for 50 percent of the incremental cost of maintaining the project below 45 feet below mean low water.

It should be noted that different portions of the same river system will fall within title 5 and title 6. For example, the Mississippi System as far south as Baton Rouge, LA, is considered a component of the inland system; below Baton Rouge it would fall under the provisions of title VI. That portion of the Columbia River upstream of Bonneville Lock and Dam (including the actual lock and dam) falls under title 5, while the navigational work downstream from Bonneville Dam comes under this title.

This section is modified by the Committee Leadership amendment.

Section 603 establishes policy of the construction and maintenance of defense-related harbors. The Corps, or other defense agencies, such as the Navy or Coast Guard, may construct harbor improvement projects and continue to maintain those projects, if they are needed to facilitate the movement of Navy and other Government-owned defense vessels. This includes ships of the Coast Guard, as well as ships carrying military personnel and material.

This section does not authorize the Federal Government to deepen a harbor project simply because that harbor may transmit movements of commodities that have a strategic importance, such as oil.

This section will be used infrequently and it provides no new authorities to defense agencies. It simply clarifies existing authorities.

This section also authorizes the Secretary to reduce proportionately the non-Federal share of the cost of a construction harbor, if that project provides benefits directly related to Navy or other defense shipping. Such an arrangement would have to be made prior to the initiation of construction of the project by the non-Federal sponsor. For example, the project for Portsmouth, NH, would provide some direct defense-related benefits as a result of fuel shipped to an Air Force base located there.

Section 604 authorizes non-Federal sponsors to undertake navigation improvements in harbors subject to obtaining the necessary Federal and State permission in advance of construction.

At the request of non-Federal sponsors planning to undertake harbor improvements, the Secretary is authorized to undertake the necessary funds for these studies as they are being conducted.

The Secretary is further authorized to complete and transmit to appropriate sponsors any harbor study initiated prior to the date of enactment of this act, or, at the request of such sponsors, to terminate any such study and transmit the partially completed study to the non-Federal sponsor. Any study requiring completion shall be done at Federal expense, subject to appropriation acts.

Where pipelines, cable, and related facilities must be relocated because non-Federal sponsors are constructing a harbor improvement under this section, such relocation or alteration cost shall be shared 50-50 between the non-Federal project sponsor and pipeline or cable owner. The full costs of upgrading or improving any such pipeline or cable shall be borne by the pipeline or cable owner. The costs of relocations for a Federal project remain the responsibility of the pipeline or cable owners.

Under subsection (e), the Secretary may reimburse non-Federal sponsors, subject to appropriation acts, for the Federal share, without interest, of the total costs of any commercial channel or harbor improvement, or separable element of such project is conducted by the non-Federal sponsor in a manner approved by the Secretary. This can be done only if the project was authorized previously for Federal construction, and if the non-Federal sponsor agrees to pay the non-Federal share, if any, of the operation and maintenance costs of the project.

The Secretary must consider such factors as budget and program priorities, and the potential impact on dredging costs in his review of non-Federal project plans under this subsection.

Subsection (f) clarifies the Federal responsibility for operation and maintenance costs when harbor construction is undertaken by non-Federal sponsors under this section. For projects constructed to a nominal depth of 45 feet or less, the Secretary is responsible for maintenance costs. For projects constructed to a nominal depth greater than 45 feet, the Secretary would also be responsible for 50 percent of the incremental maintenance below 45 feet. In all cases, the Secretary must certify that the project is constructed in accordance with appropriate engineering and design standards for a project to be eligible for Federal maintenance funds.

These provisions, and those of section 605, which I will describe in a moment, are intended to provide a wide degree of flexibility for future harbor improvement projects. The sponsors of such projects would be in a position to study and construct such improvements themselves, to pay the Secretary for necessary studies which they may not be able to do themselves and then construct the project, or even construct an authorized project on their own with the potential, but not a guarantee, for reimbursement of the Federal share of such project as if the Federal Government had done the project construction.

This flexibility is necessary because the level of Federal funding for such projects is unlikely to increase dramatically in the near future. If needed harbor improvements are to be made, in many cases they can go forward only if non-Federal sponsors assume the leadership in development of the project. It only makes sense to allow non-Federal sponsors of harbor improvements to proceed on their own if they choose to do so.

This section is modified by the Committee Leadership amendment.

Section 605 creates a fast-track permitting process for non-Federal construction of harbor improvement projects. It consolidates into a 2-year period the processing of all permits that may be required prior to construction of any harbor improvement.

The purpose of this section is to give a non-Federal sponsor a date certain by which to expect decisions on all Federal permits necessary for harbor improvements. To the extent possible, State and local authorities will be included in the joint review process. The section defines the responsibilities of both the Federal agencies and the permit applicant, designates the Corps of Engineers as the lead agency, and provides for progress reports to Congress in an effort to avoid delays in meeting the schedule of compliance.

First, this section requires the Secretary of the Army to initiate procedures to establish a schedule of compliance for the necessary Federal permits. The Secretary will commence such activities upon receipt of notice from a non-Federal sponsor that it intends to construct new harbor and related facilities.

Second, within 15 days of receipt of this notification, the Secretary must publish a notice in the Federal Register and notify all affected State and local agencies of the intent to initiate the Federal permit process, requesting their cooperation in the consolidated review of the permit application.

If, within 30 days of that notification, the non-Federal agencies notify the Secretary of their willingness to participate in the consolidated permitting process, they will be included in the review agreement. Within 90 days, the Secretary must enter into an agreement with affected Federal agencies and any State or local agencies seeking to be parties to the agreement. This agreement will be for the purpose of establishing a schedule for all necessary permits.

Third, a consolidated review process is defined. To the extent possible, the agreement outlined above must consolidate hearing and comment periods, and data collection, and report preparation procedures. The agreement must also define the responsibilities of the non-Federal interest with respect to data development and information necessary to process each permit.

The agreement will include a set date by which the applicant and the Congress will be informed whether there is a reasonable likelihood that the permits will be granted. The schedule can be extended for 120 days to revise the original application to meet the objections of the Federal agencies. This is the only point at which the schedule may be modified.

Fourth, 6 months prior to the final day of the schedule, the Secretary shall submit a progress report to Congress summarizing all work completed to date and detailing the schedule for completing all remaining work. Such notice is intended to signal any potential problems in meeting the compliance schedule and provide adequate time to resolve these problems to assure that the schedule is met.

Fifth, the Secretary of the Army must notify the non-Federal sponsor no later than the final day of the compliance schedule as to whether the permit or permits are issued.

Additionally, this section requires the Secretary to submit a report to Congress by March 1, 1987, describing the time required to issue Federal permits related to harbor improvements, and make recommendations for reducing the time necessary to issue such permits.

This section is clarified by the committee leadership amendment.

Section 606 authorizes the non-Federal sponsor of a harbor construction project to collect fees in order to recover the cost of its share of a project's costs, plus 50 percent of the incremental maintenance costs of maintaining harbors below 45 feet, if appropriate.

The section provides non-Federal sponsors with a means to recover its obligations for construction work, including associated administrative expenses, through the imposition and collection of fees for the use of such projects by vessels in commercial waterway transportation. The precise nature of such fees, the fee structure and schedule, and the frequency with which such fees should be collected is left entirely to the discretion of the appropriate non-Federal sponsors, pursuant to the terms of this section and State law.

Mr. President, it must be stressed that nothing in this section requires a user fee. The whole cost, or partial cost, of providing the non-Federal share of project costs, may be carried as a general expense of local government, if non-Federal sponsors so decide. These non-Federal fees are necessary to provide many non-Federal sponsors the flexibility to share in the cost of navigation improvements to harbors.

The provision recognizes that a link should exist between the imposition of a local user fee on vessels and cargoes and the benefits to those specific vessels and cargoes resulting from the improvement or maintenance of a project.

Several exemptions from the fees authorized by this section are provided: No fees shall be imposed on vessels owned and operated by the United States, any U.S. political subdivision, or any vessel owned or operated by any other nation when the vessel is not engaged in commercial transportation. No fees will be imposed on vessels engaged in dredging activities or those involved strictly in an intraport movement, or a vessel with design draft of 14 feet or less, if the harbor improvement for which the fee would be assessed goes deeper than 20 feet.

Section 607 authorizes the appropriation of funds from the Harbor Maintenance Trust Fund, established in part B of title 8 of this act, to pay for 100 percent of the annual eligible operation and maintenance costs of the elements of the St. Lawrence Seaway operated and maintained by the St. Lawrence Seaway Development Corp., and up to 40 percent of the annual operation and maintenance costs assigned to commercial navigation of all channels and harbors of the

United States and all Great Lakes navigation improvements operated or maintained by the Secretary of the Army.

In addition, this section authorizes appropriations from the general fund of the Treasury such sums as are needed in each fiscal year to cover the balance of operation and maintenance costs not provided by payments from the Harbor Maintenance Trust Fund.

This section is also clarified by the committee leadership amendment.

Section 608 provides several definitions for this act and I ask that they be reproduced at this point in the RECORD:

The term "commercial channel or harbor" means any channel or harbor, or element thereof, which is not considered an inland waterway, is open to public navigation, and is capable of being used by commercial vessels in the transportation of domestic or foreign waterborne commerce, or to the depths and widths of the construction which was initiated by non-Federal sponsors after July 1, 1970, and prior to January 1, 1981, or to the depths and widths that may be constructed under the terms of sections 602, and 604, of this title. This term does not mean local access or berthing channels or channels or harbors constructed or maintained by nonpublic interests. For the Columbia River, Oregon and Washington, this term includes the channels only up to the downstream side of Bonneville lock and dam.

The term "non-Federal sponsor" means, with respect to a channel or harbor improvement project, a non-Federal public body which has entered into a written agreement with the Secretary to provide the non-Federal share of operation and maintenance costs, or construction costs, for the projects and which has the meaning such term has under section 211 of Public Law 91-611, as amended.

The term "eligible operations and maintenance" means all operations, maintenance, repair, and rehabilitation, including maintenance and dredging reasonably necessary to maintain the nominal depth and width of any commercial channel or harbors located within the Great Lakes, except when applied to the St. Lawrence Seaway and any Great Lakes navigation improvement, the term includes all operations, maintenance, repair, and rehabilitation, including maintenance dredging, reasonably necessary to keep such seaway or navigation improvements operated or maintained by the St. Lawrence Seaway Development Corp. or the United States in operation and reasonable state of repair.

This term does not include providing any lands, easements, rights-of-way or dredged material disposal areas, or performing relocations required for project operations and maintenance.

The term "Great Lakes navigation improvement" means any lock, channel, harbor or navigational facility in the Great Lakes of the United States or their connecting waterways, but shall not include the St. Lawrence Seaway;

The term "nominal depth" means, in relation to the stated depth for any navigation improvement project, such depth, including any greater depths which must be maintained for any channel or harbor or element(s) thereof included within such project in order to ensure the safe passage at mean low tide of any vessel requiring the stated depth. With respect to operations and maintenance of channels authorized prior to the date of enactment of this act, the term "nominal depth" includes such anchorages necessary to ensure safe passage of vessels utilizing such channels.

The term "United States" means the States of the United States, the District of Columbia, and the territories or possessions over which the United States excercises jurisdiction.

These definitions are classified by the committee leadership amendment.

Section 609 authorizes for construction 32 harbor projects having a total cost—both Federal and non-Federal—of $2.7 billion as follows:

(1) Mobile Harbor, Alabama, at a total project cost of $468,933,000;

(2) Kodiak Harbor, Alaska, at a total project cost of $14,641,000;

(3) St. Paul Island Harbor, Alaska, at a total project cost of $24,756,000;

(4) Oakland Outer Harbor, California, at a total project cost of $42,400,000;

(5) Richmond Harbor, California, at a total project cost of $43,800,000;

(6) Sacramento River, Deepwater Ship Channel, California, at a total project cost of $125,300,000;

(7) New Haven Harbor, Connecticut, at a total project cost of $25,900,000;

(8) Jacksonville Harbor, Mill Cove, Florida, at a total project cost of $6,575,000;

(9) Manatee Harbor, Flordia, at a total project cost of $16,115,000;

(10) Tampa Harbor, East Bay Channel, Florida, at a total project cost: Not applicable since only maintenance is assumed.

(11) Savannah Harbor, Widening, Georgia, at a total project cost of $19,175,000;

(12) Hilo Harbor, Hawaii, at a total project cost of $4,390,000;

(13) Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana, at a total project cost of $456,000,000;

(14) Grand Haven Harbor, Michigan, at a total project cost of $17,200,000;

(15) Monroe Harbor, Michigian, at a total project cost of $139,400,000;

(16) Duluth-Superior Harbor, Minnesota and Wisconsin, at a total project cost of $12,200,000;

(17) Gulfport Harbor, Mississippi, at a total project cost of $78,968,000;

(18) Wilmington Harbor, Northeast Cape Fear River, North Carolina, at a total project cost of $9,718,000;

(19) Portsmouth Harbor and Piscataqua River, New Hampshire and Maine, at a total project cost of $21,700,000;

(20) Barnegat Inlet, New Jersey, Phase I GDM, at a total project cost of $36,435,000;

(21) Gowanus Creek, Channel New York, at a total project cost of $3,440,000;

(22) Kill Van Kull and Newark Bay Channels, New York, at a total project cost of $248,100,000;

(23) Lorain Harbor, Ohio, at a total project cost of $5,500,000;

(24) San Juan Harbor, Puerto Rico, at a total project cost of $86,334,000;

(25) Charleston Harbor, South Carolina, at a total project cost of $84,032,000;

(26) Wando River, Charleston Harbor, South Carolina, at a total project cost of $3,561,000;

(27) Brazos Island Harbor, Texas, at a total project cost of $31,417,000;

(28) Hampton Roads and Vicinity, Virginia (Drift Removal) at a total project cost of $6,870,000;

(29) Norfolk Harbor, Virginia, at a total project cost of $538,000,000;

(30) Crown Bay Channel—Saint Thomas Harbor, Virgin Islands, at a total project cost of $8,124,000;

(31) Blair and Sitcum Waterways, Tacoma Harbor, Washington, at a total project cost of $35,816,000;

(32) Grays Harbor, Washington, at a total project cost of $93,187,000.

Title VII establishes cost-sharing policies for the water resources development program authorities of the Secretary, other than commercial navigation. Commercial navigation cost sharing is addressed in titles 5, 6, and 8.

In addition, this title authorizes for construction 77 flood control projects, 10 hydroelectric projects, 18 shoreline erosion control projects, 11 mitigation projects, 10 inland and recreational harbor projects, 1 bank stabilization project, and 2 demonstration projects.

The total cost for these projects—both the Federal and the non-Federal shares—is $7.4 billion.

Section 701 establishes new cost-sharing policy, setting the share of total project costs that the non-Federal project sponsors must agree to contribute in order to secure construction of the project by the Secretary.

This section delineates the percentage of costs for each project purpose that non-Federal interests are required ultimately to provide—the cost-share—and how that non-Federal share is to be financed.

Any water resources project, or separable element of a project, that was not under construction by June 30, 1985, is subject to the new cost-sharing policy outlined in this title. These projects or elements will be initiated only after non-Federal project sponsors agree to pay all of the operation and maintenance costs of the project, plus agree to share construction costs as described here.

Projects currently operated and maintained by the Corps of Engineers at Federal expense will continue to remain a Federal responsibility.

The cost-sharing requirements of this title, by project purpose, are as follows:

Urban and rural flood prevention: 25 to 35 percent.

Hydroelectric power: 100 percent.

Municipal and industrial water supply: 35 percent.

Agricultural water supply: 35 percent.

Recreation, including recreational navigation: 50 percent.

Hurricane and storm damage reduction: 35 percent.

Aquatic plant control: 50 percent.

Three principles govern the basic cost sharing approved by the committee:

First. Local sponsors will be responsible for all necessary lands, ease-

ments, rights-of-way, and relocations for project development.

Second. A minimum cash contribution of 5 percent of total costs will be required during construction of all structural flood control projects.

Third. The repayment of any cost sharing subsequent to project construction for all types of noncommercial navigation work will be standardized.

LANDS

Sponsors of all types of projects under this title must agree to contribute all necessary lands, easements, rights-of-way, and relocations necessary for project development regardless of their percentage of total project costs.

REPAYMENT

When the contribution of lands, easements, rights-of-way and relocations is less than the required percentage of total project costs, non-Federal sponsors may contribute the difference during project construction, or repay the difference over a period not to exceed 30 years, with interest. In cases of repayment, the rate of interest is to be set by the Secretary of the Treasury giving consideration to the average market yield during the preceding year on outstanding marketable obligations of the United States, plus a premium of one-eighth percent for transaction costs. The Secretary of the Treasury is to recalculate the applicable interest rate every 5 years.

Initial payment toward the non-Federal cost share may be delayed for 1 year at the request of the project sponsor. Work undertaken by a non-Federal sponsor shall be considered to satisfy cost-sharing requirements when such work has been approved in advance according to procedures set by the Secretary under section 134(a) of Public Law 94-587, as amended by this bill. Credit may only be given for non-Federal cash spent on such work.

FLOOD CONTROL

Cost sharing and financing of flood control projects constitute the most complex provisions in this title. As these provisions are designed to offer flexibility to non-Federal sponsors, they require detailed explanation.

As with other types of projects under this title, the basic requirements for every flood control project will include contribution of all lands, easements, rights-of-way, and relocation costs by non-Federal sponsors. This will be the case whether dam, levee, or channel is constructed.

In addition, 5 percent of total costs must be contributed in cash during project construction toward the basic non-Federal share of 35 percent on a flood control project. The 35 percent non-Federal share for a flood control project can be reduced to 25 percent when the entire non-Federal contribution—lands and at least 5 percent in cash—is made during the construction period.

The cash contribution made during project construction must be in proportion to annual Federal expenditures or be made under other arrangements acceptable to the Secretary. Three examples illustrate the new policy:

Case A—Total project cost is $100 million, with lands, etc., representing $20 million of this total. Local interests are required to contribute 5 percent cash ($5 million) during construction. Under the provisions of this title, this overall contribution of $25 million represents the total non-Federal cost-share required. This illustrates Section 701(a)(1)(B) of this Act (25 percent of all costs contributed during construction.)

Case B—Total project cost is $100 million, with lands, etc., involving $60 million of this total. (This is for illustrative purposes. Normally lands, etc., are a much smaller percentage of project costs.) Local interests, of course, are required to contribute 5 percent cash ($5 million) during construction. Under the provisions of this title, this overall contribution of $65 million represents the total non-Federal cost-share required. No rebates are provided. No post-construction payment is required. This illustrates Section 701(a)(1)(A) of this Act.

Case C—Total project cost is $100 million and lands, etc., are $10 million of this total. Local interests are required to contribute 5 percent cash ($5 million) during construction. Thus, the initial contribution equals 15 percent of the project's costs, giving the non-Federal sponsor two options. The sponsor can contribute the additional $10 million during construction, raising its total share to 25 percent, or it can repay an additional $20 million, with interest, over 30 years, beginning when the project is completed, raising its cost-share to 35 percent. This illustrates Section 701(a)(1)(C) of this Act, and is the most common situation.

The new policy provides local sponsors with a maximum amount of flexibility to meet the new requirements.

Subsection 701(a)(1)(D) provides that where flood control benefits are provided through the purchase of land solely for nonstructural solutions, the requirement for 5 percent cash during construction is waived proportionally.

Subsection 701(h) requires that any cost-sharing agreement for flood protection, rural drainage, or agricultural water supply under this title be consistent with the ability of the non-Federal sponsor to pay. This determination is to be made by the Secretary under procedures established by the Secretary.

To the extent that non-Federal sponsors have the financial ability to contribute to the costs of water resource project construction, required by this section, they will be required to do so. In this way the efficiency of the Federal development program will be strengthened and scarce Federal budget resources provided to assure maximum flexibility.

Beneficial projects should not, however, be rejected simply because non-Federal interests lack the resources to finance a share of development costs. Since cost-sharing provisions of this title should not prove burdensome, ability-to-pay determinations reducing the non-Federal share are quite unlikely.

OTHER PROJECT PURPOSES

Beach erosion control measures are activities which provide other types of project benefits. For public beaches, the cost sharing on erosion control will be the percentage required for the benefits which result from controlling the erosion. For example, if the control measures are directed at recreation needs, cost sharing will be 50 percent. In the case of storm damage reduction, the non-Federal cost sharing will be 35 percent. The cost-sharing required for erosion control measures at private beaches, whatever benefits are provided, will be 100 percent non-Federal.

This section reaffirms long-established policies governing the marketing of hydroelectric power developed at Federal projects. There is to be no change in the existing policy of contracting, marketing, repayment, or any other aspect of hydroelectric power developed at Federal projects.

I ask unanimous consent that a table which summarizes the provisions of this section in comparison with current cost sharing policy be printed in the RECORD.

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

TITLE VII

Project purpose	Present non-Federal share		New non-Federal share	
	Cost-share	Financing options	Cost-share	Financing options
Urban and rural flood protection	For a dam 0 percent; if other structural solution lands, easements, rights-of-way; if nonstructural 20 percent; rebates if lands, easements, etc., exceed 50 percent.	No repayment.	5 percent cash during construction, plus all lands, easements, etc. Where this total is less than 25 percent either an additional cash contribution can be made during construction to equal 25 percent or an additional contribution can be made over time to equal 35 percent. An ability to pay determination is made; 5 percent cash waived if nonstructural.	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Hydroelectric power	100 percent.	Repayment in accord with multiple statutes	No change in existing law.	
Municipal and industrial water supply	100 percent.	50 year maximum repayment with interest set at a nonmaket rate: option of 10 year interest free development period.	100 percent.	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Agricultural water supply	50 percent (lands, easements, etc., included).	During construction.	35 percent (lands, easements, etc., included). An abilility to pay deterimnation is made.	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Recreation, including recreational navigaton	50 percent (lands, easements, etc., included).	During construction, or 50 year maximum repayment, with interest set at a nonmarket rate.	50 percent (lands, easements, included).	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Hurricane and storm reduction	30 percent (lands, easements, etc., included).	During construction.	35 percent (lands, easements, etc., included).	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.
Aquatic plant control	30 percent lands, easements, etc., included).	During construction (usually 1 year).	50 percent (lands, easements, etc., included).	30 year maximum repayment at Federal borrowing rate, plus ⅛ percent for transaction costs.

Further explanation: The new standardized repayment time period is flexible. In cases where the non-Federal share is not paid during the construction period, repayment is to be in a maximum of 30 years. It is anticipated that any payment which may be required for aquatic plant control or hurricane and storm damage reduction, will be made in the same general time frame as in the past.

Mr. ABDNOR. Mr. President, section 701 is also modified by the committee leadership amendment.

Section 702 authorizes construction of the following flood control, hydropower, beach erosion, mitigation, inland and recreational harbor, bank stabilization, and demonstration projects:

FLOOD CONTROL

(1) Village Creek, Jefferson County, Alabama, at a total project cost of $28,100,000;

(2) Threemile Creek, Mobile, Alabama, at a total project cost of $19,070,000;

(3) Eight Mile Creek, Paragould, Arkansas, at a total project cost of $14,950,000;

(4) Fourche Bayou Basin, Arkansas, at a total project cost of $32,400,000;

(5) Helena, Arkansas, at a total project cost of $13,700,000;

(6) West Memphis and vicinity, Arkansas, at a total project cost of $20,600,000;

(7) Little Colorado River at Holbrook, Arizona, at a total project cost of $11,700,000;

(8) Cache Creek Basin, California, at a total project cost of $30,700,000;

(9) Redbank and Fancher Creeks, California, at a total project cost of $84,100,000;

(10) Santa Ana River Mainstream, including Santiago Creek, California, at total project cost of $1,211,000,000;

(11) Fountain Creek, Pueblo, Colorado, at a total project cost of $8,400,000;

(12) Metropolitan Denver and South Platte River and tributaries, Colorado, at a total project cost of $10,563,000;

(13) Oates Creek, Georgia, at a total project cost of $13,500,000;

(14) Agana River, Guam, at a total project cost of $9,530,000;

(15) Alenaio Stream, Hawaii, at a total project cost of $7,860,000;

(16) Big Wood River and tributaries, Idaho, at a total project cost of $4,420,000;

(17) North Branch Chicago River, Illinois, at a total project cost of $14,390,000;

(18) Rock River at Rockford and vicinity, Illinois, at a total project cost of $27,720,000;

(19) South Quincy Drainage and Levee District, Illinois, at a total project cost of $11,688,000;

(20) Little Calument River, Indiana, at a total project cost of $83,460,000;

(21) Des Moines River Basin, Iowa, at a total project cost of $15,340,000;

(22) Green Bay Levee and Drainage District No. 3, Iowa, at a total project cost of $6,770,000;

(23) Perry Creek, Iowa, at a total project cost of $44,200,000;

(24) Halstead, Kansas, at a total project cost of $7,100,000;

(25) Upper Little Arkansas River Watershed, Kansas, at a total project cost of $12,200,000;

(26) Atchafalaya Basin Floodway, Louisiana, at a total project cost of $245,398,000;

(27) Bushley Bayou, Louisiana, at a total project cost of $44,700,000;

(28) Louisiana State Penitentiary Levee, Louisiana, at a total project cost of $22,646,000;

(29) Quincy Coastal Streams, Massachusetts, at a total project cost of $26,500,000;

(30) Roughans Point, Revere, Massachusetts, at a total project cost of $8,200,000;

(31) St. Paul, Minnesota, at a total project cost of $8,454,000;

(32) Redwood River at Marshall, Minnesota, at a total project cost of $4,280,000;

(33) Root River Basin, Minnesota, at a total project cost of $8,195,000;

(34) South Fork Zumbro River, Minnesota, at a total project cost of $60,470,000;

(35) Horn Lake and tributaries Tennessee and Mississippi, at a total project cost of $3,400,000;

(36) Sowashee Creek, Mississippi, at a total project cost of $17,500,000;

(37) Brush Creek and tributaries, Kansas and Missouri, at a total project cost of $15,770,000;

(38) Maline Creek, Missouri, at a total project cost of $61,900,000;

(39) St. Johns Bayou and New Madrid Floodway, Missouri, at a total project cost of $108,900,000;

(40) Cape Girardeau, Missouri, at a total project cost of $24,600,000;

(41) Robinson's Branch, Rahway River, New Jersey, at a total project cost of $24,907,000;

(42) Rahway River and Van Winkles Brook, New Jersey, at a total project cost of $17,500,000;

(43) Green Brook Subbasin, Raritan River Basin, New Jersey, at a total project cost of $101,832,000;

(44) Ramapo and Mahwah Rivers, New Jersey and New York, at a total project cost of $6,200,000;

(45) Middle Rio Grande Flood Protection, New Mexico, at a total project cost of $43,900,000;

(46) Puerco River and tributaries, New Mexico, at a total project cost of $4,160,000;

(47) Cazenovia Creek Watershed, New York, at a total project cost of $3,025,000;

(48) Mamoroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut, at a total project cost of $63,070,000;

(49) Tonawanda Creek Watershed, New York, at a total project cost of $32,000,000;

(50) Sugar Creek Basin, North Carolina and South Carolina, at a total project cost of $29,100,000;

(51) Park River, At Grafton, North Dakota, at a total project cost of $18,790,000;

(52) Sheyenne River, North Dakota, at a total project cost of $55,400,000;

(53) Hocking River, at Logan and Nelsonville, Ohio, at a total project cost of Logan, $7,760,000; Nelsonville, $8,020,000;

(54) Miami River, Fairfield, Ohio, at a total project cost of $14,360,000;

(55) Miami River, Little Miami River, Ohio, at a total project cost of $8,910,000;

(56) Muskingum River Basin, Ohio, at a total project cost of $4,256,000;

(57) Scioto River at North Chillicothe, Ohio, at a total project cost of $10,740,000;

(58) Frys Creek, Oklahoma, at a total project cost of $13,000,000;

(59) Mingo Creek Oklahoma, at a total project cost of $133,000,000;

(60) Parker Lake, Muddy Boggy Creek, Oklahoma, at a total project cost of $43,000,000;

(61) Harrisburg, Pennsylvania, at a total project cost of $132,900,000;

(62) Lock Haven, Pennsylvania, at a total project cost of $79,225,000;

(63) Saw Mill Run, Pittsburgh, Pennsylvania, at a total project cost of $7,853,000;

(64) Wyoming Valley, Pennsylvania, at a total project cost of $234,700,000;

(65) Big River Reservior, Rhode Island, at a total project cost of $84,700,000;

(66) Nonconnah Creek, Tennessee, at a total project cost of $25,900,000;

(67) Buffalo Bayou and tributaries, Texas, at a total project cost of $90,670,000;

(68) Boggy Creek, Colorado River and tributaries, Texas, at a total project cost of $21,300,000;

(69) Lake Wichita, Holliday Creek, Texas, at a total project cost of $27,300,000;

(70) Lower Rio Grande Basin, Texas, at a total project cost of $195,304,000;

(71) Sims Bayou, Texas, at a total project cost of $123,979,000;

(72) James River Basin, Virginia, at a total project cost of $101,200,000;

(73) Chehalis River, Washington, at a total project cost of $21,940,000;

(74) Yakima Union Cap, Washington, at a total project cost of $8,789,000;

(75) Centralia, Chehalis River and tributaries, Washington, at a total project cost of $19,500,000;

(76) Mount Saint Helens sediment control, Washington, at a total project cost of $214,100,000;

(77) Wisconsin River at Portage, Wisconsin, at a total project cost of $6,300,000;

HYDROELECTRIC POWER

(1) SCAMMON BAY, ALASKA, AT A TOTAL PROJECT COST OF $1,600,000;

(2) South Central Rainbelt Area, Alaska, at a total project cost of $44,000,000;

(3) Murray Lock and Dam, Arkansas, at a total project cost of $98,600,000;

(4) Arkansas River and tributaries, Arkansas and Oklahoma, at a total project cost of $285,700,000;

(5) Metropolitan Atlantic Area Water Resources Management Study, at a total project cost of $26,445,000;

(6) W.D. Mayo Lock and Dam 14, at a total project cost of $119,300,000;

(7) Fort Gibson Lake, Powerhouse Extension, Oklahoma, at a total project cost of $24,100,000;

(8) Blue River Lake, Oregon, at a total project cost of $30,101,000;

(9) McNary Lock and Dam Second Powerhouse, Oregon and Washington, at a total project cost of $649,000,000;

(10) Gregory County Hydroelectric Pumped Storage Facility, Stages I and II, South Dakota, at a total project cost of $1,380,000,000;

BEACH EROSION

(A) Charlotte County, Florida, at a total project cost of $2,225,000;

(B) Indian River County, Florida, at a total project cost of $4,934,000;

(C) Panama City Beaches, Florida, at a total project cost of $41,731,000;

(D) St. Johns County, Florida, at a total project cost of $9,679,000;

(E) Dade County, North of Haulover Beach Park, Florida, at a total project cost of $15,605,000;

(F) Monroe County, Florida, at a total project cost of $3,142,000;

(G) Jekyll Island, Georgia, at a total project cost of $10,450,000;

(H) Casino Beach, Illinois Shoreline, Illinois, at a total project cost of $5,370,000;

(I) Indiana Shoreline Erosion, Indiana, at a total project cost of $7,920,000;

(J) Atlantic Coast of Maryland and Assateague Island, Virigina, at a total project cost of $35,200,000;

(K) Cape May Point, New Jersey, at a total project cost of $6,600,000;

(L) Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York, at a total project cost of $7,910,000;

(M) Wrightsville Beach, North Carolina, at a total project cost of: Extends Federal participation in the perodic shoreline nourishment of the existing project at an estimated annual total cost of $717,000 and a Federal cost of $334,000;

(N) Maumee Bay State Park, Ohio, at a total project cost of $15,800,000;

(O) Presque Isle Peninsula, Erie, Pennsylvania, at a total project cost of $28,100,000;

(P) Folly Beach, South Carolina, at a total project cost of $3,335,000;

(Q) Willoughy Spit and Vicinity, Norfolk, Virginia, at a total project cost of $4,230,000;

(R) Virginia Beach, Virginia, at a total project cost of $36,500,000;

MITIGATION

(1) Fish and Wildlife Program for Sacramento River Bank Protection Project, California, First Phase, at a total project cost of $1,415,000;

(2) Richard B. Russell Dam and Lake, Savannah River, Georgia and South Carolina, at a total project cost of $20,160,000;

(3) Davenport, Iowa, at a total project cost of $497,000;

(4) Missouri River, Fish and Wildlife Mitigation; Iowa, Nebraska, Kansas, and Missouri, at a total project cost of $50,500,000;

(5) West Kentucky tributaries project, Obion Creek, Kentucky, at a total project cost of $4,900,000;

(6) Red River Waterway Fish and Wildlife Mitigation Plan, Louisiana, at a total project cost of $11,200,000;

(7) Yazoo Backwater Project, Mississippi—Fish and Wildlife Mitigation Report, at a total project cost of $4,993,000;

(8) Downstream Measures at Harry S. Truman Dam and Reservoir, Missouri, at a total project cost of $2,100,000;

(9) Plan for replacement of the Trimble Wildlife Area, Missouri, at a total project cost of $7,870,000;

(10) Cape May Inlet to Lower Township, New Jersey, at a total project cost of $17,300,000;

(11) Cooper Lake and Channels, Texas, at a total project cost of $14,743,000;

INLAND AND RECREATIONAL HARBORS

(1) Helena Harbor, Arkansas, at a total project cost of $56,403,000;

(2) White River Navigation to Batesville, Arkansas, at a total project cost of $27,000,000;

(3) Lake Pontchartrain, North Shore, Louisiana, at a total project cost of $1,264,000;

(4) Greenville Harbor, Mississippi, at a total project cost of $42,600,000;

(5) Vicksburg Harbor, Mississippi, at a total project cost of $77,700,000;

(6) Saint Louis Harbor, Missouri and Illinois, at a total project cost of $30,340,000;

(7) Olcott Harbor, New York, at a total project cost of $12,445,000;

(8) Memphis Harbor, Tennessee, at a total project cost of $106,105,000;

(9) Disposition of Kentucky River, Kentucky, Locks and Dams 5 through 15, at a total project cost: Disposal of the subject locks and dams will eliminate all Federal maintenance costs which are currently $2,000,000 a year.

(10) Atlantic Intercoastal Waterway—Replacement of Federal Highway Bridges in North Carolina, at a total project cost of $8,800,000;

BANK STABILIZATION

(1) Bethel, Alaska, at a total project cost of $16,110,000;

DEMONSTRATION

(1) Cabin Creek, West Virginia, at a total project cost of $43,000,000;

(2) Lava Flow Control, Island of Hawaii, at a total project cost of $5,470,000;

The committee leadership amendment makes certain additions and deletions to the projects authorized in title VII.

Title VIII, which addresses user fees for ports and inland waterways, has been significantly modified by the Committee on Finance. Since the Finance Committee amendments to his title will supersede title VIII as it was reported by the Committee on Environment and Public Works, no explanation will be given here of this title.

Mr. MOYNIHAN. Mr. President, before this bill is over, I am going to require a measure of extended debate on this floor to express my appreciation to JIM ABDNOR for what he has done in bringing us the first water bill in one decade.

Mr. President, I am delighted to join my subcommittee chairman, Senator ABDNOR, and my Environment and Public Works Committee colleagues, Senators STAFFORD and BENTSEN in offering S. 1567, the Water Resources Development Act of 1986. I also want to recognize the efforts of Senator PACKWOOD, chairman of the Finance Committee, in expediting his committee's review of the revenue portions of S. 1567.

As former chairman of the Water Resources Subcommittee, and now as its ranking minority member, I have labored along with Senator ABDNOR for many years to introduce rational economic criteria and equitable cost sharing into the Federal water planning process. Many times I have stood on this floor in the early morning hours at the end of a legislative session, and pleaded for a national policy that would end the squandering of our irreplaceable water resources.

The Water Resources Development Act of 1986 presents us with the best opportunity we have had in a decade to address the important public works needs of our Nation. We must dredge our ports; replace old, inadequate locks; protect communities from flooding; and ensure the safety of our dams.

I hope that my colleagues will keep in mind the spirit of bipartisan cooperation that has thus far guided this bill to the floor, and that they will refrain from offering amendments which weaken its integrity.

The projects in this bill were not hastily picked out of thin air, nor were they selected merely to please individual committee members. Each has survived an extensive process of economic and environmental review conducted by the Army Corps of Engineers.

First, the district office of the Corps of Engineers conducts a reconnaissance survey to determine whether a project is needed and, if so, to explore alternative plans. The next step is to prepare a full feasibility report, including a recommended plan, an environmental impact statement, and a de-

termination of the economic benefits and costs of the plan. Based on the results of these studies, the district engineer makes a recommendation on whether to proceed with the project.

But that is hardly the end of the process. The district engineer's recommendation must then be reviewed by the division commander, the Board of Engineers for Rivers and Harbors, the Chief of Engineers, and the Assistant Secretary of the Army for Civil Works. Finally, if the project is deemed to be in the national interest, we in the Environment and Public Works Committee receive a recommendation to authorize the project.

So, it is my hope that my colleagues will respect this process and refrain from offering amendments for projects which do not have a final Chief of Engineers report and environmental impact statement, or which are new cost additions to the bill, or which do not comport with the cost sharing provisions of S. 1567. Only in this manner can we pass a bill that addresses the needs of all regions of the Nation in a fiscally responsible manner.

Before I address specific features of the bill, I must digress a bit to examine the historical reasons for our current deadlock in water policy, a deadlock which I believe this bill will break.

In 1791 in his "Report on Manufacturers," Alexander Hamilton enthusiastically advocated a role for the Federal Government in public works:

> The symptoms of attention to the improvement of inland Navigation, which have lately appeared in some quarters, must fill with pleasure every breast warmed with a true Zeal for the prosperity of the Country. These examples, it is to be hoped, will stimulate the exertions of the Government and the Citizens of every state. There can certainly be no object, more worthy of the cares of the local administrations; and it were to be wished, that there was no doubt of the power of the national Government to lend its direct aid, on a comprehensive plan. This is one of those improvements, which could be prosecuted with more efficacy by the whole, than by any part or parts of the Union.

Despite Hamilton's zeal for Federal navigation improvements, the congressional debate over their constitutionality continued for decades. Chief Justice Marshall's 1824 ruling in Gibbons versus Odgen confirmed the plenary power of the Congress over commerce and navigation. By the 1860's the Federal Government had embarked on the building of an inland waterway system.

PUTTING THE GOVERNMENT IN THE WATER BUSINESS

In 1902 the Congress, led by President Theodore Roosevelt, enacted the 1902 Reclamation Act. The act put the Federal Government into the business of irrigation, as well as water supply, hydroelectric power, and flood control. With this the Federal Government began the development of the West.

The Federal Flood Control Act of 1936 established the then novel tool of benefit/cost analysis for water resources projects. The Federal water program today is the collection of the projects undertaken by the Army Corps of Engineers, the Bureau of Reclamation, the Tennessee Valley Authority, and the Soil Conservation Service.

A PROCESS GONE AWRY

Unlike earlier times, there is today a consensus that the Nation's system of ports, inland waterways, multipurpose reservoirs, and hurricane protection projects have contributed greatly to the wealth of the Nation, and that it is proper for the Federal Government to finance at least part of their costs. At the same time, there is a recognition that something has gone terribly awry in the water planning process, particularly in recent years.

As members of the Senate Water Resources Subcommittee we have seen the complexity and inefficiency of the water planning process develop into virtual paralysis. Republican and Democratic administrations debated the causes and proposed reforms to no avail. It has been 10 years since passage of the last Omnibus Water Development Act, during which time only three new Corps of Engineers projects have been undertaken. The construction program of the corps is a mere 25 percent of what it was 15 years ago, and still declining. Today, the corps spends more on maintenance than on construction, even though its maintenance funds have not increased in real dollars over the same period. By law the corps is permitted to contract to perform work outside the United States, and its expertise is in demand. Ironically, the Corps of Engineers did more work in Saudi Arabia last year than in America.

According to the General Accounting Office, a corps flood control project takes an average of 26 years to complete, from the time that Congress initiates a feasibility study to the time that construction is actually finished. Over half of this time is attributable to the congressional authorization and appropriations process. Part of it also results from the corps' past insensitivity to the environmental impacts of its projects which stimulates local opposition and litigation. However, since the enactment of the National Environmental Policy Act [NEPA] in 1970 and implementation of programs like the section 404 permit process which requires cooperation by the corps with the EPA and the Department of the Interior, the corps has made significant progress in this area.

The cost of the stalemate in water policy has been onerous for the Nation. Our ports remain unimproved and inadequate for modern commerce at a time when we must address our trade imbalance. Our inland waterways require lock replacements to relieve critical bottlenecks that hinder the orderly shipment of goods. Hydropower projects, remarkably clean energy sources, need to be built in areas suited to their development. As the devastating floods in the West have recently reminded us, dams and levees need repair and upgrading.

HALTING BUSINESS AS USUAL

The time is long past to halt the "business as usual" way of funding water projects. The old free-booting days—when whoever was chairman of the subcommittee got two dams; the ranking minority member got one, everybody else on the committee got a promise; and nobody else got any—must yield to sound technical review, environmental impact analysis, and the budget deficit.

As managers, of earlier incarnations of water bills, we have fought again and again against piecemeal appropriations and last-minute project additions which make a mockery out of the congressional authorization and corps' planning process.

S. 1567, THE WATER RESOURCES DEVELOPMENT ACT OF 1986

Now we have the best opportunity in 10 years to pass a bill that radically reforms the water project process. S. 1567, the Water Resources Development Act of 1986, provides a chance to establish a sound new direction for water policy development in the 21st century. This bill, over 6 years in formulating, has bipartisan support. Nevertheless we must ensure that its sweeping reforms are not weakened by amendment on the Senate floor. Moreover, we in the Senate will have the challenge in conference of reconciling our bill with the House bill, H.R. 6, which contains more than $10 billion worth of additional authorizations.

The fundamental principle of the Water Development Act of 1986 is establishment of a working partnership among the Federal Government, the Corps of Engineers, and local interests benefiting from projects. The bill initiates a system of cost sharing as well as national and local user fees, guaranteeing that non-Federal interests will have a share in planning, financing, and maintaining water projects.

COST SHARING AND USER FEES

Under S. 1567 the non-Federal interests will have to contribute up to 60 percent of the costs of large ports; 50 percent for inland navigation locks; and 5-percent cash for flood control projects. A new ad valorem cargo fee paid by shippers will recover 40 percent of port operation and maintenance costs, and a doubling of the barge fuel tax by 1997 to 20 cents a gallon will generate about $120 million annually to finance half the costs of inland waterway projects.

PROJECT STUDIES

As important a reform as financing projects is the new method of financing project studies in S. 1567. Under current law, if requested by local sponsors, the corps has been obliged to undertake feasibility studies at full Federal expense. Since no local contribution was required, these studies often wasted corps' resources on impractical projects. Only 30 percent of all project studies have produced recommendations to build.

Under the new approach, the corps will provide at Federal expense an initial reconnaissance study to be completed in 12 to 18 months. If warranted, the next step is a full feasibility study to be cost shared 50-50 by the Federal Government and local sponsors. The bill also provides "value engineering reviews" to increase the efficiency of corps plans and increased opportunities for competitive bidding. This will ensure that only those projects supported by local interests will proceed, and then only on a practical scale and at a prudent cost.

LOCAL DESIGN AND CONSTRUCTION OPTIONS

A related improvement will give local port officials more flexibility. They will be able to design their own projects and finance them jointly with the Federal Government; to receive design services from the corps and complete construction on their own; or to design and construct from start to finish jointly with the Federal Government. This will allow private interests to build projects more economically wherever feasible.

AUTOMATIC DEAUTHORIZATIONS

The unwieldly water planning process has left the Federal Government with a pool of authorized, but unobligated corps construction work of close to $36 billion. Under the old system, this amount plus the new amount authorized by the Water Development Act of 1986, about $48 billion, would have been theoretically available to be appropriated during any fiscal year. S. 1567 remedies this by automatically deauthorizing any projects which have not received funding for 10 years. Estimates are that projects eligible for this deauthorization total about $26 billion.

And as a further check on unnecessary spending, S. 1567 sets a limit of $1.3 billion in the annual obligation ceiling on construction activities on the corps.

In the past, projects authorized and added to over the years grew and grew, escaping comprehensive review by Congress or agencies independent of the corps. An example is the Tennessee Tombigbee Waterway, a 234-mile long system of rivers, dams, locks, and canals that was debated for decades, finally costing over $2 billion. I led the floor fight to deauthorize this project

In 1981, because I believed that the economics did not justify Tenn-Tom. Unfortunately, we lost that fight 48 to 46.

A recent study shows that the Tenn-Tom traffic is only 6 percent of the tonnage predicted by the corps 10 years ago. Moreover, due to the untoward environmental consequences of Tenn-Tom, the Corps of Engineers will perform $60 million of mitigation work to offset the waterway's impact. S. 1567 will prevent Tenn-Toms in the future by requiring the corps to return to Congress for review and reauthorization if costs increase significantly, or if physical alterations are made to the original plan.

MITIGATION OF DAMAGES TO FISH AND WILDLIFE

Another longstanding problem which S. 1567 addresses is adequate protection for and mitigation of damage to wildlife and fish habitat from corps' projects. To assure balanced development, the bill builds mitigation measures into every step of the construction process, in consultation with the appropriate Federal and non-Federal wildlife agencies.

NEW INITIATIVES

A select number of new initiatives are included in S. 1567 to address urgent needs. These include a dam safety and repair program, a national coastal erosion program to respond to climatic changes, and research on protection of one of the most vital of our Nation's aquifer's the Ogallala. The bill also provides authority for the first time for the corps to extend its services to States and non-Federal agencies on a reimbursable basis.

The bill also authorizes 181 new water projects, all of which have received the most thorough, objective economic and environmental reviews in history. No project has been included in S. 1567 which has not completed the entire corps planning process, withstood its NEPA analysis, and received a favorable recommendation by the Chief of Engineers.

The number of water projects in S. 1567 is not trivial, but one must bear in mind that it has been 10 years since such authorizing legislation has passed. Half of the new projects in the bill are for flood control measures in local communities, a need too vividly illustrated by the recent floods in the West.

THE ALTERNATIVE

The Water Resources Development Act of 1986 is a reform bill which will chart a new course for responsible water development into the next century. The alternative to S. 1567 is to abandon the Federal role in planning and management of these projects, and thus to accept the inevitable deterioration of our country's water infrastructure. This bill has been over 10 years in the making. The time has come to resolve this debate.

Mr. President, I wish to make three points:

The chairman and I have pointed out that there are 181 water projects in this bill.

I have served on this committee for nearly 10 years, part of them as chairman of the subcommittee. In those 10 years the Corps of Engineers has commenced three water projects—only three. Mr. President, an institutional gridlock has arisen that has made us institutionally not capable of attending to the fundamental public works enterprises of this country. It was the early commitment of the Federal Government to infrastructure development that led to the creation of the first comprehensive transportation system which in turn transformed agricultural practices in this country.

Mr. President, here is the situation we find ourselves in presently. Last year the U.S. Corps of Engineers carried out more construction in Saudi Arabia than it did in the United States. If that is a condition my colleagues believe reflects our Nation's proper priorities, my colleagues have the power to defeat this bill. It is not difficult to stop such a bill. This bill has been defeated year after year. There was a minor bill passed 10 years ago, and it has been 16 years since a major bill passed.

We have reached the regrettable point in this country where it takes 26 years from start to finish on a typical flood control project by the Corps of Engineers. Yet, the Corps is building projects the world over. We respect the Corps right to perform reimbursed services outside the United States. But when we reach a point that the Corps of Engineers carries out more construction in Saudi Arabia than in the United States of America, it is time for a water bill for this country.

We have one. It will be the Senate's choice, whether it is enacted.

Mr. President, I see that the distinguished Senator from Tennessee has risen, and I believe he has an amendment.

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

Mr. STAFFORD. Mr. President, I wonder if the Senator will yield a minute. We have not finished opening statements on the bill yet.

Mr. GORE. I yield.

Mr. STAFFORD. If the Senator will withhold until we can complete the opening statements we would appreciate it, unless there is some very pressing reason.

The PRESIDING OFFICER. I remind colleagues that the committee amendment is still pending, and it is not appropriate for other amendments to be introduced at this time.

Mr. GORE. Mr. President, I withdraw my amendment at this time and will introduce my amendment at a later time.

I apologize to the chairman of the full committee.

Under some time pressure, I thought we had worked out an agreement to do this quickly and early on. I will wait and do it at a later time.

Mr. President, I yield the floor.

Mr. STAFFORD. Mr. President, I urge the Senate pass S. 1567, the omnibus Water Resources Development Act.

Mr. President, today's debate offers the Senate the opportunity to enact the first major water resources development law in a decade.

Because of this long delay, the bill the committee brings to the floor is necessarily expensive. But it contains many new policies designed to make the program more efficient.

This bill contains projects that have been in the pipeline of the U.S. Army Corps of Engineers for many years. In fact, the total cost of this bill, with the amendment offered by the committee leadership, will be $12 billion.

If we had brought this bill forward under the old system of cost sharing, almost all of that $12 billion would have been borne by the Federal taxpayers.

But this bill is different. It has been drafted recognizing the new realities of the deficit and national priorities. The Federal up-front cost of this bill is estimated to be $9 billion, while non-Federal sponsors and beneficiaries will contribute some $3 billion toward the initial project costs.

This bill contains a number of additional initiatives and reforms that will make the Federal water resources program more responsive to the needs of our nation.

These reforms are critical to the adoption of this bill.

I support these reforms.

The administration supports these reforms.

And, I must stress for my colleagues, we will not obtain a new water resources law without these reforms.

For the benefit of my colleagues, Mr. President, I will outline the path that brought us to this point.

The real issue in water resources development, it seems to this Senator, is not whether there should be a Federal program, but how to pay for that program.

Three times in the past decade, Congress sought to develop omnibus water resources legislation.

Three times we failed.

Each of these failures foundered on the shoals of how to allocate project costs between Federal taxpayers and project beneficiaries.

In an effort to move this issue off dead center, President Reagan more than 2 years ago wrote on this subject to our colleague, the distinguished Senator from Nevada [Mr. LAXALT]. In that letter, the President said, in part:

> Project beneficiaries, not necessarily governmental entities, should ultimately bear a substantial part of the cost of all project development.

To carry out that policy, the administration submitted a major water resources initiative in the 98th Congress. It submitted two major bills in this Congress: S. 534 and S. 967.

Each bill altered the manner in which many Federal water resources projects are financed, while offering the opportunity to accelerate dramatically the development of priority work.

In transmitting these bills to Congress, the Assistant Secretary of the Army, Civil Works, Robert K. Dawson, offered these observations:

> Virtually every study of Federal water resources development projects undertaken in the last 10 years, including studies by the General Accounting Office and the Congressional Budget Office, has concluded that the traditional Federal subsidy for water projects is no longer justified. Since the administration of Franklin Delano Roosevelt, the executive branch has been recommending increases in user charges or revisions in costs sharing for Federal water projects. . . .

Strong leadership from the White House was countered with strong opposition from various water interests.

In an effort to unravel these difficulties, the leaders of several Senate committees met last summer with officials of the White House. We met on several occasions. Eventually, we worked out an agreement.

The agreement from last summer is the heart of S. 1567.

It contains three key components:

One, new, up-front cost sharing for flood control and harbor construction projects.

Two, a new ad valorem harbor maintenance tax, and an increase in the existing barge fuel tax.

Three, no major new programs or projects lacking adequate study by the Chief of Engineers.

If we are to obtain a bill the President will sign, I am convinced we must send him legislation that holds to the cost sharing principles in this bill, as well as to its $12 billion cost.

We must be realistic with ourselves, as we are realistic with the American people.

It is realistic to say that there will be no major increase in Federal spending on water resources development in the coming years. Any major increases in spending must come from non-Federal sources: Beneficiaries, users, and shippers.

Without that participation, development is certain to continue to dwindle.

The current level of Federal spending in Corps of Engineers construction is around $1 billion a year.

If we are able to hold spending at that figure—$1 billion-a-year—this bill alone will carry us to the year 1995.

By contrast, the far more expensive House bill would carry us well into the 21st century.

And this assumes we will spend not a dime of Federal money on ongoing work, that we will not chew into the backlog of authorized corps work, which now exceeds $35 billion.

It is important that we hold to what is realistic, to what can be achieved. That is what this bill is all about.

Before discussing to the major cost sharing components in this bill, I would like to describe some other provisions of importance.

For example, S. 1567 places new, realistic controls over the work of the U.S. Army Corps of Engineers.

The program of the corps is not a program at all, as we usually authorize on Capitol Hill. Instead, it consists of a vast universe of authorized projects, a universe this bill expands by $12 billion. All of those projects can, theoretically, go forward at once.

To improve program management, we have included the following controls:

Title I sets annual dollar limitations on obligations for the construction program of the Corps of Engineers for each of the next several years. This limitation is designed to assure that the new authorizations cannot get out of hand, and that this bill will, in no way, be a budget-buster.

Section 212 requires that each project authorized in this bill must be reviewed favorably by the Chief of Engineers before it can be implemented.

Section 213 sets a limit on any dollar increases on a project. Thus, a $200 million project can no longer balloon into a $2 billion project, without restudy and reapproval in the Congress. We expect cost estimates to be valid the first time, or the project will have to be reauthorized.

Section 218, recommended by the distinguished Senator from New Hampshire [Mr. HUMPHREY], prevents any project going forward if certain program parameters are increased by more than 25 percent. If such an increase occurs, the project would have to be reauthorized.

Section 223, long recommended by Senator CHAFEE, requires cost sharing on feasibility studies, to see if local beneficiaries are serious about the project. Under our language, the Federal Government will pay the full cost of the reconnaissance study, with the Federal Government and the non-Federal Government sharing the costs on the second stage, the feasibility study.

Beginning in fiscal year 1984, the Secretary of the Army has adopted the concept of sharing the cost of feasibility studies, and has signed agreements with a number of sponsors obligating the sponsor to pay half the study costs. There are 54 studies in the

1987 President's Budget that carry this 50-50 cost sharing.

Section 237 requires that all new projects carry cost sharing, unless specified to the contrary. This is an important provision to assure greater uniformity within the corps program.

Mr. President, each of these constraints is merited. Each is needed. Each will make the Corps of Engineers program more responsive to the Congress and the American people.

This bill also contains several items of particular interest to this Senator and to the people of Vermont.

In the northern regions of the country, many communities suffer from flooding as a result of the build up of ice dams during the winter and early spring. Ice piles up to impede streamflow, causing flooding and, in many cases, severe bank erosion.

Many communities are unable to prevent or remove these ice dams, which produce extensive damages.

By spending a relatively small sum on river ice control research, including loaning equipment and providing operator assistance and other technical aid, the corps should be able to prevent many millions of dollars in flood damages annually.

Section 209 establishes a 5-year program of research and assistance to local communities for the control of river ice. A total of $5 million is authorized for each of those years.

This section also authorizes $900,000 for a small demonstration project for innovative techniques on river ice control at Hardwick, VT. The bill directs the corps to work with the town of Hardwick to develop the most effective ice control plan. As part of this authority, the corps will undertake research and monitoring, as well as the development of ice retention devices, plus the clearing and grading of lands to reduce the ice flooding danger.

I anticipate that useful designs for ice-retention structures will come from the Hardwick demonstration project. I should be noted that the reach of river affected by the Hardwick project is used extensively by whitewater canoeists, and is largely unspoiled. This section assures coordination between the corps and officials of the town of Hardwick, who have worked so hard and so effectively to meet the needs of the Hardwick area.

Section 210 authorizes the Corps of Engineers to provide engineering and technical assistance to local communities for rebuilding or improving former small-scale hydroelectric facilities and other industrial sites that have hydroelectric potential. A total of $5 million for each of 5 years is authorized.

On request of a local government or an electric cooperative, the corps will provide technical assistance on the design and construction of a project to utilize an existing site for power generation. Project construction would be carried out at non-Federal cost.

The corps has estimated that there are between 30,000 and 40,000 sites throughout the United States that, by virtue of their design and location, offer viable opportunities to generate hydroelectric power. Local communities and the Nation would profit and become more energy independent by utilizing the energy potential of these facilities.

Section 305 directs the corps to renovate the concrete work on Waterbury Dam in Vermont. This safety work, together with any needed for seismic purposes, will assure the continued usefulness of that federally constructed dam.

Section 330 directs the corps to establish a system to permit salmon to bypass two corps dams in Vermont, allowing the salmon to reach their spawning grounds.

Mr. President, I also wish to bring to the attention of my colleagues several smaller, but important, policy initiatives that are embodied within the bill.

For example, section 221 authorizes a study of a potential rise in the level of the ocean.

From all the climatic information available, it appears as if the ocean will rise significantly during the next century, as the greenhouse effect continues to melt the ice cap. Section 211 authorizes the corps to examine its current programs and authorities to determine what can be done to prepare for that eventuality.

Section 224 establishes a responsible approach on fish and wildlife mitigation, defining policy regarding mitigation at water projects constructed by the Corps of Engineers.

Non-Federal interests often are reluctant to support fish and wildlife mitigation efforts, once a project is in place. To assure balanced development, this section establishes several basic goals:

First, in cases of projects authorized by this act, as well as other authorized projects not yet under construction, necessary mitigation will have to be undertaken prior to project construction, or concurrent with that construction. The corps shall determine which alternative is appropriate.

Second, the Secretary is permitted, without further congressional authorization, to mitigate damage to fish and wildlife for any project under his jurisdiction, up to an annual limit of $30 million.

When dealing with older, completed projects, this section is permissive. The corps is not expected to alter the design features of a completed project under its authority unless it has been ordered to do so by the courts.

Next, mitigation costs are to be allocated among the project purposes and will be subject to the applicable cost sharing and reimbursement for those purposes. For example, if a project has 60 percent flood control benefits and 40 percent water supply benefits, 60 percent of the mitigation costs would be allocated to flood control and 40 percent to water supply, with cost-sharing or repayment based on those purposes.

Next, future proposals for water resources projects submitted to Congress for authorization must include a recommendation for a specific plan of mitigation, or a finding that the project will have a negligible adverse impact on fish and wildlife.

Mr. President, I also wish to comment on section 326. This section involves the Big South Fork National Recreation Area in Kentucky and Tennessee. This project was the inspiration of two of our most beloved and respected former colleagues, Senator Howard Baker and Senator John Sherman Cooper. The sum now authorized for the Big South Fork is $103,552,000, with corps scheduled to complete that expenditure in the fall of 1987.

When this level of authorization is used up, the recreation area will be able to accommodate only an estimated 30 percent of its potential visitors. Section 326 will provide funds for inflation, plus an additional increment of the project, an increment that will increase greatly the visitor use of the area.

I am particularly pleased the committee leadership amendment includes language that will bring the Water Supply Act into line with S. 1567. The changes follow closely on the language in S. 968, legislation I was honored to introduce last April.

We have also included in that amendment a revised version of the Upper Mississippi River Master Plan. It is important to note that I believe the two components of section 504—the second look at Alton as well as the vital environmental work—go forward in lock step. That is the intent, if not the requirement of this new section.

Mr. President, I have saved the most controversial items for the last. The guts of this bill, the guts of the controversy that led to this bill, is cost sharing, particularly cost sharing on navigation projects.

Titles 5 and 8 affect inland navigation. I believe these titles are responsible and responsive to the needs of the waterway users.

Current law imposes a 10-cents-per-gallon fuel tax on operators along 40 percent of our waterways. That tax, will bring in about $50 million this year, around 10 percent of the Federal spending on the commercial components of the inland waterways.

Several years ago, a corps study indicated that between now and early in the next century, "70 locks are candidates for major renovation or replace-

ment. Forty-four of those locks are probable sources of significant congestion and delay."

To help resolve this challenge, the Congressional Budget Office has urged the Congress to correct water project inefficiencies by "adjusting Federal user fees both to produce a reliable measure of national needs and to correct present misalignment among users."

The CBO went on to say:

To the extent that users of services are willing to repay the government for investments made in their behalf, revenues become available to support those projects. But to the extent that higher fees prompt users to reduce demand, investment needs decline. When high fees cause reductions in demand, investments can be tailored accordingly.

One expert on public works investment, Pat Choat, offered the following comments on user charges:

A major portion of the nation's public works financing can be met by more creative and extensive application of user fees. User fees are politically effective since users of public works services pay while non-users do not. They are also economically effective since they can raise substantial quantities of funds.

User fees have many other advantages as well. By reducing pressures on general revenue sources, for example, fee-for-service charges diminish the political competition for funds. User fees also establish a more direct relationship between prices and consumption and real costs. The General Accounting Office, in a series of analyses of federal aid for urban water distribution systems, found that both management and financing were better where fee-for-service financing existed. In these communities, actions had been taken to improve conservation, reduce leakage and control other non-revenue-producing water uses, such as meter under-registration. User charges can be tailored and applied to virtually every type of public facility. Moreover, special income adjustments for the poor can make user fee financing equitable to all.

What S. 1567 does is to allocate the existing fuel tax, paid into the Inland Waterway Trust Fund, toward half the cost of the new inland waterway projects authorized in this bill; the remaining half of the cost would come from general revenues.

To keep up with inflation, the bill increases the fuel tax a penny a gallon, until the fuel tax reaches 20 cents a gallon in 1997.

While it is not determined in this bill, I would assume future project authorizations will be financed from the Inland Waterways Trust Fund. And I would urge my colleagues never to use a surplus in the fund as an excuse to reduce the fuel tax. If we even hope to cut into that need of 70 new locks in less than two decades, we must find sources of revenue beyond the general taxpayer.

Mr. President, I ask consent that a table prepared by the Corps of Engineers showing the growth pattern of the Inland Waterways Trust Fund, assuming passage of S. 1567, be printed at the conclusion of my statement. At some point in the future, we will obviously have to confront the question of utilizing the fund for more projects.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. STAFFORD. Mr. President, let me turn now to the issue of ports and harbors. On these projects, taxpayer spending is now high, recovery from beneficiaries nil.

Traditionally, Federal expenditures have been spread broadly, but thinly, among the Nation's ports. Rather than target the Federal investment, funds and work have been distributed widely among many ports along four coasts: 48 ports now have authorized depths of 40 feet or more. When one port obtains a deeper channel, many others have sought and received the same.

While valuable in the past, this approach now thwarts the Nation's ability to develop the few deep harbors we need to handle the larger, more cost-effective superships. Most studies set the cost of a typical 55-foot harbor at close to half a billion dollars. The Federal Government will not finance work, in any timely manner, on any of the 34 ports that were identified by the Federal Coal Export Task Force as potential sites of major coal export harbors.

If the Federal Government continues to fund fully new development, a number of 55-foot ports might exist by the early years of the 21st century. However, the necessary three or four 55-foot ports are unlikely to be developed in this century.

To obtain early development of a few superports, a politically neutral force—the marketplace—must become a major factor in site selection of financing. A system of local financing, where a port authority or local government goes to the bond market and potential users to test the economic viability of the project, provides this neutral force.

This approach will break the cycle of inaction. It will achieve harbor dredging projects in a more timely and economical fashion.

Unless a Federal policy can be developed that recognizes and encourages local initiative, the slow and fruitless pace of development seems certain to continue.

Even with the present, depressed transportation costs for moving coal from the east coast to Europe, savings will be substantial.

Shipping rates on a 60,000-ton collier from Norfolk to Northern Europe now run about $5.50 a ton. The price from Gulf of Mexico ports to Northern Europe runs a bit over $7 a ton. Shipping the coal on a 90,000-ton ship that could use a 50-foot channel would save about 20 percent—a bit over $1 from Norfolk; about $1.50 from New Orleans.

Those savings can be doubled with a 140,000-ton collier, drawing 55 feet.

What does that mean? It means savings in shipping costs from Norfolk of close to $100 million per year, more than enough to amortize bonds under this bill, while leaving millions of dollars annually for shipper profits and to lessen the price of American coal on world markets.

And if business and rates pick up, as appears likely, the relative savings will be far greater.

Shifting some of the cost of new port projects to the private sector will require shippers to pay somewhat higher port fees. But in return, they will obtain early action on projects providing a net economic gain to those very same shippers.

As reported by the committee, title 6 sets a three-tier system for non-Federal cost sharing on new harbor construction projects: 10 percent on projects to 20 feet; 25 percent on projects between 20 and 45 feet; and 50 percent on the few superport projects, those deeper than 45 feet.

If the non-Federal interests are unwilling to make such an investment, there would appear to be no true need for the projects, no matter who finances it.

In a related issue, title 8 contains a new harbor maintenance tax set at 4 cents per $100 of value of the cargo moving through our ports.

This tax will raise about 40 percent of the cost of annual harbor maintenance work, helping to offset this drain on the Treasury.

Mr. President, I would now like to discuss the merits of title 7, which involves nonnavigation cost sharing.

Title 7 spells out precisely new rules for cost sharing on projects, or separable elements of projects not yet under construction.

The key item in title 7 is flood control cost sharing, where we have set the basic standard at 25 percent of the project's cost, or, if it is higher, the requirement in existing law that local interests contribute lands, easements, and rights-of-way of the project, plus the new requirement for 5 percent cash.

This standard is reasonable and realistic.

But, it is important to note that the committee bill is flexible on cost sharing. One of the most significant items is section 701(h). Subsection (h) allows the corps to modify cost sharing on the basis of a community's ability to pay.

The corps will need to look carefully at the requirements for local cost sharing, particularly as they affect very small communities. Many of those communities have limited resources to call upon toward contruc-

tion of a flood control project. For example, the citizens of Richford, VT, may require special consideration for a project the corps plans to build to control ice flooding.

Finally, Mr. President, I would like to explain for the benefit of my colleagues some of the facts regarding the various dates in Public Law 99-88, and the relationship of those dates to S. 1567.

My colleagues will recall that Public Law 99-88, the Supplemental Appropriations Act of 1985, contained appropriations to start construction on a number of water resources projects, some of which had not been authorized.

Under this law, no project for which a new-start appropriation was made can be initiated until May 15, 1986, unless an omnibus bill, such as S. 1567, passes Congress and becomes law before that date.

Specifically, the law says that all projects "shall be subject to subsequent enactment of legislation specifying the requirements of local cooperation for water resources development projects under the jurisdiction of the Department of the Army and where appropriate, to enactment of needed authorizing legislation; except that this sentence shall not apply after May 15, 1986."

Following May 15, 1986, even if there is no omnibus law, projects may go forward, but only if cost-sharing agreements have been reached, in line with the cost sharing spelled out in our reported version of S. 1567.

If no individual agreement on a particular project is signed by June 30, 1986, the appropriation for that project will lapse. The law states "that the funds appropriated herein shall lapse on June 30, 1986, if the agreement required herein for that project has not been executed."

The agreement language states that no funds may be expended except "under terms and conditions acceptable to the Secretary of the Army (or under terms and conditions provided for in subsequent legislation when enacted into law) as shall be set forth in binding agreement with non-Federal entities desiring to participate in project construction."

Before closing, Mr. President, I wish to particularly single out four members of our Committee on Environment and Public Works who have devoted great effort over the years to the development of this important bill.

Our subcommittee chairman, Mr. ABDNOR, of course, has been most diligent in developing this bill. His unstinting work and innovative ideas have been essential to the bill before the Senate. He deserves the warm and full praise of each and every member of the Senate. He deserves the applause of the Nation.

The Senator from New York [Mr. MOYNIHAN] has been a pillar of strength. He has worked tirelessly with others to develop a balanced bill. His thoughtful ideas have been essential in the reasoned development of good legislation.

The ranking member of our committee, Mr. BENTSEN of Texas, has also served along and with distinction in developing this legislation.

And the Senator from New Mexico [Mr. DOMENICI] deserves special attention. He spent a number of years as ranking Republican on the Water Resources Subcommittee. During that time he developed many of the concepts and provisions that remain embodied in this bill. We are in his debt.

Mr. President, in summary, this is a good bill. It deserves our support.

I urge passage by the Senate.

EXHIBIT 1

INLAND WATERWAYS TRUST FUND

As of December 31, 1985, there was $212 million available in the Trust Fund. The estimated balance in the Fund at the start of Fiscal Year 1987 is $254 million. The income, expenditures, and financial status of the Fund for each of the next 15 years is shown below. The estimated outlays are based on only the six projects authorized in S. 1567: Oliver L&D, Bonneville L&D, Gallipolis L&D, Grays Landing L&D 7, Point Marion L&D 8, and L&D 26 2nd Lock. It is likely that additional projects would be authorized to be funded from the Trust Fund during the 15 year period. Income is a combination of receipts based on the new next tax rates contained in S. 1567 and interest on investments based on current estimates of interest rates through fiscal year 1990 and the fiscal year 1990 rate of 5.5 percent from fiscal year 1991 through fiscal year 2001. The estimated annual growth rate of commercial transportation on inland waterways is 2.2 percent for the 15 year period.

Fiscal year	Income	Expenditures	Balance end of period
1987	76	27	303
1988	80	51	332
1989	83	100	315
1990	87	134	268
1991	92	125	235
1992	101	34	302
1993	112	45	369
1994	124	43	450
1995	137	27	560
1996	153	10	703
1997	170	3	870
1998	182	0	1,052
1999	195	0	1,247
2000	209	0	1,456
2001	224	0	1,680

Mr. STAFFORD. Mr. President, in recent weeks, I have received a number of letters regarding the administration's views on S. 1567. Because of the important role the administration has played in the development of this bill, I ask that the full text of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Washington, DC, September 17, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your recent letter requesting by views on various requests and suggestions for amendments to S. 1567 received by the Committee. I am also providing views on an additional item forwarded for comment by Mr. Harold Brayman of the Committee staff.

My views on each of the items are as follows:

CADY MARSH DITCH (LITTLE CALUMET RIVER), INDIANA

The feasibility report on the Little Calumet River Basin, Indiana, which also addresses the flooding problems in the Cady Marsh Ditch watershed, is currently under review at the Office of the Chief of Engineers. As you know, this office does not support authorization of any proposed project until the feasibility report has been reviewed and endorsed by this office and the Office of Management and Budget.

In regard to the specific issue involving Cady Marsh Ditch, this office has not had the opportunity to review the project report, and, therefore, we are not in a position to comment whether or not an exception to our long-standing policy establishing minimum flood discharge criterion is warranted in this case. It should be mentioned, however, that the discharge criterion, which was established to provide a uniform standard to differentiate between local drainage problems and flood problems eligible for Federal assistance, was adopted after lengthy and careful deliberation.

LONG CREEK CANAL, VIRGINIA

The City of Virginia Beach is seeking reimbursement for work undertaken by the City in 1977 to correct a scouring problem in the vicinity of Virginia Route 615 bridge caused by the Federal navigation project at Long Creek Canal.

Following completion of the existing Federal navigation project in 1966, erosion and deepening of the canal channel below project depth occurred in the vicinity of the bridge. Subsequently, the City of Virginia Beach advised the Corps of Engineers of the problem, and eventually, after requesting Federal assistance and before Corps investigations could be completed, was found by jury trial to be responsible for correction of the problem. The City then initiated remedial construction work at its own expense. Corps studies under Section 111 of the River and Harbor Act of 1968 were terminated after work was started by the City. However, investigations had progressed to the point they were able to determine that the erosion problem was caused by the navigation project and Congressional interests were so notified. Because the actions of the City were appropriate, reasonable and, apparently, effective, we would have no objection to a provision authorizing reimbursement. We would recommend, however, that any such provision provide for a determination that the work has been acceptably completed, that reimbursement be limited to necessary and actual costs, and that acceptance of funds by the City forecloses future claims.

SANTA ANA RIVER (PRADO DAM), CALIFORNIA

We have no objection to further review of the feasibility of including conservation storage at the Prado Dam and Reservoir

project although storage for this purpose has previously been found to be infeasible.

OUACHITA-BLACK RIVER NAVIGATION (ROAD DAMAGES), ARKANSAS

Union County cites that two county roads handled 95 percent of the equipment and materials for the construction of the Calion and Felsenthal Locks and Dams (part of the Ouachita and Black Rivers Nine-Foot Navigation project) resulting in extensive road damage and requiring repair estimated to cost $700,000. The County wants the Federal Government to repair these roads.

Besides the fact that Union County furnished the Corps assurances in 1962 that the County would hold and save harmless the United States Government from damages resulting from Ouachita-Black River Navigation project, our policy on such issues is that it is the local jurisdiction's responsibility to ensure that contractor's vehicles are not overloaded.

PHILLIPS COUNTY (HELENA HARBOR), ARKANSAS

Although the proposed project at Helena Harbor, Arkansas, is currently included in Title VII of S. 1567, we continue to oppose Federal implementation of this project. By letter dated July 6, 1984, this office informed Congress that creation of flood-free landfill through the use of material dredged from an adjacent channel was feasible, but that this development was most appropriate for implementation by local interests in response to market conditions. Their costs should be recoverable through the sale or lease of the landfill. Therefore, no further planning or development activities by the Corps are warranted at this time.

JACKSONVILLE HARBOR (MILL COVE), FLORIDA

S. 1567 would authorize the Mill Cove project in accordance with the report of the Chief of Engineers. The Chief recommended modification of the existing Federal project for Jacksonville Harbor to provide for flow and circulation improvements and small-boat navigation improvements for Mill Cove at full Federal cost.

Based on subsequent review of the report by this office and the Office of Management and Budget, this office advised Congress by letter dated June 1, 1984, that the flow and circulation component of the project should be authorized for construction, as a Federally-funded activity, but that the small-boat navigation improvement should not be authorized since that feature is not a necessary component for mitigation of the shoaling. Provided the authorizing language in the bill is revised to reflect the preceding, this office has no objections to authorizing the flow and circulation improvements at full Federal cost.

Sincerely,

ROBERT K. DAWSON,
Acting Assistant Secretary of the Army (Civil Works).

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY
Washington, DC, November 1, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to advise you of the Administration's remaining major concerns with S. 1567, the "Water Resources Development Act of 1985", and to request your consideration and assistance in including a number of technical amendments (copy attached) as part of any amendments offered by the Committee during Senate floor action on the bill. We believe these amendments are of a limiting or clarifying nature that are critical to sound implementation of S. 1567, if enacted.

As you know, the Administration fully supports the basic cost sharing and navigation user fee provisions of the bill. We also appreciate the Committee's efforts to limit the number and size of programs and projects which the Administration opposes, as well as the Committee's adoption of the Section 237 provision which would subject many of the programs and projects in Titles II and III to the cost sharing and financing provisions of the bill.

Nevertheless, the bill still contains a number of programs and projects which we believe do not warrant Federal assistance or involvement, particularly at this time of large Federal deficits. Without reiterating our specific objections in detail to the individual provisions which we have previously provided in testimony, letters, and staff discussions, our major concerns, besides the New York State Barge Canal provisions in Title V, are with the programs proposed for authorization in Title II and with the various projects and project modifications proposed for authorization in Title III.

In addition to recommending deletion of provisions of the bill which the Administration continues to oppose, we also recommend that a number of provisions be modified either to improve their implementability or for the purpose of clarification. These technical amendments together with the purpose of each amendment are attached for your consideration.

I would also like to mention three other concerns which we have not raised previously but which we believe the Committee needs to address. The first involves Section 215, the Federal Project Repayment District provision. This provision would attempt to provide project sponsors greater flexibility to satisfy the cost sharing provisions of the bill by permitting the sponsors to establish repayment districts which would repay the Federal Government by imposing charges or fees on property transfers. This provision must be modified to include other ways for the districts to generate revenues or it will be impossible to guarantee repayment to the Federal Government over the reimbursement period.

The second concern is with the grandfathering portion of the study cost sharing provision, Section 223. Reading this section in conjunction with the Committee report could lead one to the conclusion that cost sharing would not be required for the feasibility phase of any study if any part of the study was initiated prior to enactment of this legislation. We adopted the concept of feasibility study cost sharing beginning with our Fiscal Year 1984 budget and to date have signed agreements with 17 study sponsors obligating them to pay 50 percent of any remaining costs after this requirement is activated. We are concerned that section 223 could be interpreted as previously noted and thus jeopardize our proposed cost sharing on these existing and other pending agreements. In order to ensure cost sharing on studies where cost sharing agreements have already been proposed or signed, we suggest that a colloquy during Senate floor consideration and the Conference Report on the bill clarify that this section is not intended to preclude cost sharing for studies: (1) where study cost sharing agreements have already been signed, and (2) for which reconnaissance reports were initiated in Fiscal Year 1984 or later. We do not propose to require study cost sharing where Congress has made specific exemptions.

The third concern is with the Cross-Florida Barge Canal provision, Section 335. Our primary concern is that this provision would place full financial responsibility on the Federal Government for the resolution of this long-standing problem. The State of Florida, the principal beneficiary of this recreational and environmental enhancement provision, would not be required to contribute any share of the costs either to purchase lands for the establishment of the conservation area or for the continued operation and maintenance of the completed components of the barge canal.

I also request your assistance in including a provision to repeal Section 210 of the Flood Control Act of 1968 as part of any amendments offered by the Committee. The Corps can currently collect recreation user fees only from users of highly developed facilities, primarily overnight camp grounds, requiring continuous presence of personnel for maintenance and supervision of facilities. In 1984, the Corps collected $10.5 million in user fees, which was approximately eight percent of the cost to provide recreational services. Our water resources development bill, which you introduced as S. 534 on February 28th of this year, contained a provision to repeal Section 210 of the Flood Control Act of 1968. Section 210 contains a specific restriction to the collection of recreation user fees at Corps lakes and reservoirs. Enactment of this proposal, with the subsequent enactment of additional legislation amending the Land and Water Conservation Fund Act of 1965, as amended, would permit the collection of fees from most users of Corps recreation areas; and, thereby, permit us to continue to provide high quality recreation opportunities at this time of restricted budgets.

Mr. Chairman, I believe that we are very close to developing legislation that the Administration can endorse and support without reservation. Enactment of such legislation will allow the Nation's water program to move forward once again. If we can provide additional information or otherwise be of assistance, please let us know.

Best regards,

ROBERT K. DAWSON,
Acting Assistant Secretary of the Army (Civil Works).

TECHNICAL AMENDMENTS TO S.1567

Purpose: To eliminate any legal or jurisdictional difficulties between this bill and the pending FY 86 energy and water development bill, strike the first obligation limit for the fiscal year ending on September 30, 1986, in Title I, and renumber the obligation limits for the succeding fiscal years appropriately.

Purpose: To preclude one landowner from holding up a project and to remove uncertainty as to timing of payment, amend Section 201(a) to read:

"SEC. 201. (a) Prior to the initiation of construction of any water resources project authorized prior to this Act, in this Act, or subsequent to this Act, which is under the jurisdiction of the Secretary and which can be anticipated to provide flood control benefits, more than 10 per centum of which can be attributed to an increase in anticipated land values to a land owner, the non-Federal sponsor shall agree to pay, for deposit into the Treasury during the period of construction, 50 per centum of that portion of the project's costs allocated to such land

owner's benefit. Such payment is in addition to any other requirements on the non-Federal sponsor for the sharing of project costs."

Purpose: To clarify that Section 221 agreements may be executed for separable increments of the project that may be constructed when the agreement is obtained and to ensure that the interest rate on delinquent Section 221 payments is in conformance with Treasury policy, amend Section 211—

a. By redesignating subsections (a) through (c) as subsections (b) through (d), respectively, and inserting a new subsection (a) as follows:

"SEC. 211. (a) Section 221(a) of the Flood Control Act of 1970 (Public Law 91-611) is amended by inserting the words ', or an acceptable separable element thereof' immediately after 'water resources project' and the words 'or the appropriate element of the project, as the case may be' immediately after 'for the project'.";

b. By redesignating the unredesignated Section 211(b) as subsection 211(b)(1) and adding the following as subsection 211(b)(2):

"(b)(2) The interest rate to be charged on any such delinquent payment shall be at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3-month period if the period of delinquency exceeds 3 months."

Purpose: To recognize that there are several legitimate changes which will result in cost increases that are not related to Congress' concerns with cost overruns, amend Section 213 to read:

"SEC. 213. Subject to the provisions and requirements of Titles V, VI, and VII of this Act, the sums to be obligated for any project authorized by this Act shall not exceed the sum listed in this Act for the specific project, as of the month and year listed for such project (or, if no date is listed, the cost shall be considered to be as of the date of enactment of this Act), plus such amounts, if any, as may be justified solely by reason of increases in construction costs, as determined by engineering cost indices applicable to the type of construction involved; by reason of increases in land costs; and by cost increases resulting from modifications due to engineering, economic, and environmental considerations which the Chief of Engineers determines are advisable and which do not increase by more than 25 per centum any of the project parameters set out in Section 218 of this Act."

Purpose: To exempt studies dealing with improvements to the connecting waterways of the Great Lakes from study cost sharing for the same reasons that navigational studies of the inland waterway system are exempt, amend Section 223(c)(2) to read:

"(2) This subsection shall not apply to any water resources study dealing primarily with navigational improvements in the nature of—

(A) a dam, lock, or channel on the Nation's system of inland waterways; or

(B) a lock, channel, or other navigational feature located on the Detroit River, Saint Clair River, Lake Saint Clair, Saint Marys River, Straits of Mackinac, or Grays Reef Passage."

Purpose: To clarify that the provision designed to foster competition in water project construction does not undermine the small business or disadvantaged business set-aside programs nor does it prohibit recordkeeping by contractors when they are best equipped to do so, amend Section 226 by:

a. Adding at the end of Section 226(a) the following sentence: "Nothing in this section affects the Small Business Act of 1958, Public Law No. 85-699, as amended." and,

b. Revising Section 226(b) to read as follows: "It is further the policy of the Congress that to the maximum extent practicable, the Secretary shall not require contractors on civil works construction projects to perform recordkeeping that is, by law or regulations, the responsibility of the Secretary."

Purpose: To clarify that study cost sharing for commercial channel or harbor studies or commercial inland harbor studies is the same as the study cost sharing provided in Section 223, amend Section 601(a) to read:

"SEC. 601. (a) Following the date of enactment of this Act, feasibility studies of any proposed commercial channel or harbor or commercial inland harbor project plan shall be initiated by the Secretary only in accordance with the provisions of Section 223 of this Act."

Purpose: To ensure that separable unconstructed elements of otherwise constructed commercial channel or harbor projects and commercial inland harbors projects are subject to the cost sharing requirements and to clarify that bridge alteration costs apportioned in accordance with the principles of 33 U.S.C. 516 (Truman-Hobbs Act) and assigned to commercial navigation projects are subject to cost sharing, amend Section 602(a) to read:

"SEC. 602. (a) For the purposes of cooperative financial development of projects, or separable elements thereof, for any commercial channel or harbor or commercial inland harbor construction, the Secretary shall initiate no such construction project unless an appropriate non-Federal sponsor agrees to construct at its own expense all project facilities other than those for general navigation and by contract to provide during the period of construction of such project, or separable element thereof, the following percentages of the construction cost for general navigation facilities of the project, or separable element thereof, (including the cost of any necessary bridge alterations apportioned in accordance with the principles of 33 U.S.C. 516) assigned to commercial navigation based on the depths below mean low water listed herein:"

Purpose: To clarify the interest rate calculation for reimbursement of harbor construction, amend Section 602(b)(1) to read:

"(b)(1) In addition to the sums required to be paid during the period of construction under the terms of subsection (a) of this section, each non-Federal sponsor shall contract with the Secretary to repay to the United States, over a period not to exceed thirty years following completion of the project, or separable element thereof, 10 per centum of the total cost of construction of general navigation facilities for the project assigned to commercial navigation, with interest at a rate determined by the Secretary of the Treasury. In determining such rate of interest, the Secretary of the Treasury shall consider the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the reimbursement period during the month preceding the fiscal year in which costs are incurred, plus a premium of one-eighth of one percentage point for transaction costs: Provided, That the Secretary of the Treasury shall recalculate the rate of interest every five years. Funds paid under this paragraph shall be deposited into the general fund of the Treasury."

Purpose: To ensure that reimbursement of the Federal share to a non-Federal sponsor undertaking construction of a project previously authorized for Federal construction is limited to projects which remains economically justified and environmentally acceptable and to clarify that reimbursement would be made only if the Secretary certifies that the work was performed in accordance with the approved plans, amend Section 604(e)—

a. By striking the word "section" and inserting in lieu thereof the word "subsection";

b. By inserting immediately before the word "approves" the following: "determines that the project, or separable element thereof, is economically justified and environmentally acceptable and";

c. By shifting the last sentence in the subsection to immediately before the sentence that reads "The Secretary shall regularly . . ."; and

d. By inserting at the end of the subsection a new sentence as follows: "No reimbursement shall be made unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with the approved plans."

Purpose: To limit the scope of Section 604(f) to Federally authorized projects—

a. Insert the designation "(1)" at the beginning of Section 604(e);

b. Add a new Section 604(e)(2) which reads:

"(2) Whenever a non-Federal sponsor constructs improvements to any harbor in accordance with the terms of Subsection 604(e)(1), the Secretary shall be responsible for maintenance to forty-five feet below mean low water and for 50 per centum of the costs of incremental maintenance deeper than forty-five feet below mean low water.";

c. Delete Section 604(f); and

d. In Section 606(a), change the two references to section 604(f) to section 604(e)(2).

Purpose: To correct a typographical error, in the last sentence of Section 605(c)(2), change the word "objectives" to "objections".

Purpose: To clarify that all commercial navigation projects are exempt from the cost sharing requirements of Title VII, delete the first sentence of Section 701(a) and insert in lieu thereof:

"SEC. 701. (a) Excluding all commercial navigation projects, the construction of Corps of Engineers water or related land resources projects (including small projects not specifically authorized by Congress), or separable elements thereof as determined by the Secretary, on which physical construction has not been initiated, shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary, agreeing to pay 100 per centum of the operation, maintenance, and rehabilitation costs, and agreeing to share in the assigned joint and separable costs of construction as follows:"

Purpose: To ensure that non-Federal interests are required to provide lands, easements, rights-of-way, and relocations for local flood protection projects and to ensure that nonstructural land acquisition flood control measures are retained as viable flood control measures, amend Section 701(a)(1) to read:

"(1) urban and rural flood protection and rural drainage control: not less than 35 per centum, including a cash payment amounting to at least 5 per centum of the assigned costs to be made during the construction period; except—

"(A) for local flood protection projects, the non-Federal sponsor shall agree to: provide all lands, easements, and rights-of-way required for the project; perform all necessary relocations required for the project; and, hold and save the United States free from damages due to the construction, operation, or maintenance of the project except where such damages are due to the fault or negligence of the United States or its contractors. Where the value of the required lands, easements, rights-of-way, and relocations is—

"(i) greater than 20 per centum of the assigned costs, the required non-Federal contribution shall be the provision of the required lands, easements, rights-of-way, and relocations, plus 5 per centum of the assigned costs to be paid in cash during the construction period;

"(ii) less than or equal to 20 per centum of the assigned costs, the Secretary shall consider a non-Federal contribution of 25 per centum, which includes payment by the non-Federal sponsor of not less than 5 per centum in cash of the assigned cost in addition to provision of the required lands, easements, rights-of-way, and relocations, if made during the construction period, to constitute fulfillment of this paragraph; and

"(iii) less than or equal to 20 per centum of the assigned costs, the non-Federal sponsor may elect to make a cash payment of 5 per centum of the assigned costs during the construction period, in addition to the provision of required lands, easements, rights-of-way, and relocations, and to repay in accordance with the terms of this title the additional amount necessary to equal a total non-Federal contribution of 35 per centum.

"(B) for relocation or evacuation nonstructural flood control measures involving the acquisition of land, the value of such lands and other costs associated with development of the intended benefits therefrom shall be excluded from the computation of the cash contribution required from the non-Federal sponsor and the non-Federal sponsor's contribution for such nonstructural measures shall be—

"(i) 25 per centum of the costs assigned to such measures if paid during the construction period, or

"(ii) 35 per centum of the costs assigned to such measures if repaid in accordance with the terms of this title."

Purpose: To subject any delay in the initial payment by the non-Federal sponsor to interest charges, amend Section 701(f) to read:

"(f) At the request of any non-Federal sponsor the Secretary may permit such non-Federal sponsor to delay the initial payment of any non-Federal contribution under this title for up to one year after the date when construction is begun on the project for which such contribution is to be made. Any such delay in initial payment shall be subject to interest charges at a rate determined by the Secretary of the Treasury taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the period of delay, during the month preceding the fiscal year in which costs are incurred."

Purpose: To clarify that cost sharing of nonstructural flood control measures is subject to the cost sharing provisions of Section 701, redesignate "Section 702" as "Section 703" and insert a new section as follows:

"SEC. 702. Section 73(b) of the Water Resources Development Act of 1974 (Pub. L. 93-251) is hereby repealed."

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, November 20, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in further response to your recent letter requesting answers to four questions. The attached table contains data which answer your first two questions concerning the four superport projects.

In response to your third question, Public Law 97-140 prohibits the Corps from removing any houseboat, floating cabin, marina, or lawfully installed dock or cabin and appurtenant structures from any Corps lake project before December 31, 1989, if the property is maintained in usable condition and does not threaten life or property. If the property is sold, a permit holder cannot transfer the permit to a new owner. The new owner must apply for a lakeshore management permit and, if the privately owned facility meets the permit criteria, permits generally are issued to the new owner. A permit holder never has been able to transfer use of a lakeshore management permit.

In order to provide further information of the lakeshore management program, I have taken the liberty of attaching to this letter a copy of current Corps regulations on that program.

In answer to your last question, we cannot support the acquisition of 67,000 acres of land for mitigation of wildlife losses resulting from construction and operation of the Tennessee-Tombigbee Waterway. I should note that my office is reviewing a report of the Chief of Engineers which recommends the acquisition of 46,800 acres of separable mitigation land and more intensive management of an additional 92,600 acres of land to fully mitigate for the wildlife losses associated with the project. The Chief qualified this recommendation and indicated the Corps will pursue with the U.S. Forest Service the potential for more intensive wildlife management of some or all of the more than 400,000 acres of nearby National Forest lands as a means of reducing the extent of separable land acquisition.

If you require additional information on these or other matters, please do not hesitate to contact me.

Best regards,

ROBERT K. DAWSON,
Acting Assistant Secretary of the Army (Civil Works).

SUPPORT PROJECTS

[Dollars in thousands]

Project	Estimated total cost	First cost		Non-Federal cost/year [4]	No traffic growth		Projected traffic growth	
		Federal	Non-Federal [3]		Annual commerce (thousand tons)	Non-Federal cost per ton	Average annual commerce (thousand tons)	Non-Federal cost per ton
Norfolk Harbor and Channels, VA	[1] $539,000	$202,525	$336,475	$39,536	47,021	$0.84	81,163	$0.49
Baltimore Harbor and Channels, MD and VA	[2] 356,800	168,100	188,700	22,172	25,293	0.88	62,215	0.36
Mobile Harbor, AL	[1] 468,933	247,492	221,441	26,019	14,393	1.81	24,649	1.06
Mississippi River Ship Channel, Gulf of Baton Rouge, LA	[1] 456,000	172,100	283,900	33,358	166,880	0.02	189,425	0.18

[1] October 1984 prices. [2] October 1984 prices.
[3] Assumes all payments made without interest during construction. [4] Annual payment for 20-year bonds at 10 percent.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, DC, December 13, 1974.
Regulation No. 1130-2-406.[1]

[1] This regulation supersedes ER 1130-2-333 dated 24 Feb. 69.

PROJECT OPERATION, LAKESHORE MANAGEMENT AT CIVIL WORKS PROJECTS

Table of Contents

PROJECT OPERATION, LAKESHORE MANAGEMENT AT CIVIL WORKS PROJECTS—Continued

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Appendix A—Guidance for Granting Permits for Private Floating Recreation Facilities.

Appendix B—Application for Lakeshore Use Permit

Appendix C—Lakeshore Use Permit Conditions

Appendix D—Permit (Sample)

1. Purpose. The purpose of this regulation is to provide policy and guidance on the protection of desirable environmental characteristics of Civil Works lake projects and restoration of shorelines where degradation has occurred through private exclusive use.

2. Applicability. This regulation is applicable to all field operating agencies with Civil Works responsibilities. This regulation is not applicable to lake project lands when such application would result in an impingement upon existing Indian rights.

3. References.

a. Section 4, 1944 Flood Control Act, as amended, P.L. 87-874.

b. The Act of 31 August 1951 (31 USC 483a).

c. The National Environmental Policy Act of 1969, P.L. 91-190.

d. The Federal Water Pollution Control Act of 1972 (FWPCA).

e. Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."

f. Executive Order 11752.

g. 33 CFR 209.120, "Permits for Work in Navigable Waters or Ocean Waters."

4. Policy.

a. It is the policy of the Chief of Engineers to manage and protect the shorelines of all lakes under its jurisdiction to properly establish and maintain acceptable fish and wildlife habitat, aesthetic quality and natural environmental conditions and to promote the safe and healthful use of these shorelines for recreational purposes by all of the American people. Ready access to and exit from these shorelines of the general public shall be provided in accordance with reference 3a. For projects where Corps real estate interest is limited to easement title only, management action will be appropriate to assure the safety of the public who use the lake waters. It is the objective of the Corps to manage private exclusive use of public property to the degree necessary to gain maximum benefits to the general public. Such action will consider all forms of benefits such as: recreation, aesthetics and fish and wildlife.

b. It is the policy of the Chief of Engineers that private exclusive use will not be permitted on new lakes or on lakes where no private facilities or uses exist as of the date of this regulation. Such use will be permitted only to honor any past commitments which have been made.

c. A Lakeshore Management Plan, as described below, will be prepared for each Corps lake project where private recreation facilities exist as of the date of this regulation. Discretion will be used in preparation of those plans to provide for protection of public lands and private investments and honor any past commitments which might have been made. For projects where two or more agencies have jurisdiction, the plan will be cooperatively prepared with the Corps assuming the role of coordinator. Public participation will be encouraged to the fullest extent in preparation and implementation of the Lakeshore Management Plans. A Lakeshore Management Plan will not be required for new lakes or at completed projects where no private facilities exist as of the date of this regulation. However, a statement of policy will be furnished by the District Engineer to the Division Engineer to present the lake project management condition.

d. Boat owners will be encouraged to moor their boats at commercial marinas, utilize dry storage facilities off project lands or trailer their boats to public launching ramps which are provided by the Corps at no charge.

e. When private floating boat moorage facilities are desired, community mooring facilities will be encouraged in an effort to reduce the proliferation of individual facilities. It is the policy to issue only one permit for a community boat mooring facility with one person designated as the permittee and responsible for all moorage spaces of the facility. If, for extenuating circumstances, this approach is not feasible the District Engineer is authorized to grant individual permits for individual moorage sections of the community moorage facility. The latter method is strongly discouraged.

5. Lakeshore Management Plan.

a. General. The policies outlined in paragraph 4 will be implemented by preparation of Lakeshore Management Plans as described below.

b. Preparation. For each project having limited development areas a Lakeshore Management Plan will be prepared as Appendix F to the Master Plan. Lakeshore Management Plans will be prepared as soon as practicable and, like the other Appendixes to the Master Plan, will be working, management tools. Upon announcement of initiation of each specific Lakeshore Management Plan the District Engineer will declare a moratorium on accepting applications for permits until the plan is completed. Consideration should be given to preparing Lakeshore Management Plans during the period of least recreation activity and maximum effort will be devoted to early completion of the Lakeshore Management Plan, once the effort has begun. The objectives are to be able to inform individuals of decisions regarding lakeshore management at an early date and not create an undue hardship on private industries dependent upon private recreation facilities. Approval of this Appendix rests with the Division Engineer.

After approval, two copies of the Lakeshore Management Plan will be forwarded to HQDA (DAEN-CWO-R) WASH DC 20314.

c. Scope and Format. The Plan will consist of an area allocation map, related rules and regulations, a time-phase definitive objective plan for managing the lakeshore, descriptions of recreational waste management systems and sanitary facilities, and other information pertinent to the effective management of the lakeshore. Activities on land areas which affect the lakeshore, as well as activities on the water areas will be addressed in the Lakeshore Management Plan.

d. Lakeshore Allocation. As part of the Lakeshore Management Plan, the entire lakeshore of the project will be allocated within the allocation classification below and depicted on a map. In addition to the allocation classification described below, District Engineers are authorized to add specific constraints and identify areas having unique characteristics not identified herein.

(1) Limited Development Areas. Limited development areas are those areas where private exclusive use privileges and facilities may be permitted consistent with Appendix A and paragraph 8 of this section. When vegetation modification on these lands is accomplished by chemical means the program will be consistent with the current Federal regulations as to herbicide registration and application rates.

(2) Public Recreation Areas. On shorelines within or proximate to designated or developed recreation areas, private floating recreation facilities are not permitted. The extent of the term, proximate, will depend on the terrain, road system and similar factors. Commercial concessionaire facilities are permitted in these areas. An adequate buffer area within this allocation type will be established to protect the concession operation from invasion by private exclusive use facilities. Modification of land form or vegetative characteristics is not permitted by individuals in these areas.

(3) Protected Lakeshore Areas. Protected lakeshore areas are designated primarily to protect aesthetic, environmental, fish and wildlife values in accordance with the policies of the National Environmental Policy Act of 1969 (P.L. 91-190). Lakeshores may also be designated in this category for physical protection reasons, such as heavy siltation, rapid dewatering or exposure to high winds and currents. Land access and boating are permitted along these lakeshores, provided aesthetic, environmental and natural resource values are not damaged or destroyed, but no private floating recreation facilities may be moored in these areas. Modification of land form or vegetative communities by individuals in Protected Lakeshore Areas will be permitted only after due consideration of the effects of such action on environmental and physical characteristics of the area.

(4) Prohibited Access Areas. These lakeshore areas are allocated for protection of ecosystems or the physical safety of the recreation visitors; for example, unique fish spawning beds, certain hazardous locations, and areas located near dams or spillways. Mooring of private floating recreation facilities and modification of land form and vegetative communities are not permitted in these areas.

e. Public Participation. District Engineers will insure that the public participates to the maximum practicable extent in the formulation and preparation of Lakeshore Management Plans and any subsequent major revisions. When master plan updates and preparation of the Lakeshore Management Plans are concurrent, the public meetings should be combined and consider all aspects, inlcuding the lakeshore allocation classifications. Maximum use will be made of news releases, public notices, congressional liaison and public meetings to encourage full public particiaption. Special care will be taken to advise local citizen organizations, conservation organizations, Federal, State and local natural resource management agencies and other concerned bodies as well as adjacent landowners during the formulation of Lakeshore Management Plans. Published notices shall be required on several successive weeks prior to public meetings to assure maximum public participation. Ample time shall be permitted for review and comment by concerned organizations and individuals. Public notices shall be issued by the District Engineer allowing a minimum of 30 days for receipt of public comment in regard to the proposed Lakeshore Management Plan or any major revision thereto.

6. Instruments for Private Exclusive Use. Criteria used to determine the type of instrument to be used for private exclusive use facilities or developments are as follows:

a. Lakeshore Use Permit. Lakeshore Use Permits are issued and enforced in accordance with provisions of Section 327.19, Chapter III, Title 36, Code of Federal Regulations, for private floating recreation facilities. Lakeshore Use Permits are issued for floating structures of any kind in waters of resource projects whether or not such waters are deemed navigable and where such waters are under the primary jurisdiction of the Secretary of the Army and under the management of a Corps of Engineers Resource Manager. On waters deemed non-navigable, Lakeshore Use Permits will be issued for non-floating structures when such waters are under management of a Corps Resource Manager. Lakeshore Use Permits are issued for vegetative modification activities on the land which do not involve in any way a disruption to or a change in land form. Situation which require a Real Estate instrument are covered in 6c, below.

b. Department of the Army Permits. Activities such as dredging, construction of fixed structures, including fills and combination fixed-floating structures and the discharge of dredged or fill material in navigation waters will be permitted under conditions specified in permits issued under authority of Section 10, River and Harbor Act of 3 March 1899 (33 USC 403) and Section 404 of the Federal Water Pollution, Control Act (33 USC 1344) in accordance with reference 3g. Lakeshore Use Permits, paragraph a above, will not be used under these circumstances.

c. Real Estate Instruments. All commercial development activities and all activities by individuals which are not covered above and involve grade, cuts, fills, other changes in land form or appropriate land-based support facilities required for private floating facilities will be covered by a lease, license or other legal grant issued by the Real Estate Directorate.

7. Transfer of Permits. All Lakeshore Use Permits are non-transferable. Upon sale or other transfer of the permitted facility or the death of the permittee the permit is null and void. The voided permit site if located in a Limited Development Area may become available for permit application by all members of the public for issuance in an impartial manner if consistent with the Lakeshore Management Plan.

8. Existing Facilities Now Under Permit. The schedule for implementation of the Lakeshore Management Plan shall be developed in full consideration of existing permitted exclusive use facilities, their residual value and the prior Corps commitment implicit in the issuance of the permits. Except under unusual circumstances, such facilities should in general remain under permit until replacement is required, or until death of the permittee, or until sale or cessation of use of the facility by him. In the instance of multi-slip, multi-owner permits for private floating facilities and corporation-owned private floating facilities, the structure must be located in areas specifically allocated in the Lakeshore Management Plan. When existing floating facilities of this type are located in areas not approved for limited development under the lakeshore management plan, a grandfather rights provison will apply. Such provision will extend for the period of time that the facility will pass annual inspections without major repair by the permittee(s). At that time the floating facility will be removed or repaired and relocated to an approved location by the owner under a new permit.

9. Density of Development. The Density of private floating recreation facilities will be established by the District Engineer for all portions of Limited Development Use Areas in the Lakeshore Management Plan. The densities will be consistent with ecological and aesthetic characteristics. In all cases, the density of development specified in the Lakeshore Management Plan will not be more than 50% of that shoreline allocated as Limited Development Areas. In those cases where current density of development exceeds the density level established in the Lakeshore Management Plan, the density will be reduced gradually to the prescribed level by employing such guidelines necessary to protect the integrity of the shoreline environment.

10. Administration Charge. In accordance with the provisions of references 3a and 3b, a charge will be made for Lakeshore Use Permits to help defray expenses associated with issuance and administration of the permits. As permits become eligible for renewal after 1 July 1976 a charge of $10 for each new permit and a $5 annual fee for inspection of floating facilities will be made. There will be no annual inspection fee for permits for vegetative modification on lakeshore areas. In all cases the total administration charge will be collected initially at the time of permit issuance rather than on a piecemeal annual basis.

11. Compliance. Lakeshore Management Plans will be prepared for all applicable Corps of Engineers lakes at which private exclusive recreation uses exist. The plan should be submitted within three years after the date of this regulation.

For the chief of engineers:

RUSSELL J. LAMP,
Colonel, Corps of Engineers, Executive.

APPENDIX A—GUIDELINES FOR GRANTING PERMITS FOR PRIVATE FLOATING RECREATION FACILITIES

1. GENERAL

a. Decisions regarding the granting of permits for private floating recreation facilities must be made in considered relationship to the operating objectives and physical characteristics of each project. In every case, however, the foremost objective is to secure maximum storage of boats and related equipment at commercial concession areas. Through direction of the boat-owning public to such areas, the Corps strives to minimize the number of shoreline developments which could prove aesthetically distracting, unreasonably injurious to the environment or limit use of Federal property by the general public.

b. Revocable permits for private exclusive use facilities either individually or community-owned, will be granted in Limited Development Areas when the sites are removed from commercial marine services and the granting of such permits will not despoil the shoreline nor inhibit the public use or enjoyment thereof. District Engineers will insure that private floating recreation facilities will be located in areas that do not presently enjoy reasonable access to commercial marine services and that, insofar as practicable, the installation and use of such facilities will not be in conflict with the preservation of the natural characteristics of the lake or shoreline. Resource Managers will continuously monitor the number and nature of permits with a view towards timely establishment of additional commercial storage areas in lieu of permitting dispersed private facilities. Administrative charges will be made for Lakeshore Use Permits in accordance with paragraph (j) of this regulation.

c. Revocable permits will be granted for ski jumps, floats, boat moorage facilities, all types of duck blinds, and other private floating recreation facilities, where such facilities will not inhibit the public use or enjoyment of the project waters or shoreline. At projects where ice fishing houses or duck blinds are regulated by State program, a Corps permit will not be required. Permits will not be granted for private floating recreation facilities at or proximate to existing or potential public recreation areas.

d. Private floating recreation facilities will be permitted only in areas of the lakeshore which have been allocated as Limited Development Areas in the Lakeshore Management Plan. The density of development in such areas will not exceed 50% of areas allocated to such use.

e. Community boat mooring facilities will be encouraged where practicable in an effort to reduce the proliferation of individual facilities.

2. APPLICATIONS FOR LAKESHORE USE PERMITS

a. Applications for any private waterfront recreation facilities made to District Engineers or their designated Resource Managers will be reviewed with full consideration of the policies set forth in the previous paragraph, referenced regulations, and the Lakeshore Management Plan. Applicants for a permit shall, prior to the start of construction, submit for approval plans and specifications of the facility proposed, including; engineering details, structural design, anchorage method, construction materials, the type, size, location and ownership of the facility, the expected duration of the use and an indication of willingness to abide by the Rules and Regulations and the conditions of the permit. Specifications and plans which have been certified by a licensed Engineer will be approved. Permit applications shall also identify and locate land-based support facilities which may require a Real Estate instrument.

b. Permits will be issued by the District Engineer or his authorized representative in accordance with ENG Form 4264-R, Appendix B, for periods of 1 to 5 years, but are revocable by the District Engineer whenever he determines that the public interest requires such revocation or that the permittee has failed to comply with conditions of the permit or of this regulation. Permits for duck blinds and ice fishing houses will be issued for one year only. Specified acts permits will continue to be issued by the District Engineer as necessary, for short terms, to provide for corrective measures such as tree removal and erosion control.

c. Effective on the receipt of this regulation, the following will guide the issuance of this type of permit:

(1) The use of boat mooring facilities will be limited to the mooring of boats and the storage of gear essential to the operation of the watercraft.

(2) The installation of sleeping accommodations, cooking facilities, hearing facilities, toilet and shower facilities, refrigeration, television and other items conducive to human habitation in private recreation facilities is prohibited. Private floating recreation facilities shall not be used for human habitation.

(3) No private floating facility will exceed the minimum size required to moor the

owner's boat or boats plus the minimum size required for an inclosed locker for the storage of oars, life preservers and other items essential to the operation of the watercraft.

(4) All private floating recreation facilities will be constructed in accordance with plans and specfications approved by the District Engineer, his authorized representative, or as certified by a licensed Engineer.

(5) The size of all structures will be kept to a minimum to limit encroachment of the water surface.

(6) The procedures set forth in this regulation regarding the issuance of permits for individual facilities shall also apply to the issuance of permits for non-commercial community piers.

(7) Where facilities are anchored to the shore, they shall be securely anchored by means of moorings which do not obstruct the free use of the shoreline or unduly damage vegetation.

(8) Boat mooring buoys and flotation units of floating facilities shall be constructed of material which will not become waterlogged or sink when punctured.

(9) The color and marking of all boat mooring buoys will conform to the Uniform State Waterway Marking System, and the top of the buoy will be no less then eighteen inches above the waterline.

(10) All private floating recreation facilities will be placed so as not to interfere with navigation.

(11) Permits for private boat piers or boathouses and mooring facilities will be issued only when the owner files a permanent address and telephone number with the Resource Manager at which he may be reached in case of emergency when he is not on site.

(12) The District Engineer or his authorized representative is authorized to place special conditions in the permit deemed necessary. It may be desirable in some locations to establish a minimum surveillance interval to be observed by the facility owner or his representative.

3. REMOVAL OF FACILITIES

The facilities of permittees which are not removed when specified in the permit or when requested after revocation of the permit will be treated as unauthorized structures pursuant to Title 36, Chapter III, Part 327.20, of the Code of Federal Regulations.

4. POSTING OF PERMIT NUMBER

Each District will procure 5" x 8" printed permit tags for posting on the floating facilities. The permit tags will be fabricated of either light metal or paper. Where display permits are printed on paper, they will be placed in plastic to make them weatherproof after the permit number and the expiration date have been affixed thereon. The original of the completed application—permit is to be in the possession of the permittee. The duplicate of this form will be retained in the Resource Manager's office. The permit numbers will be consecutive for each project beginning with number 0001. The District Engineer is authorized to include letters in the permit for further identification as an aid to the project management. The permittee will be required to display the printed tag so that it can be visually checked with ease.

APPENDIX B

APPLICATION FOR LAKESHORE USE PERMIT

(ER 1130-2-406)

Print or type the information requested below. Submit two completed and signed copies of this application with two complete sets of plans and specifications to the Resource Manager.

Lake:
Name of Applicant:
Street:
Date of Application:
Telephone Area Code and Number:
City and State:
Type of Facility:
Boathouse (w/roof):
Boat Pier (open):
Boat Mooring Buoy:
Ski Jump:
Duckblind:
Float:
Other (specify):
Land Use (specify):

Brief description of location of facility, permit number(s) of boat or boats to be docked if this application is for a boat mooring facility or development if this application is for land use:

For illustration purposes only (Local reproduction authorized—blank masters available from local FMO)

The following party will be readily available on short-notice call and responsible for providing any needed surveillance of the structure in my absence.

Name:
Street:
Telephone Area Code and Number:
City and State:

I understand and agree to the conditions of the permit for lakeshore use. Two complete sets of the plans and specifications, including site location and layout plan, for the proposed structure and anchorage system are inclosed.

Date:
Signature of Applicant:

PERMIT

Permit No.
Date issued:
Permit Expires (date):

This permit to construct and or maintain and use a floating recreation facility or development as shown on the attached plans subject to the rules and regulations of the Corps of Engineers on waters under the control of the U.S. Army, Corps of Engineers is hereby granted by delegation of the Secretary of the Army under authority conferred on him by the act of Congress approved 31 August 1951 (U.S.C. 140). The permittee shall adhere to the conditions for lakeshore use.

Date:
Signature of Resource Manager:

APPENDIX C.—CONDITIONS OF PERMIT FOR LAKESHORE USE

1. This permit is granted solely for the purpose described by the permittee on the opposite side of this form.

2. The permittee agrees to and does hereby release and agree to save and hold the Govenment harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including the permitted facility, growing out of the ownership, construction, operation or maintenance by the permittee of the permitted facilities.

3. The ownership, construction, operation or maintenance of the permitted facility is subject ot the Government's navigation servitude.

4. No attempt shall be made by the permittee to forbid the full and free use by the public of all navigable waters at or adjacent to the permitted facility or to unreasonably interfere with navigation in connection with the ownership, construction, operation or maintenance of the permitted facility.

5. The permittee agrees that if subsequent operations by the Government require an alteration in the location of the permitted facility or if in the opinion of the district Engineer the permitteed facility shall cause unreasonable obstruction to navigation or that the public interest so requires the permittee shall be required, upon written notice from the District Engineer to remove, alter, or relocate the permitted facility, without expense to the Government.

6. The Government shall in no case be liable for any damage or injury to the permitted facility which may be caused by or result from subseqeunt operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage.

7. The ownership, construction, operation and maintenance of the permitted facility is subject to all applicable Federal, State and local laws and regulations.

8. This permit does not convey any property rights either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, State or local laws or regulations nor does it obviate the necessity of obtaining State or local assent required by law for the construction, operation or maintenance of the permitted facility.

9. The permittee shall comply promptly with any lawful regulations or instructions of any Federal, State or local agency of the Government.

10. The permittee agrees that he will complete the facility construction action within one year of the permit issuance date. The permit shall become null and void if the construction action is not completed within that period. Further, he agrees that he will operate and maintain the permitted facility in a manner so as to minimize any adverse impact on fish and wildlife habitat, natural environmental values and in a manner so as to minimize the degradation of water quality.

11. As such time that the permittee ceases to operate and maintain the permitted facility, upon expiration of this permit, or upon revocation of this permit, the permittee shall remove the permitted facility within 30 days, at his expense, and restore the waterway and lands to its former condition. If the permittee fails to remove and so restore to the satisfaction of the District Engineer, the District Engineer may do so by contract or otherwise and recover the cost thereof from the permittee.

12. No pier or boathouse is to be used for human habitation. Household furnishings are not permitted on boat piers or boathouses.

13. No houseboat, cabin cruiser or other vessel shall be used for human habitation at a fixed or permanent mooring point.

14. No charge may be made for use by others of the permitted facility nor commercial activity be engaged in thereon.

15. The size of all structures shall be kept to a minumum to limit encroachment on the water surface.

16. Boat mooring buoys and flotation units of floating facilities shall be constructed of materials which will not become waterlogged or sink when punctured.

17. Floating structures are subject to periodic inspection by the Corps rangers. If an inspection reveals conditions which make

the facility unsafe in any way or conditions which deviate from the approved plans, such conditions will be corrected immediately by the owner upon receipt of notification. No deviation or changes from approved plans will be permitted without prior written approval of the Resource Manager.

18. Floating facilities shall be securely anchored to the shore in accordance with the approved plans by means of moorings which do not obstruct the free use of the lakeshore.

19. That the display permit tag provided shall be posted on the floating facility or on the land areas covered by the permit so that it can be visually checked with ease in accordance with instructions of the Resource Manager.

20. No vegetation other than that prescribed in the permit may be damaged, destroyed or removed.

21. No change in land form such as grading, excavation or filling may be done.

22. No vegetation planting of any kind may be done, other that that specifically prescribed in the permit.

23. This permit is non-transferable. Upon the sale or other transfer of the permitted facility or the death of the permittee, this permit is null and void.

24. By 30 days written notice, mailed to the permittee by registered or certified letter the District Engineer may revoke this permit whenever he determines that the public interest necessitates such revocation or when he determines that the permittee has failed to comply with the conditions of this permit. The revocation notice shall specify the reasons for such action. If within the 30 day period, the permittee, in writing requests a hearing, the District Engineer shall grant such hearing at the earliest opportunity. In no event shall the hearing date exceed 60 days from the date of the hearing request. At the conclusion of such hearing, the District Engineer shall render a final decision in writing and mail such decision to the permittee by registered or certified letter. The permittee may, within 5 days of receipt of the decision of the District Engineer appeal such decision to the Division Engineer. The decision of the Division Engineer shall be rendered as expeditiously as possible and shall be sent to the permittee by registered or certified letter. The permittee may, within 5 days of receipt of the decision of the Division Engineer appeal such decision in writing to the Chief of Engineers. The decision of the Chief of Engineers shall be final from which no further appeal may be taken.

25. Notwithstanding condition 24 above if, in the opinion of the District Engineer, emergency circumstances dictate otherwise the District Engineer may summarily revoke this permit.

APPENDIX D.—PERMIT 01234, EXPIRES 30 Nov. 1974

(This permit is non-transferable and may be revoked at any time.)

U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, 13 Dec. 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We want to take this opportunity to comment again on the water resources omnibus legislation for the Army Civil Works Program (S. 1567) now pending before the Senate.

Mr. Chairman, your continued leadership in this area is essential if Congress is to pass responsible, reform-minded legislation that the President will sign.

The Administration supports S. 1567 as reported by your Committee on August 1 and to be reported shortly by Senate Finance Committee. While the bill in our view still contains some troublesome provisions (including authorization of new programs and exemptions from harbor user fees) that we have previously discussed with both Committees, S. 1567 is basically consistent with the June agreement on water project funding between the Administration, you, and other Senate Republican leaders. It represents our best (and perhaps last) chance to implement needed water resource projects in a fiscally sound manner.

We urge you and your colleagues to take up floor consideration of S. 1567 as soon as possible, and to resist effort on the floor and during conference to add programs, projects, and special interest provisions. Such add-ones will almost certainly doom S. 1567 and our mutual efforts to achieve water resource policy reform in the foreseeable future.

Earlier this year, Congress and the President took an important first step in revitalizing the Nation's water resources development program by enacting the 1985 Supplemental Appropriations Bill (Public Law 99-88). The Act includes start-up funding for a number of water projects. Pursuant to the June agreement, expenditure of those funds for construction, however, is contingent upon (1) enactment of specified navigation user fees, and (2) individual project cost sharing acceptable to the Secretary of the Army. During deliberation of the bill, it was widely anticipated that new navigation user fee cost sharing legislation applicable to these projects and others would soon follow. The Senate's consideration and passage of S. 1567 is the next and most important step and will determine whether water policy reform will be successful and allow implementation of the water projects funded in Public Law 99-88.

The June agreement broke the long-standing impasse over user fees, cost sharing, and the appropriate Federal role in water resources development, and made possible enactment of Public Law 99-88, with its cost sharing provisions. To your credit, the agreement is now reflected in S. 1567. Its provisions, we reiterate, are generally acceptable. However, we must emphasize that any substantial departures would negate the agreement and jeopardize the chances for enactment of a bill acceptable to the President.

The House passed its companion omnibus bill (H.R. 6) on November 13 and it is now on the Senate calendar. While the bill does contain some favorable reforms and takes a step in the right direction regarding user fees and cost sharing, efforts to eliminate or modify objectionable provisions were not successful. If H.R. 6 were enacted in its present form, the President's advisors would recommend that the bill be disapproved. In addition to being inconsistent with terms agreed to by the Administration, H.R. 6 has a number of major shortcomings that render it unacceptable:

Scope.—The bill contains scores of projects, project modifications, studies, and general provisions that (1) are of questionable merit to other than a few special interests, (2) are unnecessary and undesirable components of a national program, (3) represent Federal assumption of traditional non-Federal responsibility, or (4) have not been reviewed to determine their advisability.

New Programs.—The bill contains several major objectionable new programs that either supplant traditional state and local responsibilities or represent unnecessary and ill-advised policy changes, most notably (1) a potentially +$100 billion subsidized Federal loan program for municipal water treatment and distribution systems, (2) a Federal program for the repair of non-Federal dams (again, potential exposure of billions of dollars), (3) $1 billion in annual Federal guarantees for non-Federal financial obligations associated with harbor construction, and (4) a new unnecessary bureaucracy called the, "National Board on Water Resources Policy."

Special Treatment.—The bill contains numerous provisions allowing special treatment of certain projects and regions with respect to exemptions from cost sharing requirements or from normal project evaluation criteria. Such provisions reflect the influence of special interest groups, result in less funding being available to solve other urgent water problems, and do not allow equitable consideration of all projects.

Revenues.—The bill fails to implement an increase in the inland waterway fuel tax, which is necessary to ensure implementation of projects on the inland waterway system (including the inland projects in Public Law 99-88). Furthermore, the ad valorem fee provisions applicable to ports are flawed in that they (1) do not apply to usage of Great Lakes navigation improvements, (2) do not apparently apply to Hawaii and U.S. possession ports or to cargo that has been or will be transported by vessels that pay the inland waterway fuel tax, and (3) contain a Saint Lawrence Seaway tool/ad valorem fee approach that is probably not workable.

Deficit Impact.—The bill would add over $8 billion to the national debt between 1987 and 1991 above levels currently projected (+2 billion over the compromise 1986 Congressional Budget Resolution for 1987-1988). Its ultimate cost would be well over $20 billion. Its claims of "savings" are empty, since savings from deauthorized projects that would never be built anyway are not real savings. This is too high a price to pay at a time when Congress and the President are striving to reduce budgetary deficits through the Gramm-Rudman-Hollings legislation. Our conclusion is simply that H.R. 6 is too much business as usual.

Mr. Chairman, you, members of your Committee, and your staff have been most understanding of the Administration's views on what is needed to modernize our water resources program in light of the current deficits and other competing demands on available funds. We are confident that S. 1567 can serve as the cornerstone of Federal water policy for years to come. As you approach floor consideration and conference deliberations, we urge that you and other responsible members strive to limit further amendments to the bill. Significantly broadening the bill's scope, adding major new programs, favoring certain projects over others, or weakening revenue provisions can only lead to its ultimate failure.

We look forward to further dialogue with you on this important subject and will assist in any way we can. The Office of Management and Budget advises there is no objection to the presentation of this report from

the standpoint of the Administration's program.

Best regards,

ROBERT K. DAWSON,
Assistant Secretary of the Army (Civil Works).

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, January 23, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in further response to your letter of December 18, 1985, concerning the Senate and House water resources development bills, S. 1567 and H.R. 6.

The questions you raised are answered in the enclosure. It includes the information you requested concerning the Tennessee-Tombigbee Waterway.

I welcome this opportunity to provide you with data. As you continue to prepare for floor action, please do not hesitate to contact me if I can be of further service.

Best regards,

ROBERT K. DAWSON,
Assistant Secretary of the Army (Civil Works).

QUESTIONS REGARDING THE SENATE AND HOUSE BILLS

Question 1. Since Section 2 of H.R. 6 declares that the figures in H.R. 6 represent the "maximum amount authorized to pay for the Federal share of the cost of the project," and since many projects are included in H.R. 6 at what appear to be the total project cost, please provide us with your analysis and interpretation on whether the House dollar figures could in any way override Title VI of Title VII cost sharing.

Answer. Section 2 is designed to ensure against cost overruns. H.R. 6 generally contains estimates of the Federal share of the construction cost of projects, assuming the bill is enacted in its present form with respect to cost sharing. For example, the estimates for projects in Section 301(a) were developed considerating Section 302 and the estimates for projects in Title V are based on traditional cost sharing unless otherwise noted in a specific provision. If the estimate in the bill is in error or the cost sharing requirements change, it is unlikely that the estimate would override the applicable cost sharing provisions.

Question 2. Please provide us with first-year and out-year total cost estimates for each project authorized in H.R. 6 that does not have approval from the Chief of Engineers. Please provide a similar estimate for all new programs authorized in H.R. 6.

Answer. The attached date contains project and program cost estimates. Project deauthorizations or items with little or no first cost, such as instructions concerning project implementation or Federal maintenance of channels constructed by non-Federal interests, are not included. Most of the costs were obtained from either the bill or the accompanying report and, in some cases, should be considered as estimates only.

Question 3. Please provide an estimate of the average percentage that lands, easements, and rights-of-way compose of the port improvement projects in each bill. Which port improvement projects in H.R. 6 have lands, etc., costs in excess of 5 percent of project costs?

Answer. The average percentages that lands, easements, and rights-of-way, including dredged material disposal areas, compose of the port improvement projects in H.R. 6 and S. 1567 are 8 and 10 percent, respectively. These costs exceed 5 percent of the project cost for the following projects in H.R. 6:

Wilmington Harbor, Northeast Cape Fear River, NC; Manatee Harbor, FL; Savannah Harbor, GA; Monroe Harbor, MI; Grand Haven Harbor; MI; Lorain Harbor, OH; Duluth-Superior, MN & WI; Oakland Inner Harbor, CA; Oakland Outer Harbor, CA; Blair and Sitcum Waterways, Tacoma Harbor, WA; Sacramento Deep Water Ship Channel, CA; East, West and Duwamish Waterways, WA.

Question 4. I would appreciate your calculations on the expected traffic through the Tennessee-Tombigbee Waterway during calendar 1985, together with the projected first full year of usage at the time the Corps made its calculations of its most recent benefit-cost analysis? What is the anticipated 1986 level of traffic?

Answer. Between January 17, 1985, when the waterway was opened to through traffic and November 3, 1985, the actual tonnage moved was 1,501,331 tons. At the time of the last traffic survey and economic analyses in 1976, the projected first full year's total traffic was 28,071,000 tons, of which nearly ⅔ was anticipated to be coal. However, development of this level of traffic has not occurred due to many factors, including completion of the waterway ahead of schedule, and the uncertainty of completion caused by the litigation and efforts to halt funding. More significant has been the delayed development of the American coal export market as projected in the late 1970's and early 1980's. In 1985 a contract study was performed to provide a more recent estimate of traffic that could move on this waterway with a savings in transportation costs during the early years of project operation. This study developed an annual projection of 14.5 million tons, nearly ½ of which was coal. A specific projection for calendar year 1986 has not been developed, but the year should show some growth over 1985.

PROVISIONS–PROJECTS–PROGRAMS NOT APPROVED BY CORPS

[Dollars in thousands; October 84 price levels]

S. 1567 section	Project-provision-program	H.R. 6 section	Cost				
			Total	Federal	Non-Federal	First-year	Total out-year
209	Ice Control Program	1114	$17,000	$15,000	$2,000	$3,000	$12,000
210	Hydro potential study	604	15,000	15,000		2,000	13,000
301	Fort Toulouse (Coosa River)	514	32,000	29,000	3,000	3,000	26,000
301	Mound State Park (Black Warrror)	514	4,148	4,118	30	1,000	3,148
301	Tangier Island	401	3,800	3,500	300	500	3,800
303	Abiquiu Dam	1199	2,500	2,500		300	2,200
308	Brazos River Basin	724					
310	Jackson Hole	753	300/yr	265/yr	35/yr	265	265/yr
312	Acequia (historic ditches)	1199	50,000	40,000	10,000	1,000	39,000
313	St. John River Basin	1175	3,430	3,430		300	3,130
314	Rio Grande bank protection	727	700	700		50	650
316	Gorton's Pond	1199	NA	730	NA	90	640
316	Lake Worth demo project	537	NA	1,750	NA	200	1,550
318	Gauley River (Summersville Lake)	1121	NA	NA	NA	NA	NA
321	Ark-Red chloride control	1168	121,000	121,000		10,000	111,000
322	Milk River	745	1,500	1,400	100	200	1,200
323	Big Hill Lake	1166	4,780	4,780		600	4,180
326	Big South Fork	1194	53,100	53,100		9,000	44,100
327	Green's Bayou Bridge (Port Auth Br)	1401	700	700		700	
329	Illinois-Mississippi Canal (Hennepin)	1128	6,667	6,667		6,667	
335	Cross Florida Natnl Cons area	1199	32,000	32,000		32,000	
401	Dam safety (inspect and inventory)	1109	36,000/yr	30,000/yr	6,000/yr + full reimb	10,000	30,000/yr
503	New York State barge canal	1135	>21,000/yr	>10,500/yr	>10,500/yr	>10,500/yr	>10,500/yr
	Texas City channel	101	181,000	118,000	63,000	18,000	100,000
	New York Harbor-Ambrose	101	324,000	162,000	162,000	22,000	140,000
	Los Angeles—Long Beach	101	460,000	230,000	230,000	30,000	200,000
	Arthur Kill	102	49,400	31,900	17,500	5,000	26,900
	Fresh Kills	102	26,000	NA	NA	NA	NA
	New York Harbor—Claremont	102	45,700	32,300	13,400	8,000	24,300
	Lake Charles	102	200,000	143,,000	57,000	23,000	120,000
	Morro Bay Harbor grant	114	NA	NA	NA	NA	NA
	Winfield L/D	201	134,000	134,000		7,000	127,000
	Island Creek	301	86,000	64,000	22,000	8,000	78,000
	Ste. Genevieve	301	33,600	25,100	8,500	3,000	22,100
	Little Cal, Cady Marsh	301	6,500	4,500	2,000	1,000	3,500
	Gold Gulch	301	7,500	6,000	1,500	500	7,000
	Southeast Louisiana streams	301	7,500	6,000	1,500	500	7,000
	Southeast Louisiana streams	301	25,000	25,000		2,000	23,000

PROVISIONS–PROJECTS–PROGRAMS NOT APPROVED BY CORPS—Continued

[Dollars in thousands; October 84 price levels]

S. 1567 section	Project-provision-program	H.R. 6 section	Cost				
			Total	Federal	Non-Federal	First-year	Total out-year
	Pearl River Basin (St. Tammany Par)	301	25,000	25,000		2,000	23,000
	Noyes flood control measures	301	200	200		50	150
	Calleguas Creek	301	50,000	40,000	10,000	4,000	36,000
	Coyote Creek and Guadaloupe River	301	NA	NA	NA	NA	NA
	Monroe and West Monroe	301	40,000	40,000		3,000	37,000
	Passaic River Basin (Lower Saddle)	301	36,500	25,700	10,800	2,700	23,000
	Passaic River Basin (Oakland)	301	6,400	4,800	1,600	800	4,000
	Passaic River Basin (Upper Rockaway)	301	31,000	25,000	6,000	3,000	22,000
	Passaic River Basin (Nakoma Brook)	301	16,000	12,000	4,000	1,000	11,000
	Mission Zanja Creek (Redlands)	301	17,500	13,200	4,300	2,000	11,200
	Meredosia	301	110	80	30	20	60
	Salt and Eel Rivers	301	1,100	800	300	200	600
	Rio Puerto Nuevo	301	25,000	25,000		2,000	2,300
	Malhauer and Harney Lakes	301	20,000	15,000	5,000	1,000	14,000
	Louisville	301	1,600	1,200	400	100	1,100
	Poplar Brook (Deal)	301	3,000	2,300	700	300	2,000
	Pearl River (Shoccoe-Carthage)	301	108,000	81,000	27,000	6,000	75,000
	Pine Brook (Manalapan Tnshp)	305	1,900	1,400	500	100	1,300
	Las Vegas Valley	306	107,000	80,000	27,000	2,000	78,000
	Brockton-Avon Reservior	307	16,600	12,500	4,100	800	15,800
	Pinellas County	401	28,200	14,300	13,900	1,400	12,900
	Illinois Beach St. Park	401	11,900	8,300	3,600	600	7,700
	Coconut Point, Tutuila Island	401	3,000	1,500	1,500	200	1,300
	New Jersey Shore Projects	402	15,000	12,500	2,500	2,000	10,500
	Neponset River	501	3,000	1,500	1,500	200	1,300
	Merrimack River	501	8,000	4,000	4,000	400	3,600
	Rudee Inlet	501	1,270	1,040	230	200	840
	Port Canaveral	501	276	126	150	50	76
	Trinity River Mit.	501	9,840	9,460	380	800	8,660
	Sweetwater Mit.	501	3,480	3,480		400	3,080
	Albert Lea Lake	502	4,270	4,270		200	4,070
	Des Moines River	503	8,000	8,000		1,000	7,000
	Hereford—Del Bay (Cape May Point	504	53,800	40,000	13,800	3,000	37,000
	Lake George (Hobart)	506	5,200	5,200		200	5,000
	Ohio River streambank program	507	27,800	25,000	2,800	1,000	24,000
	Chesapeake Bay shoreline erosion	508	10,000	5,000	5,000	500	4,500
	Buffalo small boat harbor	510	10,000	9,000	1,000	900	8,100
	Red Lake River	511	350	300	50	50	250
	Greenwood Lake and Belcher Creek	513	10,000	10,000		500	9,500
	Week's Bay, Vermilion Bay, SW Pass	516	3,500	3,000	500	1,000	2,000
	La Conner	517	1,300	1,177	123	100	1,077
	Sauk Lake	519	2,000	2,000		500	1,500
	Muck Levee-Salt Creek	520	12	12		12	
	Passaic river bank stabiliz demo	521	10,000	10,000		800	9,200
	Rillito River	522	35,000	30,000	5,000	2,000	28,000
	Agat small boat harbor	523	NA	NA	NA	550	
	Little River (highway 41 bridge)	524	550	500	50	50	450
	Swan Creek Harbor	525	NA	NA	NA	NA	NA
	Caney Creek	526	1,500	1,250	250	100	1,150
	Deal Lake	527	8,900	8,000	900	400	7,600
	Wabash River (Grayville)	529	2,500	2,200	300	200	2,000
	Platte River	530	32,000	25,000	7,000	1,000	24,000
	Wheeling Creek	531	8,000	7,000	1,000	700	6,300
	Five Mile Creek	534	8,500	7,100	1,400	1,000	6,100
	Ohio River Bridges (3 sites)	535	91,000	70,000	21,000	3,000	67,000
	Tolay Lake	536	NA	150,000	NA	4,000	146,000
	Kanawha streambank erosion project	538	500	440	60	100	340
	Fox River channel	539	NA	NA	NA	NA	NA
	Hamlet City Lake	541	330	300	30	30	270
	Port Ontario	542	NA	NA	NA	NA	NA
	Sky Harbor Airport	543	NA	250	NA	50	200
	Hardin	601	N/A	N/A	N/A	N/A	N/A
	Kinnickinnic River	601	N/A	N/A	N/A	N/A	N/A
	Milton	602	2,500	2,500		50	2,450
	Guam, Samoa, TTPI/CNMI studies	603	8,000	8,000		1,000	7,000
	F&W conservation program	605	11,000	10,000	1,000	1,500	8,500
	Flood control program	606	5,000	5,000		250	4,750
	Shoreline erosion (Lake Superior)	608	2,130	2,130		500	1,630
	Boat dock lighting	609	N/A	N/A	N/A	N/A	N/A
	Infrastructure studies	610	N/A	N/A	N/A	N/A	N/A
	Reservoir cost sharing study	612	N/A	N/A	N/A	N/A	N/A
	Passaic River-Newwark Bay-dioxin	613	N/A	N/A	N/A	N/A	N/A
	Saginaw Bay	616	N/A	N/A	N/A	N/A	N/A
	Rancho Palos Verdes	617	N/A	N/A	N/A	N/A	N/A
	Sunset Harbor	618	820	820		80	740
	Lake Pontchartrain (sediment)	619	2,000	2,000		100	1,900
	Jamaica Bay—Reynolds channel	620	N/A	N/A	N/A	N/A	N/A
	Land acquisition study	621	N/A	N/A	N/A	N/A	N/A
	Black Warrior erosion	623	N/A	N/A	N/A	N/A	N/A
	Stormwater runoff-watershed	624	N/A	N/A	N/A	N/A	N/A
	Boundary and fencing practices	625	N/A	N/A	N/A	N/A	N/A
	Proj evaluation criteria (low income)	626	NA	NA	NA	NA	NA
	Potomac River Hydrilla	627	NA	NA	NA	NA	NA
	Water supply study	628	NA	NA	NA	NA	NA
	Chesapeake Bay drought mgmt	629	NA	NA	NA	NA	NA
	Guayanilla River Basin	630	NA	NA	NA	NA	NA
	James River	631	NA	NA	NA	NA	NA
	Hydropower potential	632	NA	NA	NA	NA	NA
	Lynnhaven inlet	701	1,660	1,660		100	1,560
	Ohio River Basin (Massilon)	703	2,100	2,100		100	2,000
	Lake Pontchartrain (hurr/flood prot)	705	4,000	3,500	500	300	3,200
	Yaquina Bay	707	2,400	2,200	200	200	2,000
	Sacramento River	709	29,000	25,000	4,000	2,500	22,500
	Santa Cruz Harbor	712	36,000	29,000	7,000	5,000	24,000
	Mouth of Colorado River (Matagorda)	713	425	425		425	
	Niobrara	714	1,600	1,600		100	1,500
	Alabama-Coosa River	715	NA	NA	NA	NA	NA
	LaFarge Dam	716	4,600	4,000	600	500	3,500
	East Saint Louis and vicinity	717	1,400	1,130	270	130	1,000
	Winona	718	630	630		630	
	L&D 26 (Miss River) road	720	NA	NA	NA	NA	NA
	Anacostia River	728	5,000	4,400	600	400	4,000

PROVISIONS–PROJECTS–PROGRAMS NOT APPROVED BY CORPS—Continued

[Dollars in thousands; October 84 price levels]

S. 1567 section	Project-provision-program	H.R. 6 section	Cost				
			Total	Federal	Non-Federal	First-year	Total out-year
	Yazoo River (Shepardstown Bridge)	729	3,600	3,600		600	3,000
	Corte Madera Creek	730	NA	NA		NA	NA
	Teche-Vermilion Basin	731	1,200	1,200		200	1,000
	Granger Dam	732	4,400	3,800	600	300	3,500
	Lewisville Lake	733	3,500	3,200	300	200	3,000
	Dardanelle L&D	734	2,000	1,800	200	100	1,700
	Susquehanna River (Sunbury)	735	75	75		75	
	Hudson River (NY City-Waterford)	736	150	150		150	
	San Lorenzo	737	3,500	3,500		500	3,000
	Sacramento River	738	10,400	10,400		1,400	9,000
	New Melones Dam	739	15,000	15,000		2,000	13,000
	Trilby Wash detention basin	740	7,500	7,500		3,000	4,500
	Apalachicola-Chattahoochee-Flint	743	NA	NA	NA	NA	NA
	Racine Harbor	744	21,000	3,000	18,000	3,000	
	Snake River (Lower Granite L&D)	746	7,870	7,870		800	7,070
	Curwensville Lake	747	300	300		300	
	Waterloo	748	1,700	1,700		400	1,300
	Buffalo ship canal	752	18,000	18,000		2,000	16,000
	Newport Bay Harbor	754	3,300	2,500	800	500	2,000
	Beaver Lake	756	5,000	5,000		500	4,500
	Miss River (industrial canal lock)	757	94,500	94,500		2,000	92,500
	Saginaw River	758	350	350		50	300
	Turtle Creek	763	N/A	N/A	N/A	N/A	N/A
	Dunkirk Harbor	764	2,700	2,300	400	300	2,000
	Houston ship channel (Bayport)	765	N/A	N/A	N/A	N/A	N/A
	Honolulu Harbor (Kalihi)	766	N/A	N/A	N/A	N/A	N/A
	Bayou Lafourche (dredging)	767	N/A	N/A	N/A	N/A	N/A
	Endicott-Johnson City-Vestal	769	950	700	250	100	600
	Sardis Lake access road	770	10,000	10,000		1,500	8,500
	Sandy Hook-Barnegat Inlet	772	N/A	N/A	N/A	N/A	N/A
	Taylorsville Lake	773	700	650	50	50	600
	Lower Snake F&W compensation	774	18,000	18,000		2,000	16,000
	Tampa Harbor (Port Sutton)	776	850	850		850	
	Coralville Reservoir	777	1,600	1,400	200	400	1,000
	Salem River	779	N/A	N/A	N/A	N/A	N/A
	Cold Spring Inlet	780	N/A	N/A	N/A	N/A	N/A
	Fort Peck	781	N/A	N/A	N/A	N/A	N/A
	Fishtrap Lake	782	N/A	N/A	N/A	N/A	N/A
	Sabine-Neches WW	783	N/A	N/A	N/A	N/A	N/A
	Clark Hill Reservoir	784	NA	NA	NA	NA	NA
	Red Rock Dam	785	42,000	42,000		2,000	40,000
	Cape Charles Harbor	786					
	East Chester Creek	787	NA	500	NA	500	
	Savannah Harbor debris	788	NA	NA	NA	NA	NA
	Water supply loan program	812	NA	NA	NA	80,000	800,000/yr
	Water supply study (CE projects)	853	NA	NA	NA	NA	NA
	Lake Arcadia to Edmund	854	24,000	19,000	5,000	1,000	18,000
	Parker Lake	855	110,000	88,000	22,000	3,000	85,000
	Caesar Creek	856	76,000	66,000	10,000	2,000	64,000
	Water supply studies (Non-Fed facil)	857	NA	NA	NA	NA	NA
	Environmental protection and mitigation fund	1104	35,000	35,000		4,000	31,000
	Water resource needs study	1105	NA	NA	NA	NA	NA
	Sam Rayburn senior citizens campground	1106	1,200	600	600	50	550
	Meramec River	1107	100,000	100,000		4,000	96,000
	Drift and debris removal	1110	NA	NA	NA	NA	NA
	Technical Assistance (channel proj)	1113	NA	NA	NA	NA	NA
	Water Law Compilation	1115	NA	NA	NA	NA	NA
	Great Lakes navigation board	1122	NA	NA	NA	NA	NA
	Environmental review-demo program	1134	28,000	25,000	3,000	3,000	22,000
	Whitewater river flood warning sys	1136	300	300		30	270
	Hawaiian Gardens	1141	8,500	8,500		8,500	
	Continuation of planning and engr	1149	N/A	N/A	N/A	N/A	N/A
	Elk Creek Lake (Rogue River)	1150	N/A	N/A	N/A	N/A	N/A
	Corps capability study	1152	N/A	N/A	N/A	N/A	N/A
	Hydropower report	1153	N/A	N/A	N/A	N/A	N/A
	Niagara frontier transportation auth	1159	8,500	7,000	1,500	700	6,300
	Beaver River (Bridgewater)	1160	1,400	700	700	100	600
	Tucson demonstration project	1162	2,800	2,500	300	200	2,300
	Central & So. Fl (Everglades)	1163	12,000	10,000	2,000	1,500	8,500
	Elm Creek	1164	600	500	100	40	460
	Lake Michigan diversions	1171	N/A	N/A	N/A	N/A	N/A
	Berkeley pier	1174	1,100	1,050	50	1,050	
	Atu'u Ma'oputasi	1176	1,400	1,200	200	100	1,100
	Utulei Fagatogo	1177	400	350	50	30	320
	Great Lakes diversions (study)	1183	4,500	4,500		400	4,100
	Buffalo River pollution	1185	N/A	N/A	N/A	N/A	N/A
	Passaic River land acquisition	1188	50,000	50,000		3,000	47,000
	Sault Ste Marie second lock	1191	240,000	240,000		10,000	230,000
	Satilla River (Noyes/Bull Whirl)	1193	550	500	50	50	450
	Missouri River (Thurmon-Hamburg)	1196	900	800	100	180	620
	LMV wetland enhancement	1199	N/A	N/A	N/A	N/A	N/A
	Marsh Creek Bridge	1199	50	47	3	10	37
	W.D. Mayo Hydropower	1199	119,000	119,000	0	9,000	110,000
	Sunset Beach Harbor	1199	N/A	N/A	N/A	N/A	N/A
	Miami River Sediment	1199	N/A	N/A	N/A	N/A	N/A
	Eisenhower and Snell Locks	1199	42,600	42,600	0	4,000	38,600
	Ellicott Creek	1199	1,100	1,100	0	50	1,150
	Rainy River Basin	1199	400	400	0	100	300
	National board on water resources policy	1221	15,000	15,000	0	1,000	3,000/yr
	State water planning and management	1241	200,000	100,000	100,000	10,000	20,000/yr

N/A—Not available.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, January 31, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR CHAIRMAN STAFFORD: I want to express my appreciation for your leadership in securing very significant progress on S. 1567, the Water Resources Development Act, and to encourage your further leadership in obtaining prompt consideration by the entire Senate.

Now that the Finance Committee has reported the bill, I am encouraged that it can be brought up and acted on in the very near future. Attached for your information are copies of letters I have sent to Senators Dole and Byrd commending progress thus far on the bill and seeking their assistance in bringing the bill up for consideration.

As you know, this is a critical piece of legislation for the Army Civil Works program and for the Nation as a whole. I encourage your continued support and responsible actions regarding the bill's scope and cost sharing and revenue provisions. I am attaching for your reference a copy of my letter to you on December 13, 1985, going into more detail on this Administration's position on the bill and on H.R. 6.

Again, thank you for your consideration. It is imperative, in my opinion, that we obtain prompt action on this legislation if we are to take advantage of the excellent opportunity you and your colleagues have created for a strong but budgetarily realistic water resources development program.

High regards,

ROBERT K. DAWSON,
Assistant Secretary of the Army (Civil Works).

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC.

Hon. ROBERT J. DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am taking this opportunity to write to you concerning S. 1567, the Water Resources Development Act, which we urge be brought to the Senate floor in the very near future. This bill represents the culmination of months of work on the part of the responsible Senate committees and the Administration to forge a new and realistic charter for Federal water development. This charter will assure continued Federal water development in spite of continuing fiscal austerity necessary to eliminate projected budget deficits.

As you will recall, the Administration reached a compromise regarding new project cost sharing with the Senate Majority leadership last June. I am aware that you played a leading role in reaching this compromise. The Committee on Environment and Public Works and the Finance Committee have been generally consistent with the terms of that agreement in acting upon S. 1567. Consequently, S. 1567 as currently drafted is close enough to the agreed upon outcome that, if it were passed today, it could be recommended for signing by the President. The Administration remains firm in its commitment to sound water project development as demonstrated by its position in the 1985 New Starts Supplemental Appropriation Bill and subsequent funding actions.

The significance of new cost sharing formulas for Federal water development goes far beyond the Army's Civil Works program. These new funding formulas can be prototypes for reform of other Federal programs. With increases in non-Federal financial participation in Federal project development, limited Federal funds can be spread over a larger number of projects so that critical infrastructure demands can be met in spite of the need to reduce progressively Federal spending over the next several years to achieve a balanced budget.

It is essential that the Senate act upon S. 1567 early in this session so that the bill can be kept as unencumbered as possible. Unwarranted additions of projects and programs which are unrealistic in light of the need to reduce Federal spending and the weakening of the new project cost sharing and navigation user fee requirements must be avoided if we are to have a bill that will be signed by the President. Accordingly, I urge your support for prompt consideration of S. 1567 by the full Senate and that you make every effort to avoid adoption of amendments which would erode the positive features of the bill.

We have in my judgment a historic opportunity to reform the water resources development program in America to reflect the budgetary realities in the foreseeable future, but I believe action early in this session is vital if we are to seize the opportunity before us.

High regards,

ROBERT K. DAWSON,
Assistant Secretary of the Army (Civil Works).

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, December 13, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We want to take this opportunity to comment again on the water resources omnibus legislation for the Army Civil Works Program (S. 1567) now pending before the Senate.

Mr. Chairman, your continued leadership in this area is essential if Congress is to pass responsible reform-minded legislation that the President will sign.

The Administration supports S. 1567 as reported by your Committee on August 1 and to be reported shortly by Senate Finance Committee. While the bill in our view still contains some troublesome provisions (including authorization of new programs and exemptions from harbor user fees) that we have previously discussed with both Committees, S. 1567 is basically consistent with the June agreement on water project funding between the Administration, you, and other Senate Republican leaders. It represents our best (and perhaps last) chance to implement needed water resource projects in a fiscally sound manner.

We urge you and your colleagues to take up floor consideration of S. 1567 as soon as possible, and to resist effort on the floor and during conference to add programs, projects, and special interest provisions. Such add-ons will almost certainly doom S. 1567 and our mutual efforts to achieve water resource policy reform in the foreseeable future.

Earlier this year, Congress and the President took an important step in revitalizing the Nation's water resources development program by enacting the 1985 Supplemental Appropriations Bill (Public Law 99-88). The Act includes start-up funding for a number of water projects. Pursuant to the June agreement, expenditure of those funds for construction, however, is contingent upon (1) enactment of specified navigation user fees, and (2) individual project cost sharing acceptable to the Secretary of the Army. During deliberation of the bill, it was widely anticipated that new navigation user fee cost sharing legislation applicable to these projects and others would soon follow. The Senate's consideration and passage of S. 1567 is the next and most important step and will determine whether water policy reform will be successful and allow implementation of the water projects funded in Public Law 99-88.

The June agreement broke the long-standing impasse over user fees, cost sharing, and the appropriate Federal role in water resources development, and made possible enactment of Public Law 99-88, with its cost sharing provisions. To your credit, the agreement is now reflected in S. 1567. Its provisions, we reiterate, are generally acceptable. However, we must emphasize that any substantial departures would negate the agreement and jeopardize the chances for enactment of a bill acceptable to the President.

The House passed its companion omnibus bill (H.R. 6) on November 13 and it is now on the Senate calendar. While the bill does contain some favorable reforms and takes a step in the right direction regarding user fees and cost sharing, efforts to eliminate or modify objectionable provisions were not successful. If H.R. 6 were enacted in its present form, the President's advisors would recommend that the bill be disapproved. In addition to being inconsistent with terms agreed to by the Administration, H.R. 6 has a number of major shortcomings that render it unacceptable:

Scope.—The bill contains scores of projects, project modifications, studies, and general provisions that (1) are of questionable merit to other than a few special interests, (2) are unnecessary and undesirable components of a national program, (3) represent Federal assumption of traditional non-Federal responsibility, or (4) have not been reviewed to determine their advisability.

New Programs.—The bill contains several major objectionable new programs that either supplant traditional state and local responsibilities or represent unnecessary and ill-advised policy changes, most notably (1) a potentially +$100 billion subsidized Federal loan program for municipal water treatment and distribution systems, (2) a Federal program for the repair of non-Federal dams (again, potential exposure of billions of dollars), (3) $1 billion in annual Federal guarantees for non-Federal financial obligations associated with harbor construction, and (4) a new unnecessary bureaucracy called the, "National Board on Water Resources Policy."

Special Treatment.—The bill contains numerous provisions allowing special treatment of certain projects and regions with respect to exemptions from cost sharing requirements or from normal project evaluation criteria. Such provisions reflect the influence of special interest groups, result in less funding being available to solve other urgent water problems, and do not allow equitable consideration of all projects.

Revenues.—The bill fails to implement an increase in the inland waterway fuel tax, which is necessary to ensure implementation of projects on the inland waterway system (including the inland projects in

Public Law 99-88). Furthermore, the ad valorem fee provisions applicable to ports are flawed in that they (1) do not apply to usage of Great Lakes navigation improvements, (2) do not apparently apply to Hawaiian and U.S. possession ports or to cargo that has been or will be transported by vessels that pay the inland waterway fuel tax, and (3) contain a Saint Lawrence Seaway tool/ad valorem fee approach that is probably not workable.

Deficit Impact.—The bill would add over $8 billion to the national debt between 1987 and 1991 above levels currently projected (+2 billion over the compromise 1986 Congressional Budget Resolution for 1987-1988). Its ultimate cost would be well over $20 billion. Its claims of "savings" are empty, since savings from deauthorized projects that would never be built anyway are not real savings. This is too high a price to pay at a time when Congress and the President are striving to reduce budgetary deficits through the Gramm-Rudman-Hollings legislation. Our conclusion is simply that H.R. 6 is too much business as usual.

Mr. Chairman, you, members of your Committee, and your staff have been most understanding of the Administration's views on what is needed to modernize our water resources program in light of the current deficits and other competing demands on available cornerstone of Federal water policy for years to come. As you approach floor consideration and conference deliberations, we urge that you and other responsible members strive to limit further amendments to the bill. Significantly broadening the bill's scope, adding major weakening revenue provisions can only lead to its ultimate failure.

We look forward to further dialogue with you on this important subject and will assist in any way we can. The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT K. DAWSON,
Assistant Secretary of the Army
(Civil Works).

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, February 11, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to inform you of an action we have taken to ensure the Fiscal Year 1986 Civil Works Continuing Authorities Program is executed in accordance with the terms in the President's Fiscal Year 1986 Budget and with the guidance from the Congress in the Fiscal Year 1986 Energy and Water Development Appropriation Act.

As you will recall, consistency of cost sharing among programs and equity among sponsors or comparable works has been an underlying tenet of the Administration's program for water resources development. We are in the process of implementing binding agreements with local sponsors to undertake construction of the projects funded by the Fiscal Year 1985 Supplemental Appropriations Act in accordance with the cost sharing provisions agreed to by the Administration and the Senate Majority Leadership. These cost sharing provisions were essentially reflected in S. 1567. We believe that all new construction activity in the Civil Works program—Continuing Authorities Program projects as well as specifically authorized projects—should be implemented under these same cost sharing provisions.

We are, of course, aware that S. 1567 would explicitly require that continuing authority projects be subject to the same cost sharing provisions as specifically authorized projects. We also have noted that, unlike in previous years, there was no report language accompanying the Fiscal Year 1986 Energy and Water Development Appropriation Act indicating that Congress did not wish us to seek higher levels of cost sharing for construction. As we move forward with construction of the specifically authorized projects funded by the Fiscal Year 1985 Supplemental Appropriations Act, we should treat other new construction efforts equitably.

Accordingly, I have directed the Corps of Engineers to apply the construction cost sharing provisions agreed to by the Administration and the Senate majority leadership to any project under the Continuing Authorities Program on which a construction contract is awarded after May 15, 1986. Should the Congress enact a Water Resources Development Act prior to May 15th, the cost sharing provision of any such act would, of course, apply.

Sincerely,

ROBERT K. DAWSON,
Assistant Secretary of the Army
(Civil Works).

[Sent to various Senators]

FEBRUARY 20, 1986.

Hon. ——
U.S. Senate,
Washington, DC.

DEAR SENATOR ——: The purpose of this letter is to discuss S. 1567, the Water Resources Development Act, and to specifically address its effect on flood control features of the Mississippi River and Tributaries (MR&T) project. We are encouraged that the bill has been reported by the Committee on Environment and Public Works and the Committee on Finance and that floor consideration appears likely in the very near future. The minimal impacts on the MR&T project set out below are more than offset by the opportunity to break the decade-long drought for a water project authorization bill.

The new cost sharing provisions of S. 1567 would apply to authorized but unstarted separable elements of the MR&T project, as well as MR&T elements that would be authorized by the bill and future authorizations. We agree that all regions of the nation should be treated equitably and that any new project cost sharing requirements should be applied uniformly by extending those requirements to the as-yet unstarted separable elements of all projects, including the MR&T project.

Over the past several weeks there have been discussions on the impacts of S. 1567 on elements of the MR&T project related to flood control. Therefore, I believe it would be helpful to provide an estimate of those impacts. We recognize and S. 1567 recognizes that there are special considerations to be given the MR&T project, and we believe the bill strikes the proper balance between the uniqueness of MR&T and the need to get a signable bill that grasps the present budgetary realities.

First, let me address the impacts of S. 1567 on previously authorized elements. Table 1 lists the authorized project elements related to flood control under the MR&T. That portion of the project which is not yet constructed is referred to as "balance to complete" and is represented by the sum of the last two columns. Of the approximately $5.1 billion balance to complete, $4.4 billion is either included in the President's budget for Fiscal Year 1987 or is likely to be included in future budgets. The $4.4 billion is comprised of all non-separable elements of the MR&T project as well as all separable elements under construction. Only authorized separable elements of the MR&T project on which construction has not been initiated, such as the principal features of the Yazoo Backwater Pumping Plant, are included in the "unscheduled balance to complete" column. Therefore, about $725 million, or just over 14% of the total balance to complete of the presently authorized flood control elements of the MR&T project would be subject to new cost sharing. I should point out that a large proportion of this amount may not have a real likelihood of being built in the years ahead because of lack of economic justification under current standards, environmental problems, loss of local support, and so on. In summary, almost 86% of the balance of construction would be exempt from additional cost sharing, an even larger percentage when you consider just the work likely to be implemented in the foreseeable future. Work exempted from new cost sharing requirements includes construction on the Mississippi River levees, Mississippi River channel improvement, the Upper Yazoo project, main stem Yazoo River work, and flood control work in the Atchafalaya Basin.

Now let me move to MR&T flood control elements that are presently contained in S. 1567. Table 2 lists eight MR&T flood control projects and two mitigation plans for MR&T flood control projects along with the estimated Federal and non-Federal shares in accordance with S. 1567 and traditional policies. The total cost of these ten features is $265 million. The non-Federal share for the projects would increase from $52 million to $105 million under S. 1567 or from 20% to 40% of total cost.

In conclusion, we believe that all flood control projects across the nation must be treated evenly and should pay according to the same cost sharing principles if we can expect to get a bill enacted into law which will enable the Army Civil Works program to continue to serve the Nation's needs. We urge your support in resisting amendments to S. 1567 that would give preferential cost sharing treatment to any project, thereby seriously weakening the bill's chances for ultimate success.

The Office of Management and Budget advises there is no objection to the presentation of this letter from the standpoint of the Administration's program. I hope this information has been helpful to you and look forward to working together to obtain a workable bill that can be enacted into law. If I may be of further assistance, please let me know.

Sincerely,

ROBERT K. DAWSON,
Assistant Secretary of the Army
(Civil Works).

TABLE 1.—FC, MR&T PROJECTS AUTHORIZED FOR CONSTRUCTION

Project	Total estimated Fed. cost (Oct. 1, 85)	Amount allocated to date (Sept. 30, 85)	Scheduled balance to complete	Unscheduled balance to complete
Mississippi River Levees	1,229,000,000	541,442,000	687,558,000	0
Channel Improvement	3,010,000,000	1,442,521,000	1,567,479,000	0
Section 6 Levees	3,745,000	3,745,000	0	0
Mud Lake Pumping Station	4,470,000	457,000	0	4,013,000
Old River	301,300,000	246,866,000	54,434,000	0
St. Francis Basin	361,000,000	239,763,000	121,237,000	0
Lower White River	54,800,000	13,331,000	0	41,469,000
Augusta-Clarendon	(4,601,000)	(1,780,000)	(0)	(2,821,000)
Big Creek and Tribs	(37,998,000)	(365,000)	(0)	(37,633,000)
Clarendon Levee	(1,576,000)	(561,000)	(0)	(1,015,000)
White River Backwater	(10,625,000)	(10,625,000)	(0)	(0)
Reelfoot Lake-Lake No. 9, TN-KY:	10,400,000	8,365,000	0	2,035,000
Reelfoot Lake (Completed)	(440,000)	(440,000)	(0)	(0)
Reelfoot Lake-Lake No. 9	(9,960,000)	(7,925,000)	(0)	(2,035,000)
Cache River Basin	157,000,000	8,335,000	0	148,665,000
L'Anguille River Basin	26,400,000	1,555,000	1,345,000	23,500,000
West Tennessee Tribs	104,000,000	32,441,000	71,559,000	0
Grand Prairie-Bayou Meto	130,900,000	0	0	130,900,000
Flood Control	(38,500,000)	(0)	(0)	(38,500,000)
Water Supply	(92,400,000)	(0)	(0)	(92,400,000)
Lower Arkansas	35,000,000	22,726,000	0	12,274,000
South Bank	(21,000,000)	(15,676,000)	(0)	(5,324,000)
North Bank	(14,000,000)	(7,050,000)	(0)	(6,950,000)
Tensas Basin	471,000,000	223,019,000	160,518,000	87,463,000
Boeuf and Tensas Rivers	(154,400,000)	(39,536,000)	(151,450,000)	(63,414,000)
Tensas River	66,400,000	2,123,000	863,000	63,414,000
Lake Chicot Pumping Plant	(92,300,000)	87,745,000	3,682,000)	(873,000)
Recreation	3,808,000	2,563,000	372,000	873,000
Red River Backwater	(169,900,000)	(50,616,000)	(96,108,000)	(23,176,000)
Below Red River	24,500,000	714,000	610,000	23,176,000
Tensas-Cocodrie Pumping Plant	(54,400,000)	(45,122,000)	(9,278,000)	(0)
Tensas National Wildlife Refuge	40,000,000	40,000,000	0	0
Yazoo Basin	1,320,240,000	416,067,000	795,892,000	108,281,000
Arkabutla Lake	(18,207,000)	(18,207,000)	(0)	(0)
Enid Lake	(23,575,000)	(23,593,000)	(−18,000)	(0)
Grenada Lake	(50,500,000)	(46,879,000)	(18,000)	(3,603,000)
Sardis Lake	(28,097,000)	(28,097,000)	(0)	(0)
Greenwood	(12,100,000)	(11,630,000)	(470,000)	(0)
Upper Yazoo Projects	(361,958,000)	(46,355,000)	(315,603,000)	(0)
Main Stem	(169,000,000)	(27,407,000)	(141,593,000)	(0)
Tributaries	(242,000,000)	(83,195,000)	(158,805,000)	(0)
All Work Except Ascalmore-Tippo and Opossum Bayous	204,100,000	60,513,000	143,587,000	0
Ascalmore-Tippo and Opossum Bayous	37,900,000	22,682,000	15,218,000	0
Big Sunflower River, Etc	(108,000,000)	(34,199,000)	(73,801,000)	(0)
Yazoo Backwater	(264,240,000)	(62,865,000)	(96,697,000)	(104,678,000)
Pumping Plant	100,000,000	4,730,000	4,950,000	90,320,000
Rocky Bayou	18,240,000	2,773,000	1,109,000	14,358,000
Streambank Erosion Control Evaluation and Demonstration	(14,767,000)	(14,767,000)	(0)	(0)
Demonstration Erosion Control	(13,700,000)	(5,399,000)	(8,301,000)	(0)
Will M. Whittington Auxiliary Channel	(11,573,000)	(10,951,000)	(622,000)	(0)
Belzoni	(317,000)	(317,000)	(0)	(0)
Yazoo City	(2,206,000)	(2,206,000)	(0)	(0)
West Kentucky Tributaries	23,800,000	1,169,000	450,000	22,181,000
Harris Fork Creek	21,500,000	870,000	0	20,630,000
Lower Red River-South Bank Levees	28,700,000	18,495,000	0	10,205,000
Bayou Cocodrie and Tribs	26,500,000	4,774,000	425,000	21,301,000
Atchafalaya Basin	1,433,000,000	503,512,000	929,488,000	0
Mississippi Delta Region	35,700,000	1,655,000	0	34,045,000
Teche-Vermilion Basin	35,700,000	34,928,000	772,000	0
Eastern Rapides-South Central Avoyelles	62,300,000	1,217,000	3,183,000	57,900,000
Sardis Dam (Dam Safety Assurance)	9,000,000	100,000	8,900,000	0
Completed Work	165,432,000	165,432,000	0	0
Total	9,100,887,000	3,972,785,000	4,403,240,000	724,862,000

TABLE 2.—MRC FLOOD CONTROL & MITIGATION REPORTS CONTAINED IN S. 1567 (COST SHARING SUMMARY)

[October 1984 prices; in thousands of dollars]

Project name	Propose	Total	Traditional				S. 1567			
			Appropriation reqs.		Ultimate		Appropriation reqs.		Ultimate	
			Non-Fed	Federal	Non-Fed	Federal	Non-Fed	Federal	Non-Fed	Federal
Bushley Bayou, Red River, LA (PH I)	FDP	44,700	0	44,700	0	44,700	12,662	32,038	12,662	32,038
Eight Mile Creek, Paragould, AR	FDP	14,950	0	14,950	50	14,900	10,700	4,251	10,750	4,201
Helena and Vicinity, AR	FDP	13,700	1,800	11,900	1,800	11,900	3,425	10,275	3,425	10,275
Horn Lake Creek, TN and MS	FDP	3,400	1,160	2,240	1,201	2,200	1,326	2,074	1,366	2,034
Louisiana State Penitentiary Levee, Miss River, LA	FDP	22,646	1,159	21,487	1,159	21,487	5,662	16,985	5,662	16,985
Nonconnah Creek, TN and MS	FDP	25,900	7,073	18,828	7,600	18,301	8,227	17,673	8,754	17,146
St. Johns Bayou and New Madred Floodway, MO	FDP	108,900	40,071	68,829	40,100	68,800	45,513	63,387	45,542	63,358
West Memphis and Vicinity, AR	FDP	20,600	0	20,600	0	20,600	15,047	5,553	15,047	5,553
Obion Creek (West KY Tribs), KY	MIT	4,900	926	3,974	926	3,974	1,225	3,675	1,225	3,675
Yazoo River Mitigation, MS	MIT	4,993	0	4,993	0	4,993	1,248	3,745	1,248	3,745
Total		264,689	52,189	212,501	52,835	211,854	105,034	159,655	105,680	159,009

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, February 24, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have received our statement of Administration policy dated January 22, 1986, on S. 1457—Water Resources Development Act of 1985.

One of the "several other issues" alluded to in our last paragraph that should be identified now is our strong opposition to the inclusion of projects which have not received full, adequate review by long-standing procedures for determining whether a project is a comparatively good one.

We note that the Senate has generally included in S. 1567, as reported, those projects which have been reviewed by the Chief of Engineers. You will recall that the June 1985 agreement reached between the Administration and the leadership of the Senate included the right of the Administration to oppose projects in S. 1567 at that time or subsequently, which it deems to be

undesirable. We would prefer inclusion of only those projects which have completed the full Executive Branch review with favorable recommendations for authorization. By our count, about forty percent of the 180 or so projects in S. 1567, as reported, have not completed this full Executive Branch review.

The addition now of other projects to S. 1567 which have since been reviewed by the Chief of Engineers (but have not completed the full review process) will certainly weaken Administration support for the bill. The addition of projects with no Chief's report would be a very serious breach of last summer's agreement.

The Office of Management and Budget advises there is no objection to the presentation of this letter from the standpoint of the Administration's program. A similar letter has been addressed to Senator James Abdnor, Chairman, Subcommittee on Water Resources, Senator LLOYD BENTSEN, and Senator DANIEL PATRICK MOYNIHAN.

High regards.

ROBERT K. DAWSON,
Assistant Secretary of the Army
(Civil Works).

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, February 25, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I request that you consider the enclosed proposed amendments to S. 1567 during Senate floor action on this bill. These proposals, if enacted, would improve the operations and functions of the Corps of Engineers. The Office of Management and Budget advises that these proposals are in accord with the President's program.

We understand that you are considering inclusion as Committee amendments provisions allowing interim use of water supply storage for irrigation and repealing Section 210 of Public Law 90-483, which prohibits the Corps from collecting entrance fees at water resources projects. We have previously proposed these two items and continue to support their inclusion in S. 1567.

There may be several additional items submitted for your consideration as Committee amendments to S. 1567 if time allows.

High regards,

ROBERT K. DAWSON,
Assistant Secretary of the Army
(Civil Works).

Amendment —— would authorize the Corps of Engineers to pay the Federal share of the settlement amount resulting from the final contractor claim for the Four Mile Run, Virginia, project notwithstanding the Federal cost limitation set out in Section 84(c) of the Water Resources Development Act of 1974, Public Law 93-251.

Section 84(c) of the Water Resources Development Act of 1974 provides that the amount authorized to be appropriated for construction of the Four Mile Run, Virginia, project, is "not to exceed $29,981,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in the cost of construction as indicated by engineering cost indexes applicable to the type of construction involved." Through fiscal year 1982, when funds were last appropriated for this project, annual price level adjustments through completion of project construction had resulted in a Federal project cost of $51,780,000. This amount has been fully obligated and expended.

Recently, the last contractor claim was settled. Following the decision of the Engineer Board of Contract Appeals on the merits of the contractor's claim, the issue of quantum was settled by the parties in the amount of $692,500, which included interest amounting to $279,245 through December 31, 1985. Of this amount, the Federal share is $584,071, with the City of Alexandria, as the non-Federal sponsor for the portion of the work involved, responsible for $108,429. The City has already provided its portion of the settlement amount.

The amendment would authorize the Corps to pay the Federal share of the settlement amount, notwithstanding the Federal cost limitation.

(Amendment ——). Add the following new section and number accordingly:

"SEC. . The Secretary of the Army, acting through the Chief of Engineers, is authorized to pay the Federal share of the settlement amount and any associated interest resulting from the decision of the Engineer Board of Contract Appeals in ENG BCA Docket Number 4650 (June 28, 1985), notwithstanding the Federal cost limitation set out in Section 84(c) of the Water Resources Development Act of 1974, Public Law 93-251."

Amendment —— would allow the Chief of Engineers to modify channel dimensions in critical areas to allow vessels to turn and maneuver with ease and safety. Such modifications would be limited to minimal widening and would not change the authorized project depth.

While the Corps of Engineers has solved the problem of designing navigation channels on straight reaches of waterway, it is only through actual operation of the project that it is possible to determine with precision, the exact dimensions required for the safe passage of vessels at the entrances, bends, sidings, and turning places. Section 5 of the River and Harbor Act of March 4, 1915, provides for these types of adjustments while the project is in the planning, design, and construction stages but makes no provision for modification after construction is completed. Presently, the only means available to modify the project is through the lengthy process of obtaining enabling legislation on an individual project basis.

(Amendment ——). Add the following new section and number accordingly:

"SEC. . Section of the Act of March 4, 1915 (38 Stat. 1049; 33 U.S.C. 562), is amended by inserting the words 'and after the project becomes operational' after the word 'Acts' and before the comma."

Amendment —— would establish cost sharing for certain dam safety work by the Corps of Engineers consistent with cost sharing required for similar work by the Bureau of Reclamation.

(Amendment——) Add the following new section and number according:

"SEC. . (a) After the date of enactment of this Act, costs incurred in the modification by the Corps of Engineers of dams and related facilities constructed or operated by the Corps of Engineers, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art design or construction criteria deemed necessary for safety purposes, shall be recovered in accordance with the provisions in this subsection.

"'(1) Fifteen percent of the modification costs shall be assigned to project purposes in accordance with the cost allocation in effect for the project at the time the work is initiated. Non-Federal interests shall share the costs assigned to each purpose in accord with the cost sharing in effect at the time of initial project construction: Provided that the Secretary of the Interior shall recover costs assigned to irrigation in accordance with repayment provisions of Public Law 98-404.

"'(2) Repayment under this subsection, with the exception of costs assigned to irrigation, may be made, with interest, over a period of not more than thirty years from the date of completion of the work. The interest rate used shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursable period during the month preceding the fiscal year in which the costs are incurred, plus a premium of one-eighth of one percentage point for transaction costs. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish an interest rate at the weighted average of the rates so determined.

"'(b) Nothing in this section affects the authority of the Corps of Engineers to perform work pursuant to Public Law 84-99, as amended (33 U.S.C. 701n) or cost sharing for such work."

Amendment —— would correct oversights in the provisions of Public Law 99-88 that authorize the transfer of townsites at Riverdale, North Dakota; Pickstown, South Dakota; and Fort Peck, Montana, to local municipal entities.

The Fiscal Year 1985 Supplemental Appropriations Act, Public Law 99-88, directs the Secretary of the Army to transfer, without consideration or warranty, certain described lands (including improvments on such lands) to municipal corporations serving the inhabitants of townsites designated as Riverdale, North Dakota; Pickstown, South Dakota; and Fort Peck, Montana, as soon as possible after incorporation of each respective townsite. Apparently through oversight, the descriptions set out in Public Law 99-88 did not include existing support facilities, i.e., sanitary landfills, sewage lagoons, water treatment plants, water reservoirs, and distribution lines to and from these facilities. Although these facilities are located outside the described townsite areas, they are necessary for the continued viability of the townsites.

In addition, Public Law 99-88 provides that no limitations or restrictions (other than those which arise from rights described elsewhere in the section) shall apply to use or disposition of any land (including any improvements on such land) transferred to the municipal entities. This provision would preclude the United States from including standard preservation covenants in those deeds transferring National Register of Historic Places properties. Without inclusion of such covenants, the Federal Government would be required to undertake expensive mitigation to comply with the terms of the National Historic Preservation Act.

The amendment to Public Law 99-88 would expand the descriptions of land being transferred to include necessary support facilities, and it would allow the Federal Gov-

ernment to include reasonable preservation covenants, where appropriate.

(Amendment) Add the following new section and number accordingly:

"SEC. . The section pertaining to Transfer of Federal Townsites, the Supplemental Appropriation Act, 1985, Title I, Chapter IV (Public Law 99-88; 99 Stat. 293) is amended as follows:

'(a) Subsection (a)(1)(A) is amended by—

'(1) inserting "(i)" immediately after the letter "(A)", and

'(2) adding the following new subsections (ii) and (iii) at the end of the subsection.

"(ii) The land utilized as a sanitary landfill by Riverdale, North Dakota, consisting of approximately 96 acres.

"(iii) The peripheral utility improvements at Riverdale, North Dakota, developed for, or being utilized as, sewage lagoons; the sewer pipeline extending from the townsite boundary to said lagoons; any outfall facilities or control structures in conjunction therewith; the water pipeline extending from the exterior boundaries of the power plant to the townsite; and appropriate easements of right-of-way for the access to, and operation and maintenance of said improvements."

'(b) Subsection (a)(1)(B) is amended by—

'(1) inserting "(i)" immediately after the letter "(B)", and

'(2) adding the following new subsections (ii) and (iii):

"(ii) The land utilized as a sanitary landfill by Pickstown, South Dakota, consisting of approximately 23 acres.

"(iii) The peripheral utility improvements at Pickstown, South Dakota, developed for, or being utilized as, sewage lagoons; water treatment plant; water intake structure; the sewer pipeline extending from the townsite boundary to the sewer lagoons; any outfall facilities or control structures in conjunction therewith; the water pipeline extending from the water intake to the water treatment plant and to the townsite boundary; and appropriate easements of right-of-way for access to, and operation and maintenance of, said improvements."

'(c) Subsection (a)(1)(C) is amended by—

'(1) inserting "(i)" immediately after the letter "(C)", and

'(2) adding the following new subsection (ii):

"(ii) The peripheral utility improvements at Fort Peck, Montana developed and being utilized as a water storage reservoir; the water pipelines extending from the exterior boundaries of the power plant to the townsite boundary; the water pipeline extending from the townsite boundary to the water reservoir; and appropriate easements of right-of-way to the municipal corporation for access to, and operation and maintenance of, said improvements."

'(d) Subsection (c) is amended by adding at the end thereof, "Nothing in this provision prohibits the Secretary from placing reasonable covenants in those deeds transferring improvements having significant historical, cultural, or social value."

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, February 27, 1986.

Hon. ROBERT STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR BOB: This letter is to again express our appreciation for the important role that you have played in helping to negotiate the Senate leadership/Administration agreement on project cost sharing and commercial navigation user fees for Army Corps of Engineers water resources development. This agreement, largely reflected in S. 1567, represents the culmination of years of hard work and promises to fundamentally reform the manner in which Corps water projects are financed. The fact that S. 1567 is now ready for floor consideration is due in large measure to the full cooperation of all involved in the agreement.

I know that we can count on your continued support and leadership when S. 1567 comes up for consideration in the near future. Amendments that would increase Federal expenditures or reduce revenues from the levels in S. 1567, as reported, would be counter-productive when we are all striving to achieve the deficit reduction targets of the Gramm-Rudman-Hollings Act. I urge that you strongly oppose such measures. We all look forward to a water bill that is acceptable to the President, so that the projects either funded by the Fiscal Year 1985 Supplemental Appropriations Act or proposed for funding in the 1987 Budget can move to implementation along with enhanced cost sharing and increased user fees.

Thank you very much for your support and leadership.

Sincerely yours,

JAMES C. MILLER III,
Director.

DEPARTMENT OF THE ARMY,
Washington, DC, March 3, 1986.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I know you are aware of my commitment to follow up on the June 1985 water project cost sharing compromise between the Senate leadership and the Administration. This compromise is reflected in S. 1567, the Water Resources Development Act, which, if it were passed today, could be recommended for signing by the President.

The Administration remains firm in its support of sound water project development as represented by S. 1567 in its present form. It is essential that the Senate act upon S. 1567 early in this session so that the bill can be kept as unencumbered as possible. Unwarranted additions of projects and programs which are unrealistic in light of the need to reduce Federal spending and the weakening of the new project cost sharing and navigation user fee requirements must be avoided if we are to have a bill that will be signed by the President.

This bill represents the culmination of months of work on the part of the responsible Senate committees and the Administration to forge a new and realistic charter for Federal water development. It is imperative that we obtain prompt action on this legislation if we are to take advantage of the excellent opportunity you and your colleagues have created for a strong but budgetarily realistic water resources development program.

Sincerely,

ROBERT K. DAWSON,
Assistant Secretary of the Army (Civil Works).

Mr. PACKWOOD. Mr. President, I had initially a 30-minute opening statement, but because of the camaraderie that exists among the various factions involved in this bill and the harmony and the compatible conclusions that have been reached, I will make my statement in 3 minutes.

One year ago, certainly 2 years ago, I would have said that this bill would have been impossible. There were fights between Atlantic coast ports, Gulf coast ports, and Pacific coast ports; fights between coastal ports, upriver ports, big ports, and little ports. There was a fight with the administration as to whether or not local water projects should pay any portion of their costs.

Through the extraordinary leadership of the Senator from South Dakota, Senator ABDNOR, and Senator MOYNIHAN, Senator STAFFORD, Senator BENTSEN, and others, all of those various interests have been harmonized successfully. And if there is any one person whose name has not been mentioned today, as a principal architect of this bill, it has been David Stockman, former budget director, who fought long and hard, and forced Congress to reach a conclusion by the very fact that he represented the administration was going to veto any water projects until some accommodation was reached on sharing the cost and user fees.

So I am delighted to have been a small part of this compromise, and it is a good compromise. It is good for this country, and it is good for those who will use the ports, and the inland waterways. It is a happy occasion when we can produce a bill like this on which everyone can agree, and from which everyone benefits.

I thank the Chair.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as ranking minority member of the Committee on Environment and Public Works, I am pleased to support S. 1567, the Water Resources Development Act of 1986.

I would like to add my comments to those of the distinguished chairman of the committee, Senator STAFFORD, who has done so much in bringing about an accommodation of the many competing interests in the bill. Also I want to compliment my good friend, Senator ABDNOR, for what he has been able to do in that regard, and the distinguished Senator from New York, Senator MOYNIHAN, in trying to reconcile some of the differences between big ports and small ports.

It has been a decade since enactment of the last substantive water resources measure. We have heard 10 years of dialog on proposals to change existing procedures for financing the construction and maintenance of water resources projects.

We have seen successive administrations come to the Congress advocating a more equitable sharing of water project costs among beneficiaries.

Every year in the past decade we have heard representatives of the barge industry, which has suffered a serious economic decline during the past several years, predict even more serious consequences to their economic well-being should higher fuel taxes be imposed on them. Port representatives have voiced their concern over the effect of possible taxes or fees on cargos and international commerce. Environmental groups urging greater non-Federal participation in project costs have added volume to the chorus. These have been legitimate concerns. This bill represents a carefully developed effort to address these serious issues.

Over the years, the Subcommittee on Water Resources has conducted innumerable hearings on issues related to water policy. The subcommittee and the full Committee on Environment and Public Works have devoted a great deal of time to the consideration of appropriate changes in existing water policies.

Senator ABDNOR, Senator MOYNIHAN, and the distinguished chairman of the full committee, Senator STAFFORD, have dedicated untold hours in trying to resolve those issues. The staff has done an extraordinary amount of work in trying to bring this effort to culmination. I am most appreciative of the efforts that they have accomplished in that regard.

The bill before us, S. 1567, contains far-reaching changes in the way we approach the planning, funding, and implementation of water projects. It reflects a decade of work by the Committee on Environment and Public Works. The bill also includes authorization of nearly 200 projects in 42 States, projects which will be implemented under the new policies. I intend to discuss some of the various policy changes in this legislation in more detail, as well as some of the projects in the State of Texas. I would like to state at this time, however, that I am proud to have taken an active role in the development of this legislation. It will provide a needed impetus to this Nation's water development program.

Mr. President, the water resources cost sharing policy changes embodied in titles 5, 6, 7, and 8 of this legislation are the most important aspects of this bill. Without these changes I think it correct to state that there would be no bill. These cost sharing reforms address all types of Corps of Engineers projects, covering their development from initial study to long-term repayment long after project completion.

I will not describe the cost sharing changes for all the various types of projects. But I do want to discuss the new policy as it affects commercial ports and harbors, which are so important to the economy of coastal States such as Texas.

Because of the importance of harbor development to maritime commerce, this activity has been a responsibility of the Army Corps of Engineers since the early days of this Republic. Virtually all of our large commercial ports, as well as smaller fishing harbors and harbors of refuge for small commercial and recreational craft, have been developed by the Federal Government through the Corps of Engineers. Over the years, changes in marine transport technology have resulted in the need for deeper and deeper harbors. While the legislation before us continues the Federal commitment to our harbor development, it also establishes a clear policy for non-Federal involvement in the construction of future facilities and the maintenance of existing and future facilities.

Title 6 sets cost sharing requirements for cash contributions during construction of three categories of harbors: ports shallower than 20 feet; 10 percent non-Federal; harbors between 20 and 45 feet in depth: 25 percent non-Federal; and harbors deeper than 45 feet: 50 percent non-Federal.

In addition, every new harbor construction project, no matter what its depth, must pay another 10 percent of the project cost over time, once the project is completed.

This new policy will enable the marketplace to determine which harbors should be expanded and deepened. Harbors for which financing can be obtained will be constructed expeditiously, and harbors which cannot obtain financing will probably never be built.

Thirty-two harbor projects are authorized in title 6, including the Brazos Island project, located at the southernmost tip of Texas. The total estimated cost of this important deep draft navigation project is $31.4 million. Under the new cost sharing formula in S. 1567, non-Federal sponsors will be contributing $11.3 million during construction and an additional $2.5 million payback over the life of the project.

Another navigation project vital to Texas is the $182 million Texas City channel enlargement and extension plan. The report on this project was signed by the Chief of Engineers only 2 days ago, making it eligible for inclusion in this legislation.

It is clear that the non-Federal sector should also play a role in the maintenance of harbors as well as in their construction. Title 8 of this legislation, therefore, imposes a uniform, nationwide harbor maintenance charge. This charge is in the form of an ad valorem tax, set at 4 cents per $100 value of cargo processed in U.S. harbors. This will raise an estimated $140 million annually, to be placed in a harbor maintenance trust fund which will be used to finance up to 40 percent of the costs of future harbor maintenance dredging.

Title 7 establishes new cost sharing policy for categories of water resources projects not associated with inland navigation or with harbors. It also authorizes a large number of new projects, several of which are crucial to the State of Texas. These include five flood control projects: Buffalo Bayou and tributaries, Boggy Creek, Lake Wichita at Holiday Creek, Lower Rio Grande, and Sims Bayou. I am particularly pleased to note the inclusion of the Lower Rio Grande project, which will provide much needed flood protection to the area of Texas in which I was born and raised. I have worked for the authorization of the Lower Rio Grande project since I first came to the Senate.

Title 7 also includes an important fish and wildlife mitigation plan for Cooper Lake, which will be located in the Red River Basin in north Texas.

Mr. President, this is a good bill. It is a fiscally responsible bill. While its Federal price tag of nearly $12 billion may appear high, it must be remembered that this is the first omnibus water resources legislation to be acted on by both Houses since 1976. Every project recommended for construction in this bill has gone through the Corps of Engineers review process, from the District Engineer in the field up through the Chief of Engineers in Washington.

I would like to compliment the other Members of the Environment and Public Works Committee who devoted many hours to this bill over the years, particularly full committee chairman BOB STAFFORD and the chairman and ranking minority member of the Water Resources Subcommittee, JIM ABDNOR and DANIEL PATRICK MOYNIHAN.

In closing, it has appeared to some during the past decade that the era of water projects was over, that the Corps of Engineers should perhaps be redirected to other areas of activity. I do not agree. Water resources projects will always be essential to the State of Texas and to the rest of the Nation as well. With this legislation we will begin an era of joint development of these projects—a new partnership between project sponsors and the Federal Government which will ensure the implementation of those projects which are truly needed and in fact economically viable. I urge the Senate to adopt this important legislation.

Mr. ABDNOR addressed the Chair.

The PRESIDING OFFICER (Mr. PRESSLER). The Senator from South Dakota.

Mr. THURMOND. Mr. President, I rise today to voice my support of S. 1567, the Water Resources Development Act of 1985. Passage of this legislation is essential.

71-059 O-87-19 (Pt. 4)

Mr. President, while Congress authorized some new Army Corps of Engineers water projects in 1976, it has not approved a major omnibus authorization bill comparable to S. 1567 since 1970. As a result, the Federal water resources development program has suffered a serious decline in recent years. Construction spending by the U.S. Army Corps of Engineers has dropped 78 percent in the past 20 years. America cannot continue to allow our important infrastructure to deteriorate.

Mr. President, I will briefly explain the dire consequences a decline in water resource development poses for the country.

First, America must remain competitive in international trade. The National Academy of Sciences recently found that the status quo of U.S. ports is unacceptable given "the nature of future oceanborne transportation and the future mix of commodities that the Nation will export and import." The Academy released its findings in October 1985. The report entitled "Dredging Coastal Ports, an Assessment of the Issues," was the work of the Committee on National Dredging Issues of the Academy's Marine Board.

Identified in the report are the indispensable economic contributions of the Nation's port facilities. Nearly 20 percent of all goods produced in the United States are exported each year; 70 percent of the goods produced in the United States are competing directly in the world and domestic marketplace with foreign-made goods.

Mr. President, S. 1567 authorizes the deepening of many American harbors, including the Port of Charleston in my home State of South Carolina. The deepening of these harbors will allow American ports to accommodate larger ships, capable of carrying larger cargoes, and thereby reduce the cost per unit of American cargo.

Mr. President, the deepening of American ports cannot be overemphasized. There are 76 ports with depths exceeding 55 feet worldwide. Only two are found in the United States, and none on the Atlantic coast. The efforts of other nations to build larger and deeper port facilities underscores their expectation of the need to handle ever greater volumes of seaborne trade, carried in ships of unprecedented size.

Western Europe boasts 15 ports capable of handling fully-laden vessels exceeding 150,000 deadweight tons. South Africa alone has four deepwater ports. Japan, since World War II the world's fastest growing exporter, has 11 deepwater North Pacific ports. Clearly, any major industrial nation without benefit of deepwater ports is at a great disadvantage in the competitive world of international trade.

Mr. President, this legislation is also needed to maintain America's naval strength. America must never allow its access to the international sealanes be jeopardized. We must be able to project our naval strength worldwide. We carry the responsibilities of a world power. The harbor improvements authorized in this bill will contribute to our ability to project our strength. For instance, Charleston, SC, is the homeport of over 73 naval ships. The harbor improvements authorized in this bill will increase the ability of this port to service these ships, and thus enable them to better meet their defense responsibilities.

Mr. President, I urge that this much needed legislation be promptly approved by the Senate.

Mr. SPECTER. Mr. President, I strongly support S. 1567, the Water Resources Development Act. My distinguished colleague, the Senator from South Dakota, and the members of his committee, together with the other committees who have had jurisdiction over portions of this important bill, have labored long and hard to develop a workable water resources development plan.

It has been 10 years since the last water resource bill was passed. During this period, the volume of commerce passing over our inland waterway system and through our ports has increased dramatically. The continuing population increase has stretched our limited water supplies and made thousands of people more vulnerable to the ravages of flood waters. Unfortunately, our investment in water-related infrastructure has not kept pace with these developments.

The current bill authorizes a number of water projects important to Pennsylvania: three lock and dam replacements, four flood control projects, and one shoreline erosion control project. In total, this bill authorizes approximately $900 million for water projects which are sorely needed by my State.

To fix what is perhaps the worst inland navigation problem in the Nation, this bill authorized $256 million for the replacement of the Gallipolis locks, which were completed in 1937.

This project will complete a series of 1,200 feet by 110 feet locks from a point near Pittsburgh to Smithland locks and dam. The bottleneck resulting from the smaller Gallipolis locks greatly slows traffic along the entire Ohio River navigation system. In addition, the accident rate at Gallipolis is nearly six times that of other locks on the Ohio, further contributing to traffic delays. The economic benefits from this project have been estimated at $98 million yearly by the Corps of Engineers, benefits that will clearly help the industries most using the river navigation system, the coal and steel industries. Approximately 50 percent of the traffic moving through the Gallipolis locks is coal and coke for steel production. This reduction in transportation costs will help make American coal and steel more competitive on world markets and help save American jobs in these depressed industries.

Locks and dams 7 and 8 along the Monongahela River were completed 61 years ago. Having served well beyond their useful economic life, I am extremely gratified that this bill authorizes the replacement of lock and dam 7 and new lock construction and dam rehabilitation on No. 8. This bill authorizes $95.1 million for the replacement of lock and dam 7 and $68 million for replacement and rehabilitation at lock and dam 8.

The current locks, like those at Gallipolis, are far smaller than the locks both up river and down river, creating bottlenecks and costly traffic delays. This project will nearly double the size of the current locks and significantly reduce delays. In addition to lock size problems, these facilities are literally crumbling with age. The concrete used in these facilities is deteriorating, with subsurface damage extending as deep as 5 feet on lock 8 walls. If these replacement projects had not been authorized, these locks would not have lasted much longer.

Ninety percent of the bulk cargo passing down river and 70 percent of the cargo moving up river through these locks is coal. As at the Gallipolis lock and dam, the replacement of locks and dams 7 and 8 will reduce the costs of coal shipment and will help to preserve Pennsylvania jobs in the coal and steel industries.

Since the 97th Congress, I have annually introduced legislation to authorize an erosion control project for Presque Isle Park. The Presque Isle Peninsula beach erosion control project at Erie, PA, will provide for construction of a system of 38 to 58 breakwaters offshore along the lakeward length of the peninsula and the addition of sand fill along the shoreline to provide a recreational beach berm.

The Presque Isle beaches have been repeatedly destroyed by storm waters from Lake Erie. Last year, late winter storms washed away Beaches 6 and 8, damaged the berm along the bicycle trail and East Fisher Avenue, left sand and debris on park roads and beaches, and damaged docks at the marina. With the highest attendance of any State park, this construction project will save what would otherwise be lost—the swimming, fishing, boating, picnicking, bicycling, hiking, and nature study activities which draws millions to visit this fragile park. The total authorization for this project is $28.1 million.

The cities of Wilkes-Barre, Harrisburg, Lock Haven, and a number of communities along the river have been repeatedly devastated by a series of floods since the 1972 tropical storm

Agnes up to the latest storm, Hurricane Gloria, which only last September struck the area. This bill would authorize approximately $483 million for Pennsylvania flood control and shoreline erosion projects.

Since the 97th Congress, I have annually introduced legislation to authorize a flood control project for Harrisburg. Flooding from Paxton Creek in the industrial section of Harrisburg has repeatedly plagued the city. During tropical storm Agnes alone, the Harrisburg area suffered damages approaching $55 million. To remedy the city's flooding problem, this bill will authorize construction along the South Harrisburg-Paxton Creek area of a 3,800-foot floodwall, 8,500 feet of improved Earth channel and 12,800 feet of concrete channel on Paxton Creek. The authorization for this project is $132.9 million.

Since the 97th Congress, I have annually introduced legislation to authorize a flood control project for Lock Haven. The Lock Haven flood control project is urgently needed, since nearly the entire city is flood-prone from the Susquehanna River and Bald Eagle Creek. In the last 131 years, the city has been flooded 20 times. The 1972 tropical storm Agnes inflicted the worst damage, flooding the entire business district and most of the city's residential areas and adjoining townships. This bill would authorize a flood control system consisting of 23,500 feet of levees, 6,500 feet of floodwalls, 4 ponding areas, 4 pumping stations, highways and railroad closure structures and the removal and relocation of 139 structures. This bill authorizes $79.225 million for the Lock Haven project; a project which cannot be completed too soon.

Since the 97th Congress, I have annually introduced legislation to authorize a flood control project for the Wyoming Valley. During the 1972 tropical storm Agnes, the Wyoming Valley suffered flood damages estimated at $730 million from waters 4 to 5 feet above the existing levee system. In an area such as Wilkes-Barre that is a heavily developed urban area, the current levee is insufficient to protect residents from the ravages of such storms as Agnes. The project authorized in this bill would protect the Wyoming Valley from storms of Agnes intensity by raising 74,000 feet of existing levee by 5 to 7 feet, raising 7,000 feet of existing floodwall by 5 to 7 feet, providing new closure and drainage structures, constructing a new pumping station, and by building 6,000 feet of new levees and 14,000 feet of new floodwalls at five Wyoming Valley communities; Wilkes-Barre/Hanover Township; Swoyerville/Forty-Fort; Exeter/West Pittston; Kingston/Edwardsville; and Plymoth.

The resulting induced flooding caused by raising the current levee system will be mitigated in eight nearby communities. The communities of Sunbury, Danville, Brookside, Miners Mill, and Duryea will be protected by raising levees or floodwalls. At Plainsville and Port Blanchard, protection will be achieved by a combination of flood-proofing, relocation, and a ring-levee floodwall system. At Bloomsbury, the mitigation action will result in the removal of an abandoned Conrail bridge. This bill authorizes $234.7 million for this project.

The Saw Mill Run area in the western section of Pittsburgh was badly flooded in July 1980. This bill will provide protection against floods with an average 50-year recurrence interval. Annual flood damage will be reduced by approximately 92 percent. This project will consist of deepening and realigning about 5,600 feet of the Saw Mill Run channel. This project is authorized for approximately $8 million.

This bill does not authorize a number of projects which are very important to Pennsylvania. Each of us can list the projects not authorized by this bill and that list would be long—very long. The list would be long enough to ensure that we go another year without a water resources bill.

We know this bill is not perfect, and that in the time allowed, not every policy issue before us could be definitively answered. We recognize that issues remain to be discussed with the Members of the other body, as we prepare for conference on this critical legislation. There are at least two provisions in this bill that concern me—port user fees and cost-sharing provisions for reallocations of storage at existing reservoirs.

Mr. President, I would like to express my grave concern regarding the port user fee provisions of S. 1567. The bill establishes a 0.04 percent user fee on the value of cargo loaded and unloaded at the ports to be used to defray operations and maintenance [O&M] costs for our Nation's harbors.

While we recognize the need to reduce the Federal budget deficit through spending reductions and substitute revenue sources, we fear that the threat of ever-increasing user fee rates may seriously jeopardize the stability of port traffic and hence the economic growth of the region.

The ports of the Delaware River generate $1 billion in business and $50 million in tax revenues annually. The ports support more than 120,000 jobs and have a substantial impact on the city of Philadelphia, as well as the entire region. Philadelphia is one of the largest North Atlantic coast ports, and is a major transport center both for domestic and international goods.

The Delaware River, which empties into the Port of Philadelphia, creates unique operations and maintenace conditions in the port. The 120-mile-long river contains unusually large amounts of silt which are deposited in the port and require extensive dredging. Consequently, the Port of Philadelphia consumes approximately 10 percent of the entire national budget allocated for dredging by the Corps of Engineers.

The cost of this operation has traditionally been borne by the Federal Government. Two hundred years ago, our Founding Fathers recognized the national importance of the uninterrupted operation of our ports, and assumed the responsibility for maintenance at the national level. It is essential that the Federal Government maintain not only its responsibility to provide adequate dredging, but also its administrative role through the collection of port fees by the Customs Service, as recommended by the committee.

The bill before us imposes a uniform ad valorem tax to help defray Federal O&M costs. I have long been opposed to any user fees for the operation and maintenance of our Nation's harbors. Nevertheless, I also recognize that the fee recommended in this bill is far less damaging than the 100-percent port-specific user fee heretofore proposed. Before we vote on this measure, I feel it is critical to establish on the record, the intent of this Senator to vigorously oppose any future attempt to increase the burdens imposed upon our ports. The Finance Committee could not have been more clear in its report, which indicated that the committee:

> Does not intend to reconsider either the nature of the port user charges * * * or the rate of such charges * * *. Further, the committee believes that the rates established in the committee amendment are at the appropriate level currently and for the foreseeable future.

I believe that it is essential that if we are forced to accept an O&M user fee that the rate embodied in S. 1567 be maintained for the foreseeable future to protect our waterborne system of commerce, a key part of the economic vitality of our Nation and our national defense postures. It is critical to the smooth operation of all of our ports that these fees be established on a firm and predictable basis and not be subject to tinkering by the administration. Should there be requests to increase or change the uniform nature of these rates in the near future, I will strenuously oppose any such changes, as I am certain that my colleagues who also represent the Delaware River valley region will do.

There is one policy issue—important to my State and a number of other jurisdictions across the Nation—which is covered by provisions in H.R. 6, but which we did not have an opportunity to address in S. 1567. I would like to note that issue here, and urge our colleagues in their deliberations with Representatives from the other body,

to consider the following problem carefully in the conference.

That issue, Mr. President, involves cost-sharing arrangements for reallocations of storage in existing reservoir projects.

As we move ahead with water development in this Nation, it is imperative that we target our investments carefully, attempting to utilize fully existing projects and facilities to fulfill the multiple purposes of the National Water Program at the least possible cost.

As noted by the Interstate Conference on Water Problems and documented by the Corps of Engineers, a significant amount of underused or unused storage is available under Federal management in existing multipurpose reservoirs throughout the Nation. Faced with a growing national need for new or expanded water supply sources—in both the East and West—substantial national economic and environmental benefits can be acquired by allowing the reallocation of such water storage for other purposes and by encouraging State and local governments to acquire such storage for water supply use. Reallocation of underutilized water storage allows more efficient use of the storage already available, while allowing the Federal Government for the first time to recover a portion of its original construction costs and to offset a substantial portion of its future operations and maintenance expense.

We note, however, that a policy recently adopted by the executive agencies—without congressional review or approval—is being used in an attempt to charge State and local governments prices for water storage reallocation that are far in excess of the Federal Government's original construction costs, including interest on the portion of storage to be reallocated. Adherence to this congressionally unapproved policy has put some agencies in the position of trying to make a profit on public investments—while unfortunately discouraging the cost-effective use of valuable water resources at the State and local level.

The Water Supply Act of 1958, as amended, prescribes the price that State or local interests must pay to acquire water supply storage in new or existing reservoirs. Those pricing provisions, and the legislative history accompanying them, are very specific. They apply by their terms and intent to the sale of storage originally allocated or reallocated to water supply in existing Federal reservoir projects. In essence, those provisions require the non-Federal sponsors to repay a proportionate share of the original construction cost incurred by the Federal Government, plus the accrued interest on that investment at the interest rate applicable to Federal borrowings at the time of construction. The Water Supply Act is designed to allow full real cost recovery, to make the Federal Government whole. Mr. President, as I read it, nothing in the bill before us changes any of those provisions or intentions.

In the last several years, however, the Secretary of the Army has attempted to change the legislated terms and intent of the Water Supply Act. Acting on his own, the Secretary has fostered a policy of requiring State and local purchasers of storage to pay—not the real construction cost of the storage—but what the storage would cost if built today.

The corps' policy, Mr. President, is akin to the Federal Government attempting to sell used Chevrolets at the cost of new Cadillacs. As documented by the corps' own figures, this unsanctioned and irrational policy in many cases results in charging State and local taxpayers more than 10 times the real cost of the project storage—costs which those same taxpayers have already paid for once through their Federal taxes.

This problem is addressed by specific provisions incorporated in H.R. 6 by the other body. In section 628 of the House bill, Mr. President, Congress should instruct the Secretary of the Army to study the arrangements for reallocation of storage in existing water projects, including the appropriate cost-sharing and financing arrangements for such storage reallocations. Pending that study, the House bill would require the Secretary to follow the spirit and intent of the 1958 Water Supply Act, limiting cost-sharing requirements to 100 percent of the real costs of the reallocated storage, with no profit or loss by the Federal Government.

Because this issue arose after Senate hearings and most committee action on S. 1567 had already been completed, we did not have time in this body to develop similar provisions to address this issue. We recognize that the language of the House bill may not be perfect, and some negotiation may be in order to refine such provisions. For example, the House bill may not be entirely clear in recognizing that non-Federal interests will continue to pay for any new construction—such as the relocation of recreation facilities or outlet work improvements—required to effect storage reallocations. Similarly, some clarification may be needed for cost-sharing in special cases where the reallocations may adversely impact the vested rights of other users of the same reservoir, requiring some form of compensation or credit. However, we understand that refined language has already been drafted that would resolve these issues. We firmly believe that there is a workable basis for a policy that would truly benefit both the Federal Government and non-Federal interests. The guideposts of that policy are, we believe, the following:

First, the Federal Government should encourage cost-effective reallocations of unused or underused reservoir storage in existing projects.

Second, cost-sharing arrangements for such reallocations should be "revenue neutral" or "positive," for the Federal Government, but should not attempt to extract a Federal profit at the expense of our own taxpayers.

Third, the basic cost-sharing for such reallocations should be based on recovery of a proportionate share of the original construction costs, plus interest in the rates prevailing at the time of construction. Any additional costs for new construction or project modification as required to effect storage reallocations should be borne by the non-Federal sponsors according to the arrangements set forth for new projects in S. 1567.

We would urge our colleagues, the conferees from the Senate, to discuss these provisions in earnest with Representative from the other body, and to report back mutually acceptable language that addresses this important policy question.

Mr. President, the Senate water resources bill does not contain a project which is extremely important to Pennsylvania; the Schuylkill River Basin flood control project at Pottstown, PA. The Schuylkill River Basin is subject to flooding even from a summer thunderstorm. Manatawny Creek is also subject to flooding from Schuylkill River backwaters, as well as from the runoff from smaller localized storms in the Manatawny Creek watershed. Since 1757, the Pottstown area has been flooded by the Schuylkill river 45 times. Tropical storm Agnes caused flood damages to the Pottstown area of approximately $25 million in 1972 dollars.

The Pottstown flood control project would deepen the channel and remove obstructions in the channel, thereby, reducing the likelihood of flooding by providing for the uninterrupted flow of the river. With a total cost of just under $6 million, it is imperative that this project be authorized in this bill.

I strongly urge that the conferees consider the inclusion of this project when they convene.

Mr. MITCHELL. Mr. President, it has been many years since Congress enacted comprehensive water resources development legislation. This measure, the Water Resources Development Act of 1986 has many provisions which I support and which are important to me and other members of the committee.

I am particularly pleased that the measure includes a number of amendments which I introduced on behalf of Maine.

The bill would provide the following:

First, $3.43 million is authorized for a project to demonstrate sound farming practices in the St. John River Basin. An irrigation system would provide a constant source of water to crops resulting in increased yields and improved quality of produce.

Second, $10 million is authorized to study the effects of potential tidal power projects in the Bay of Fundy. Such projects could increase the tidal fluctuation along the Maine coast resulting in increased storm damage and altered fisheries and shellfish production.

Third, fresh fish would be exempt from the advalorem tax on cargo entering U.S. ports. In addition, cargo entering ports which do not receive Federal operations funding would be exempt from the tax.

Title VII of the bill pertains to non-Federal cost sharing for operation and maintenance of federally authorized ports. This provision is intended to recover up to 40 percent of the nationwide costs for port maintenance. The tax would equal 4 cents for every $100 worth of cargo being transported.

As originally proposed, the tax, or user fee, would have been imposed on cargo entering all ports, regardless of whether such ports are federally authorized and eligible for Federal maintenance money. Even small fishing villages in Maine and other States would have been included.

I am very pleased that the bill would now apply the tax only to federally authorized ports which have received Federal funds since 1977. Thus, such ports such as Eastport, which have been deauthorized, and ports such as Searsport, which have never received Federal funds, would not be subject to the tax. These restrictions greatly enhance the fairness of the proposal.

Again, I am pleased that this measure is receiving long awaited consideration by the Senate. It is an important bill which addresses the water development needs of many States, including Maine, and I urge its adoption.

Mr. CHAFEE. Mr. President, I urge my colleagues to support the committee's amendment to S. 1567. I particularly want to stress the measures in that package that ensure adequate mitigation of wetland losses to water resource development projects. What's at stake here is the continued existence of our bottomland hardwood forests. These wetlands are one of this Nation's most productive and endangered ecosystems.

About 80 percent of the bottomland hardwoods in the lower Mississippi River Valley have been destroyed, or 19 million acres of the original 24 million acres. Over half this destruction has been in Louisiana, with large amounts also in Arkansas, and Mississippi. Federal flood control projects and small watershed projects have accelerated conversion of these wetlands to cropland. An estimated 2 percent of the remaining bottomland hardwood forests are lost each year.

If we allow this destruction to continue unabated, we will virtually eliminate for all time one of our most valuable ecosystems. We are on the verge of extirpating from this continent not just a single species, but an entire, unique assemblage of plants and animals.

Our bottomland hardwood forests occupy the broad flood plains that flank many of the major rivers in the Southeastern United States. The largest single area of bottomland hardwoods occurs in the lower Mississippi River Valley. The bottomland hardwood forests in this region are among the Nation's most important wetlands. They are prime overwintering grounds for many North American ducks, including nearly all of our 4 million wood ducks and 2.5 million of the 3-million mallard ducks in the Mississippi flyway. Numerous fish and shellfish depend on the flooded hardwoods for spawning and nursery grounds. Bottomland hardwoods also play a vital role in reducing flooding problems by temporarily storing large quantities of water and by slowing the speed of flooding waters. In the process, these wetlands remove chemicals from the water such as fertilizers and trap soil eroding from nearby farmland.

The committee's amendment would require the Corps of Engineers to mitigate losses of bottomland hardwoods from water resource development projects in-kind. What that means is that the destruction or degradation of bottomland hardwoods must be offset by the protection or management of other bottomland hardwoods. It does not mean that we offset destruction of this endangered ecosystem with protection or management of other less valuable and less scarce ecosystems.

We simply cannot afford to allow the destruction of 100,000 acres per year or more of bottomland hardwoods without adequate mitigation. The Council on Environmental Quality has stated that:

> The bottomland hardwoods in the Southeast are of such importance as wildlife habitats, and becoming so scarce, that the principle of full, in-kind replacement should override other considerations.

One particularly egregious example of the inadequacy of the corps' present mitigation policy is the Tennessee-Tombigbee Waterway. This project alone has caused the net loss of 34,000 acres of bottomland hardwoods in Mississippi and Alabama. The corps' mitigation plan failed to provide for replacement of these losses by protecting or managing other bottomland hardwood areas, as recommended by the U.S. Fish and Wildlife Service. The corps' report on the Tenn-Tom project even provided an option to mitigate losses with intensive wildlife management of national forest lands, which are intended to be managed on a multiple-use basis. In a review of this interagency disagreement, the Council on Environmental Quality strongly recommended full replacement of the 34,000 acres lost, through a combination of management and acquisition of bottomland hardwood forests.

The committee's amendment would require mitigation of the loss of forested wetlands due to the Tenn-Tom project consistent with the Council's recommendations for in-kind replacement of bottomland hardwoods. The future of our waterfowl, of our fisheries and shellfisheries, and of our waters requires that we do no less.

Mr. SARBANES. Mr. President, I rise in support of S. 1567, the Water Resources Development Act of 1985, which provides for a national water resources policy and vitally needed port development. This bill will ensure that we can move forward on the long-delayed development and improvement of our Nation's deep water harbors, including the Port of Baltimore.

The development and improvement of our Nation's water resources infrastructure are a matter of great importance not only for our domestic economy but also for our international economic and foreign policy, and, I might add, national security considerations. Our ports and harbors are a vital part of our Nation's transportation system and indeed our economic well-being. They generate revenue, jobs, commerce, and investment. They are an essential element of our international trading system.

It is clear, however, that our ports lag behind other major maritime nations of the world. While it has been nearly a decade since comprehensive water resources development legislation was last enacted in this country, our major trading partners Japan, Australia, and many European countries have moved aggressively to develop a deep port capacity, which can accommodate modern, deep draft cargo ships. Major dredging and improvements of the Nation's ports are essential to facilitate exports and trade, particularly of energy resources and agricultural products. If this Nation is to meet the challenge of world trade and competition today and in the future, these investments must be made in our ports and harbors.

The State of Maryland has one of the great ports of the world and one of our most important economic resources—the Port of Baltimore. An estimated 79,000 jobs are related to the port and its operation. Fully one-tenth of the gross State product is related to the port. The port also generates more than $300 million in State and local taxes each year.

Dredging of the main harbor channel from its current depth of 42 feet to a new depth of 50 feet is critical if the port is to remain competitive and expand its import and export of bulk products by accommodating today's larger, deep draft cargo ships. Baltimore is, of course, a major coal and grain exporting port. These bulk cargoes and manufacturered goods are exported through the port due to its proximity to the midwestern agricultural and manufacturing areas. Unfortunately, however, many of the larger bulk cargo carrying ships cannot fully load in Baltimore, because of the relative shallowness of the channel depth. Dredging the main channel would dramatically increase the efficiency of operations of many of these ships and will allow the port to move greater quantities of bulk cargo at lower costs.

We, in Maryland, have waited long and patiently for improvements to the Baltimore channel. It has been more than 15 years since the Congress authorized deepening of the channel from 42 to 50 feet. If not for long regulatory and legal delays, and more recently, the delays imposed by the legislative battle over cost sharing, this project would have been 100-percent federally financed.

I continue to believe that the responsibility for deepening harbors and channels should rest with the Federal Government through the Corps of Engineers—a responsibility which dates back over 160 years, to 1824, with the congressional enactment of the first rivers and harbors bill so strongly advocated by the distinguished Congressman from Kentucky, Henry Clay. As Clay emphasized:

> There are some improvements emphatically national, which neither the policy, the power not the interest of any State would induce it to accomplish, and which could only be effected by the application of the resources of the Nation.

It is regrettable that the Reagan administration has sought to abandon this settled policy. Nevertheless, we now have a basic cost-sharing formula, insisted upon by the administration. Although the formula requires a higher degree of non-Federal cost sharing, it basically preserves the central role played by the Federal Government in the maintenance and improvement of our deep-draft commercial ports, and I support this bill as a means to end the impasse which has delayed sorely needed improvements to all our ports and to the Port of Baltimore in particular, for so long.

I would like to take this opportunity to comment on an element in the House water resources legislation regarding the Baltimore Harbor dredging project which was not fully addressed in the Senate bill—reimbursement to the State for its expeditures in constructing and operating the Hart-Miller dredged spoil disposal site.

In order to comply with the original 1970 authorization of the Baltimore channel project, Governor Hughes and the Maryland General Assembly committed extensive resources to develop a major dredge material disposal site at Hart-Miller Islands. This site has been completed at cost of $53 million—entirely a State expenditure. Maryland understood that this expenditure would be fully reimbursed by the Federal Government in keeping with the authorization and the 100-percent Federal financing policy at that time. Indeed, the Hampton Roads, VA, Wilmington, DE, and Philadelphia, PA, dredge disposal sites were all built entirely at Federal expense.

To achieve equity with these other ports and to keep the commitment made by the Federal Government when the Baltimore channel project was first authorized, the State of Maryland should be given full credit for funds already spent in the development and operation of the Hart-Miller disposal area. I would urge the Senate conferees on the water resources legislation to agree to the House provisions on this matter and give Maryland full Federal reimbursement for the Hart-Miller site.

I would also urge my colleagues to join me in supporting this legislation so that we can get on with the important task of maintaining and improving the competitive positions of our ports.

Mr. TRIBLE. Mr. President, during the 9 years I have represented Virginia in Congress, I have testified time and time again on various flood control and navigation projects of critical importance to Virginia cities and localities. It is regrettable that no major public works bill has been enacted since 1976. I know that every Member here is aware that this legislation will finally allow States and localities to proceed with the water resources improvement projects essential to the econmic growth and job creation, but more importantly, these projects will save countless lives through flood control and hurricane protection.

Authorization of the numerous projects in the bill is long overdue. The $538 million Port of Hampton Roads dredging project, in particular, is of great economic importance to both Virginia and the Nation as a whole.

The failure to devise a system for financing port development has resulted in the United States falling seriously behind our trading allies in providing the type of bulk, deep draft facilities so necessary to international trade. Improved bulk facilities mean lower transportation costs, a more competitive posture for U.S. exports, a more favorable balance of trade, and U.S. jobs. If we had embarked on an aggressive national port development program 5 years ago, we would have a much brighter trade picture today.

An equally important reason for the deepening and improving of our Nation's ports is their vital role in our commitment to a modern Navy. The timely deployment of ships and troops and the maintenance of adequate logistical support can only be assured by modern, well-maintained harbors.

In addition to the Port of Hampton Roads Project, S. 1567 includes authorization for Richmond's $101.2 million James River basin flood control project, the $4.23 million Willoughby spit shoreline protection project, $6.87 million Hampton Roads debris removal project, $35.2 million Assateague Island shoreline protection project, and $36.5 million for the Virginia Beach shoreline protection project.

The tragic flooding that occurred this past fall in the James River basin is graphic evidence of the need for action. It was a tragic event and the James River basin flood control project will help to ensure that this tragedy will not occur again.

I would like to speak on another project authorized in S. 1567, the $5.4 million Tangier Island seawall project.

It is one of the greatest personal importance. I have worked on it since my days as a freshman Congressman from the First District of Virginia.

Tangier Island is, quite simply, sinking. What is at stake here is the preservation of a distinct way of life. Approximately 900 people inhabit the island's 7 square miles. The residents of Tangier are descendants of the original settlers who arrived in 1686. Like their ancestors, today's islanders rely on the Chesapeake Bay and its rich fish and shellfish resources for their livelihoods. There are few places in America where the traditions of any earlier era are so well preserved.

However, the continuing erosion of the western shore threatens the very existence of Tangier Island and its people. Erosion is progressing at such a rapid rate—25–30 feet per year—that within the coming decade, the airport—a critical link to the outside world—will become inoperable and a major portion of the island will be lost.

The erosion problem has been investigated on two occasions in the late 1970's by task forces composed of representatives from the Army Corps of Engineers, Virginia Institute of Marine Science, Virginia Division of Aeronautics, Virginia Water Control Board, Virginia Department of Highways, Virginia Department of House and Community Development, Virginia Marine Resources Commission, department of intergovernmental affairs, and the town of Tangier. After looking at an array of alternative solutions, both task forces recommended

construction of a seawall on Tangier's western shoreline.

Mr. President, obviously all these projects are incredibily important to Virginia. They will save lives, help to defend our Nation, and foster economic growth and job creation. I congratulate my colleagues for their achievement in bringing this bill before the Senate.

Mr. WARNER. Mr. President, I rise in support of S. 1567, the Water Resources Development Act of 1985. I want to pay special tribute to Senator ABDNOR, the distinguished Senator from South Dakota who is chairman of the Water Resources Subcommittee, for his tireless work on this issue. I also want to commend the able chairman of the Senate Environment and Public Works Committee, Mr. STAFFORD, the ranking member of the full committee, Mr. BENTSEN, and the ranking member of the subcommittee, Mr. MOYNIHAN, for their leadership. Mr. PACKWOOD, the chairman of the Senate Finance Committee, also deserves our appreciation for his able work on this issue.

This is a long-awaited day for the senior Senator from Virginia, Mr. President. At long last, this is the day the Senate debates an omnibus water resources bill which hopefully, will eventually be signed into law.

Since being elected to the Senate, passage on water resources legislation has been of the highest priority to me. I have introduced legislation and worked in coalition with my colleagues who shared my commitment.

Two weeks ago I met with Virginia's new Governor, Gerald Baliles, the leadership of the Virginia General Assembly, and our congressional delegation about a wide range of issues. High on the list of Virginia State priorities is passage of this omnibus water resources bill. Governor Baliles is the third Governor of Virginia—preceded by Gov. John Dalton and Gov. Charles Robb—with whom I have worked on this legislation. I am grateful for the persistence and cooperation of these three Governors in shaping this legislation and fulfilling the non-Federal commitment which is such a crucial part of this proposal.

Each of these Governors of Virginia has been ably staffed by the executive director of the Virginia port authority, Robert Bray and the general counsel, Stan Payne. These two outstanding Virginia public servants have been available on a minutes notice to analyze new proposals and provide the valuable insights they have gained through operating one of America's largest ports.

I also want to acknowledge the dedication and assistance of the Hampton Roads Maritime Association particularly, T. Parker Host, Jack Mace, and Dick Counselman. They have provided valuable knowledge about how the legislative proposals would impact the private industry who are the lifeblood of the port system.

The legislation before us today is supported by the Hampton Roads Maritime Association and the Commonwealth of Virginia.

It was a particular privilege for me, Mr. President, to work with a highly distinguished group of my colleagues in 1983 to draft omnibus water legislation. Our coalition which drafted S. 865 included, in addition to myself, Mr. HATFIELD, Mr. BYRD, Mr. THURMOND, and Mr. MATTINGLY. We were convinced then, and we remain convinced now, that the cost-sharing structure in our bill was equitable and appropriate both for our national port system and for the Nation's taxpayers. It is gratifying to us that the legislation before the Senate today incorporates many of the major provisions of the legislation which we introduced 3 years ago this month.

The Federal interest in a modern harbor system is twofold: To promote America's trade potential and economic strength, as well as to meet our defense commitments.

The United States must be prepared to meet the world demand for its goods by developing a more competitive port transportation system.

Likewise, the constitutional obligation to provide for the Nation's defense demands that the Federal Government continue its strong role in supplying both our allies' and our own energy needs.

The Federal role is further highlighted by our country's commitment to the construction of a 600-ship Navy to bolster our Nation's defenses.

The quick and efficient deployment and servicing of troops and equipment must be assured by modern, well-maintained harbors.

Our national port system annually transports in excess of $318 billion in waterborne foreign commerce and generates $7 billion in customs revenues.

A strong port system which increases our capacity to export reduces our balance of trade deficit and makes a positive contribution to employment in every State in the Nation.

We have to look back a few years to understand why this proposal is so significant to Appalachian States. The short answer is jobs—jobs to produce and move coal.

In 1981, over 170 coal ships waited at anchor at Hampton Roads, VA, to load American coal. Every day that they idly "swung on the hook"—as those of us who have been to sea refer to that problem—enormous sums of money wasted away. Other coal ports experienced similar backlogs.

This problem demanded solution or jobs would be lost in the coalfields, as indeed they have been lost, and the United States would lose not only present but long-term economic advantages. Our competitors moved to fill the gap, and they are still moving. Fortunately, this legislation, I hope, will now enter the United States in that race as a strong competitor.

In 1985, 628 colliers loaded coal in Hampton Roads. Of those, 284 or 45 percent could have sailed deeper than the authorized channel depth. These ships that could have sailed deeper averaged 52.5 feet of maximum draft; 35 percent actually did sail deeper than the authorized channel depth by waiting to sail at high tide. Additionally, 188 ships or 29 percent of all coal ships calling at the port in 1985 could have loaded fully with construction of the proposed 50 foot outbound channel. If all the ships calling at Hampton Roads had sailed fully loaded, over 3 million more tons of coal could have been shipped through Hampton Roads in 1985.

While coal demand is lower today, the vision of those waiting colliers should never leave our minds. The world is constantly searching for a stable, long-term source of reasonably priced energy. The United States in 1981 was not ready to meet that demand.

The next time that demand arises, it is hoped that this legislation will have been adopted and we will be prepared.

Most energy-dependent nations, aware of the enormous volumes of coal they will need to convert from OPEC oil, have or plan to deepen their harbors to accommodate super coal colliers. When super colliers can sail fully loaded, there is substantial transportation savings.

South Africa, Canada, and Australia, our chief competitors in the world coal trade, are ahead in the race and deepening their channels and portside facilities. Our energy trading partners have made it very clear that, unless the United States expeditiously builds deepdraft channels, they will look elsewhere for their long-term needs.

What would this mean to the United States? A drastic loss to America's balance of payments but, more importantly, the loss of thousands of jobs in the coalfields and supporting industries.

Unemployment in the coalfields of Virginia has reached the intolerable level of 30 percent. We must put American miners back to work by improving our harbors and capturing more of the world trade. And we must do it now.

S. 1567 authorizes the deepening of the Port of Hampton Roads to 55 feet at an estimated cost of $538 million at a benefit cost rate of 3.6 to 1. The bill allows the project to be built in operable segments. The Virginia Port Authority is close to signing a contract with the Corps of Engineers to construct a 50-foot outbound channel at a cost of $47.6 million to be cost shared

by the Federal Government and the State. The Virginia General Assembly has appropriated the funds to pay the State share.

Mr. President, I also wish to commend Chairman STAFFORD and Subcommittee Chairman ABDNOR for their willingness to include vitally important flood control and beach erosion abatement projects in Virginia.

Since I have had the privilege of serving in the U.S. Senate, I have sought to provide critically needed protection from beach erosion for Tangier Island in the Chesapeake Bay. This tiny island is home for 800 residents who have been watching this historic island erode away yearly.

Shoreline on the western side of the island eroded about 42 feet since January 1985, bringing waters dangerously close to Tangier's $3.5 million sewage treatment plant, and leaving less than 20 feet of protection for the airport runway. The airport is the island's only connection to mainland Virginia in the wintertime.

The provision of S. 1567 establishes new small project authority for streambank erosion directing the Corps of Engineers to build an 8,200 foot riprap seawall around the western shoreline to control this erosion and protect their airport and sewage treatment plant.

The city of Richmond along the James River suffered $82 million in flood damages in 1969 and 1972. This destruction occurred at a time when the city was renovating its downtown area and trying to attract new business development to its inner-city. The proposed floodwall for the downtown area consists of constructing floodwalls and levees on both sides of the river.

Again in November 1985, the city suffered $47 million in damages due to flooding. The U.S. Army Corps of Engineers estimates that $41 million of the damages could have been prevented if the floodwall was in place. Such a project is critical to economic stability, growth and sustained employment opportunities for Richmond.

The Virginia Beach erosion and hurricane protection plan has received a favorable environmental statement and chief of engineers' report. This plan provides for raising the existing seawall, continuing beach nourishment and enhancing the dune line of the 6-mile area of shoreline between Rudee Inlet and 89th Street, the major tourist area of the beach.

The added protection not only provides increased safety for area residents, but also reduces the threat of destruction to residential, public and commercial property behind the existing seawall which is now estimated to be worth more than $370 million.

The Hampton Roads drift removal project expands the area currently authorized for debris removal based on the recommendations of the board of engineers for rivers and harbors. This project is necessary to remove floating debris and unused piers that contribute to the debris to ensure the safe navigation through the harbors of Norfolk and Newport News and all of Hampton Roads.

A project of smaller scope is the shoreline erosion control project for the Willoughby Spit—Ocean View area of the city of Norfolk. The plan provides for restoration of 7.3 miles of shoreline between Willoughby Spit and Little Creek Channel which is necessary for beach erosion control and hurricane protection. The location and orientation of this shoreline make it susceptible to storm damage and erosion, which not only creates property damage, but also endangers health and safety.

I also wish to thank Chairman Stafford for agreeing to include the Roanoke River upper basin project in the committee-amendment package. This area of Virginia was especially hard hit by the November, 1985 flooding, and because of the favorable chief's report, I wrote the chairman requesting the inclusion of this project during floor consideration of S. 1567. Particularly, the channelization of the river will provide protection for the city's sewage treatment plant and the Roanoke Memorial Hospital. I thank the chairman for his favorable response to my request, and associate myself with my Virginia colleague's remarks on the merits of this project.

Mr. President, I urge my colleagues to support S. 1567.

Mr. BURDICK. Mr. President, I would like to personally thank Senators STAFFORD, BENTSEN, ABDNOR, and MOYNIHAN for including technical amendment 25 as part of the floor managers package for consideration on the Senate floor.

Amendment 25 includes authorization for the United States to contribute $41.1 million toward the construction of two reservoir structures in Saskatchewan. The proposed Rafferty and Alameda Dams, together, would provide protection from over a 100-year-frequency flood on the Souris Basin, significantly greater than the 25-year protection which could be obtained by the authorized Lake Darling project.

Under the amendment, Rafferty, and Alameda will be considered project features of the modified Lake Darling project. I would like to insert for the RECORD a letter I received from the Army Corps of Engineers in support of the modified project.

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

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, November 27, 1985.

Hon. QUENTIN N. BURDICK,
U.S. Senate, WAshington, DC.

DEAR SENATOR BURDICK: I am responding to your letter of October 25, 1985, concerning substitution of flood control storage in two proposed reservoirs in Canada for the authorized flood control storage in Lake Darling, North Dakota. As noted during our October 1, 1985, meeting with you, Premier Grant Devine, and others, we believe such a substitution could be beneficial for interests in Canada and in this country.

I am very pleased to report that the Corps of Engineers, using preliminary data available from their ongoing study and from Canadian sources, has determined that up to 400,000 acre feet of flood control storage could be used at the Rafferty and Alameda sites in conjunction with modified operation of the Canadian Boundary Dam and the existing Lake Darling to provide 100 year protection for Minot. Storage in the Canadian project would eliminate the requirement for raising Lake Darling, but a new outlet at Lake Darling Dam and levees and other downstream measures would still be required to accommodate flood releases.

Subject to enactment of authorizing legislation, appropriation of funds and procedural approval by the Department of State, we are prepared to move forward with Saskatchewan in the construction of the Rafferty and Alameda reservoir projects. Based on our current estimates we would be willing to contribute $41.1 million during construction of the two projects. This amount includes up front compensation for the U.S. share of operation and maintenance of these reservoir facilities and the additional operation expense of Boundary Dam by the Province over the useful physical lives of the projects.

Should Saskatchewan elect to pursue only the Rafferty project, we would be willing to contribute $26.7 million which includes an allowance for maintenance of Rafferty and the additional operation costs of Boundary Dam. The amounts we are willing to contribute to the Canadian projects are based on an allocation of the cost for including flood control storage with the water supply projects at these sites, and are limited to costs which will result in the same net benefits we would receive from raising Lake Darling plus associated work.

Any agreement between the United States and Canada to execute these proposals would have to provide for a detailed reservoir operation plan to ensure maximum possible flood damage reduction within the U.S. and to ensure the minimum possible adverse effects on the migratory waterfowl refuges managed by the United States Fish and Wildlife Service. I would not anticipate any unusual problems in coordinating such an agreement with the Fish and Wildlife Service and the Province to achieve a mutually beneficial operating plan.

With regard to the draft legislation you furnished with your letter, it is our understanding that you have agreed to modify this language to provide for deauthorization of Burlington Dam if the Canadian projects go forward, and for application of the flood control cost sharing described in Title VII of S. 1567 for that portion of the cost which exceeds the cost of raising Lake Darling four feet and associated work. We believe this modification is essential to obtain full Administration support.

The Office of Management and Budget has advised that there would be no objection to participation with Canada as proposed in this letter. However, no commitment can be made at this time as to when any estimate of appropriations would be submitted for construction of the project, if authorized by the Congress, since this would be governed by the President's budgetary objectives as determined by the then prevailing fiscal situation.

I am looking forward to Premier Devine's response regarding these proposals and stand ready to provide any further assistance or clarifications as may be desired.

Sincerely,

ROBERT K. DAWSON,
Acting Assistant Secretary of the Army (Civil Works).

Mr. BURDICK. Mr. President, the Office of Management and Budget has approved the project and established along with the corps a Federal project cost of $69.1 million. This cost includes the United States contribution to the Canadian structures, downstream local protection and floodproofing measures and related dam safety features. The total project cost does not include the Velva levee feature because it has proceeded under separate local cooperation signed November 20, 1985, and is in the final stage of construction. The local cost share agreement on this project is unique because it is a combination of an existing project and new construction. For the RECORD I would like to insert the following tables which the corps and OMB used in establishing the Federal project cost.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—SOURIS RIVER BASIN ALTERNATIVE FLOOD CONTROL PROJECT, DERIVATION OF NON-FEDERAL CONTRIBUTION PURSUANT TO PROPOSED LEGISLATION

[October 1985 dollars]

	Millions
1. Cost of flood control features for 4-foot raise of Lake Darling [1]	$45.9
2. Cost for alternative proposal	63.4
Contribution to Saskatchewan [2]	(41.1)
Modification of Existing Lake Darling and related downstream measures [3]	(22.3)
3. Excess of alternative cost over 4-foot raise (2–1)	17.5
4. Non-Federal share of alternative, based on proposed legislation	10.2
Traditional share of 45.9 [1]	(4.1)
35 percent of excess (3)	(6.1)

[1] See Table 2, Column 1
[2] For both the proposed Rafferty and Alameda projects
[3] See Table 2, Column 2

(Note.—$6.1 drops to $4.4 million if local sponsor can pay upfront under the 25 percent provision in S. 1567, so the combined local cost would be $8.5 million.)

TABLE 2.—LAKE DARLING ALTERNATIVE MODIFICATIONS, COST OF PROJECT FEATURES WITH 5,000 CFS OPERATING PLAN

Project feature	Project costs ($1,000)	
	+4LD	MELD
FEDERAL		
Project Features: Lake Darling Dam	[1] 13,600	[2] 2,500
Operating Plan Components:		
Upper Souris NWR—Downstream	2,455	2,455
Upper Souris NWR—Upstream	1,840	0
J. Clark Salyer NWR	[3] 1,290	1,290

TABLE 2.—LAKE DARLING ALTERNATIVE MODIFICATIONS, COST OF PROJECT FEATURES WITH 5,000 CFS OPERATING PLAN—Continued

Project feature	Project costs ($1,000)	
	+4LD	MELD
Manitoba compensation	204	204
Hydrometeorological instruments	156	156
Burlington to Minot measures	3,396	3,396
Sawyer measures	319	319
Rural downstream measures	4,500	4,500
Gassman Coulee	260	0
Reservoir lands	320	0
Reservoir relocations	4,422	0
Reservoir levees	1,537	0
Buildings and grounds	12	0
Engineering and design	4,135	1,800
Supervision and administration	3,305	1,545
Total Federal	41,751	18,165
NON-FEDERAL		
Operating plan components:		
Burlington to Minot measures	1,366	1,366
Sawyer measures	141	141
Rural measures	2,593	2,593
Total non-Federal	4,100	4,100
Total project cost	45,851	22,265

[1] Does not include dam safety costs.
[2] Replacement of low-flow outlet structure.
[3] Does not include dam safety and betterments costs.

TABLE 3.—LAKE DARLING 4-FOOT RAISE AND RELATED MEASURES, EXPLANATION OF COST ESTIMATES

[October 1985 dollar]

	Millions
Lake Darling 4-foot raise and related downstream flood control measures not started	$45,900,000
Related measures under construction or committed: [1]	
Dam Safety Assurance Measures	6,680,000
(Lake Darling)	(4,180,000)
(Downstream Refuge Dams)	(2,500,000)
Fish and Wildlife measures (Refuge betterments) [2]	520,000
Velva Levee Project, under construction	5,530,000
Miscellaneous features	70,000
Engineering and design	1,505,000
Supervision and administration	275,000
Subtotal	60,480,000
Inflation through construction [3]	3,600,000
Total	64,080,000

[1] These measures are common to all alternatives.
[2] Reimbursable by USFWS.
[3] Comparison of alternatives has been made without consideration of price escalation.

Mr. BURDICK. Mr. President, the Federal Fish and Wildlife Services has determined that the Canadian structures and related dam safety measures at the two existing wildlife refuges (100,000) acres would not interfere with its overall objectives of utilizing the 1939 Lake Darling Dam for both conservation of water and flood control. I would like to place in the RECORD a letter from Fish and Wildlife Services which outlines the Agency's position.

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

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, November 15, 1985.

Hon. QUENTIN N. BURDICK,
U.S. Senate, Washington, DC.

DEAR SENATOR BURDICK: Thank you for the meeting on November 7, 1985, with your staff and Corps of Engineers' (Corps) representatives regarding proposed changes to the Lake Darling project. The Fish and Wildlife Service has been involved for many years in devising an effective strategy for modification to the Lake Darling dam. These strategies have been premised on flood protection to Minot, North Dakota, and as a source of water for the Upper Souris and the J. Clark Salyer National Wildlife Refuges (NWR).

The Service understands the necessity for prompt action on the proposal for reliance on two Canadian dams for the purpose of flood control in lieu of changes to the Lake Darling dam. The Service is required to comment on the impacts to fish and wildlife on such projects pursuant to the Fish and Wildlife Coordination Act. We would like to ensure the Service's continued advisory role with the Corps on this project.

During the meeting, the following points were discussed. The Corps explained that the flood operation for the Souris River would include the use of Lake Darling, and the mitigation provided by downstream improvements from Lake Darling would be the same as for the originally proposed four foot raise in the Lake Darling dam. The operating plan remains to be developed and some changes in the flood release schedule may be required by the combined operation of the Canadian dams and Lake Darling. The Service expressed its desire to be involved in the development of the operating plan.

Mention was made of the fact that Lake Darling has been operated both for flood control and conservation purposes despite the fact that the dam was authorized to conserve water for use on the two refuges. As the waters of the Souris River are developed and used in the Canadian dams, the priority for operation of Lake Darling will be dictated by its authorized water conservation purposes. From the viewpoint of the Service, it will probably be possible to have a combined operation of the Canadian dams and Lake Darling that will satisy both conservation and flood control objectives. The discussion also concerned the safety aspects of the Lake Darling dam. It was indicated that many flood control and water conservation aspects of improvement to the dam are intertwined and should go foward together. One example is the construction of a new outlet structure at Lake Darling, a Corps responsibility, and the rehabilitation of the spillway which is a Service responsibility. Other examples exist which will require delineation of responsibilities between the Corps and the Service.

In summary, the Service expressed the following concerns regarding the new proposal: (1) water quality and quantity functional criteria should be met for the Upper Souris and the J. Clark Salyer NWR's, (2) adequate mitigation should be provided for both direct and indirect environmental impacts in any subsequent planning and operating activities for the proposal; and (3) an appropriate agreement should be reached concerning cost-sharing between the Service and the Corps associated with upgrades to the Lake Darling dam.

It is our understanding that Mr. Robert K. Dawson, Acting Assistant Secretary for Civil Works, will be forwarding you a letter which mentions these points. Since your October 31, 1985 letter indicated that this proposal is under serious review, we would appreciate your consideration of these points in any subsequent action taken on this proposal.

Sincerely,

RONALD E. LAMBERTSON,
Acting Deputy Director.

Mr. BURDICK. Mr. President, Saskatchewan Premier Devine announced on February 12 of this year that he intends to proceed with the planned construction of both Rafferty and Alameda reservior structures. The State Department has been requested by the corps to open diplomatic relations with Canada to negotiating an agreement, the corps will proceed with the Lake Darling project as authorized in 1982. However, I am very optimistic that the necessary details can be worked out, so Canada can proceed with its July 1987 construction start on Rafferty.

Mr. SARBANES. Mr. President, I am pleased that the Committee on Environment and Public Works has incorporated the Ocean City and Assateague Island beach erosion control and hurricane protection project into S. 1567, the Water Resources Development Act of 1985. Specifically, the bill authorizes $35,200,000 to be cost shared with the State of Maryland and the town of Ocean City for widening and raising the beach and constructing a dune line and sheet pile bulkhead for 100-year storm protection.

The damage caused to Ocean City beaches and public and private property by Hurricane Gloria last October underscores the need to provide more protection for the area from hurricanes and major storms. Hurricane Gloria swept away over 4 feet of protective beachfront, and caused $15 million in damages to public properties, hotels, residences, and businesses. The hurricane, in addition to erosion of the beach which has averaged over 2 feet per year at Ocean City and over 30 feet per year on the northern portion of Assateague Island, has left the area increasingly vulnerable to destruction from the sea. A recent Environmental Protection Agency study projects that in the next 40 years, a rising sea level could double the rate of shore erosion. Unless swift action is taken to restore the beach, Maryland's principal beach resort area could be heavily damaged by future storms due to the lack of a natural sand buffer from the ocean. The authorization contained in the Water Resources bill will ensure that this project can get underway shortly.

It should be emphasized that this authorization for construction of the Ocean City beach erosion control and hurricane protection project is the result of a detailed study by the Army Corps of Engineers completed in February 1981. After careful deliberation, the corps rejected an alternative "groin" plan and in cooperation with the State of Maryland and the town of Ocean City recommended the plan that is authorized in this bill. The corps has concluded that the recommended plan is economically justifiable and environmentally acceptable.

I want to take this opportunity to commend the chairman, ranking minority member, committee and staff of the Environment and Public Works Committee for their efforts on this legislation and urge my colleagues to join me in supporting this measure.

THREE AFFILIATED TRIBES

Mr. BURDICK. Technical amendment 27 provides that as condition for transfer of the Four Bears Complex to the tribes, the Secretary of the Interior shall transfer to the U.S. tribal lands of equal value that are needed by the Corps of Engineers for operation of the Garrison Dam and Reservoir Project, North Dakota. The corps and the tribal government have identified the "equal value" lands as 82 tracts comprising 433.06 acres The legal descriptions and maps depicting the location of the 82 parcels were furnished by the corps. The additional land would place all property lying below 1854 ms.s.1. [mean sea level], except for nine tracts held in trust for individual Indians, under corps jurisdiction.

The Four Bears Complex, comprising two parcels of land—totaling 152 acres—is located on a peninsula at Lake Sakakawea. The main facility on the complex is a hotel the tribes financed through a loan from the Economic Development Administration [EDA]. This debt is in the process of being waived by EDA pending completion of an audit and fulfillment of other conditions agreed upon by the tribes. However, to protect property interests held by the Federal Government until the waiver process is completed subsection (e) was inserted.

Mr. ABDNOR. The amendment transfers land already leased to the tribes for management and development of the Four Bears Complex. Because the current market value of the 433 acres in the 82 tracts is very low, the corps has determined it would accept the transfer as "equal value" and will not require additional acreage in the future from the tribes under this provision of law.

Mr. MOYNIHAN. This legislation would allow Indians continued use of adjacent land for grazing purposes and, the right to water their livestock at the edge of the reservoir pool which is normally 1850 m.s.l. However, the Federal Government does not assume liability for any damages suffered by livestock or persons due to fluctuations in the reservoir pool. The corps does not envision a management problem because pool level changes are announced and increases occur at the rate of 2 inches per day.

Mr. ANDREWS. I am pleased that the corps and floor managers have agreed to accept this amendment. The Federal Government acquired 152,679 acres held by tribal members for the Garrison Reservoir project. As a result, the vast majority of tribal members were forced to relocate around the boundary of Lake Sakakawea, thus destroying their major cultural and community centers. Return of this land is important because of its proximity to the tribal government headquarters and symbolic significance of redressing the inequities created by the Federal project.

As chairman of the Senate Select Committee on Indian Affairs, I would like to note that subsection (c) describes the land transfer to the corps as one necessary "for the maintenance and operation of the Garrison Dam and Reservoir project." By so describing this land, the amendment makes it clear that the mineral rights therein are retained by the tribes, pursuant to title II of Public Law 98-602. The 98th Congress restored tribal ownership of mineral interests in the lands acquired by the corps for Garrison.

Mr. BURDICK. I would like to insert for the RECORD a letter written on behalf of the tribes which accepts the corps offer.

The letter follows:

HOBBS, STRAUS, DEAN & WILDER,
Washington, DC, January 22, 1986.

Re Four Bear Transfer Legislation.
Hon. QUENTIN N. BURDICK,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BURDICK: This is in response to your letter dated December 27, 1985 to Ms. Alyce Spotted Bear, Chairperson of the Three Affiliated Tribes of the Fort Berthold Reservation, concerning your efforts to have the so-called Four Bears complex transferred in trust to the Tribe. At the Tribe's instruction, we are responding to your letter.

First, on behalf of the Tribe, we express our sincere appreciation to you and your staff for the efforts you have made to transfer the 152 acres that comprise the Four Bears complex from Corps of Engineers jurisdiction to the Secretary of the Interior to hold in trust for the Tribe.

Your December 27 letter enclosed a revised amendment to S. 1567 by which the transfer would be accomplished and requested the Tribe's position on this proposal. Suggested by the Corps of Engineers, this revised proposal calls for the Tribe to exchange certain existing reservation lands that are of "equal value" for the 152-acre Four Bears complex.

The Corps of Engineers, in the December 11, 1985 memorandum from William P. Thompson, Jr., Chief of the Civil Works Branch, identified 91 small parcels of land comprising 521.90 acres scattered around the Reservation which they deem to be of "equal value" to the 152-acre Four Bears complex. The Tribe, in consultation with the real estate services personnel at the Fort Berthold Agency of the Bureau of Indian Affairs, examined the legal descriptions of these 91 parcels and found that nine of the parcels are not owned by the Tribe. Those parcels, comprising 88.84 acres are:

Tract 1, Parcel 5, 7.89 acres.
Tract 1, Parcel 6, 2.50 acres.
Tract 1, Parcel 8, 3.90 acres.
Tract 1, Parcel 14, 0.92 acres.
Tract 1, Parcel 48, 10.88 acres.
Tract 1, Parcel 49, 8.26 acres.

Tract 1, Parcel 54, 50.76 acres.
Tract 1, Parcel 82, 1.89 acres.
Tract 1, Parcel 83, 1.84 acres.

Because the Tribe does not own these parcels, it, of course, has no authority to agree to a transfer of them to the Corps. Thus, they must be removed from the list of "equal value" lands slated for exchange.

The Tribe owns the remaining 82 parcels identified by the Corps, and will support the proposed amendment to S. 1567 insofar as it calls for the exchange of these lands for the Four Bears complex. Ths support is offered in view of your assurance that you will establish legislative history (either through a committee report entry or through a Senate floor colloquy) which demonstrates that the Corps of Engineers considers the 82 identified parcels owned by the Tribe to be full consideration for the transfer and will not, in the future, request any further consideration for the transfer.

We note with appreciation that you have agreed to the Tribe's request to add bill language which states that the Tribe retains the right to use the land to be transferred to the Corps of Engineers for grazing and agricultural purposes when these lands are not subject to flooding.

Please let us know if you have any questions about the Tribe's position on this amendment to S. 1567. We hope that the measure can be acted upon rapidly in this session of the 99th Congress.

Again, thank you for your efforts on behalf of the Three Affiliated Tribes.

Sincerely yours,

CHARLES A. HOBBS.

Mr. BURDICK. Subsequent to sending this letter, the tribes raised an additional point on subsection (d) which requires clarification. The corps would receive a flowage easement to 1,860 m.s.l. when the parcels requested in consideration are to be taken at 1,854 m.s.l. The corps requests an additional 6 feet for soil erosion, water saturation, and sloughing purposes. The difference between the two mean sea levels is approximately 20 to 30 feet around the perimeter of the peninsula.

The flowage easement can be defined a deed restriction requiring the Secretary of the Interior to check with the corps prior to approving property improvements. Consultation is required to prevent construction of facilities susceptible to damage caused by erosion and sloughing of banks due to reservoir operations. It does not apply to construction of a pier or marina because such structures are designed to meet reservoir operations.

The corps does not anticipate a need to adjust the alignment beyond 1,860 m.s.l. If more land is required, the corps must notify the tribes and justify the need based on project operations.

Public Law 98-602, mentioned previously by Senator ANDREWS, provides in section 206, a mechanism for the corps and Interior to enter into agreements for the transfer of any additional lands necessary for the operation of Garrison. Because the additional land that may be eventually acquired under (d)(2) is small, the committee felt it would be administratively burdensome for the corps to acquire the property under section 206. Any additional funds which would have resulted from section 206 is more than offset by the grazing rights conferred under this amendment.

Are the floor managers in agreement with the points raised in this discussion on the content of the amendment?

Mr. ABDNOR. The points raised are in agreeement with the intent of the amendment.

Mr. MOYNIHAN. I concur with that assessment.

Mr. ABDNOR. Mr. President, let me say that there are many people who are in part responsible for bringing this legislation to the floor, and one of those who has worked hardest to achieve this is the Senator from Oregon, Senator PACKWOOD. Title 8 of this bill could never have been developed without his able leadership in the Finance Committee.

We certainly want to thank Senator PACKWOOD because this title was one of the most difficult problems that had to be overcome before we could come before the Senate with this legislation.

Mr. President, I send to the desk an amendment on behalf of Senators STAFFORD, BENTSEN, MOYNIHAN, and myself.

The PRESIDING OFFICER. The Chair reminds the Senator that the committee amendment is pending. It must be laid aside by unanimous consent.

Mr. PACKWOOD. Mr. President, I am prepared. We are on the Finance Committee amendment. Only amendments to it are in order.

I ask unanimous consent that the Finance Committee amendment be temporarily laid aside.

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

AMENDMENT NO. 1676

(Purpose: To make technical and clarifying amendments to the bill, to authorize certain projects recently approved by the Chief of Engineers, and for other purposes)

Mr. ABDNOR. Mr. President, I send to the desk an amendment on behalf of Senators STAFFORD, BENTSEN, MOYNIHAN, and myself, for the purpose of making technical and other clarifications to S. 1567, 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. ABDNOR], for himself and Senators STAFFORD, BENTSEN, and MOYNIHAN proposes an amendment numbered 1676.

Mr. ABDNOR. 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 printed later in the RECORD under amendments submitted.

Mr. ABDNOR. This amendment is in almost every respects identical to the committee leadership amendment, which was printed on pages 4327 through 4334 of the March 11, 1986, CONGRESSIONAL RECORD.

The only changes are several typographical errors, as well as five minor clarifications. Briefly, these changes are as follows:

The first change involves a new section at the end of title 3 of the bill involving Hempstead Harbor, NY. A large number of derelict vessels along the western shoreline of Hempstead Harbor have fallen into disrepair and have deteriorated. Drift from these vessels and the movement of derelict vessels by storms pose a potential hazard to vessels using this harbor and the adjacent areas of the Port of New York.

Every year a large number of commercial, public, and recreational vessels collide with drift, damaging to propellers, shafts, and hulls. Drift-cluttered recreational shores menaces swimmers and spreads marine border infestations. The sources of drift deface the waterfront, prevent optimum use of property, and depress property values.

This addition authorizes Federal participation in the collection and removal of drift and debris as well as its sources, derelict vessels, from Hempstead Harbor, together with a $2 million increase in the existing program to provide the Federal share. None of this work will go forward, however, until local interests agree to bear one-third of the cost of the work, and provide the other necessary items of local cooperation required for the project.

This provision is not a new project, it is simply an extension of an existing program.

Next, Mr. President, we have added a provision to the redrafted Upper Mississippi River master plan language. This was simply a clarification that spending on the environmental work will not be considered a commercial navigation expense. It was included in S. 1567 as reported from the committee, but was inadvertently omitted from the leadership amendment.

Third, we have added a new project to title 7 for the Pearl River Basin in Mississippi. This authorization will be valid only if the Chief of Engineers approves the project on March 17, 1986; that is next Monday. The Corps of Engineers has given us every indication that the Chief will sign this report on Monday. The committee leadership has included this project at the request of our distinguished colleague

from Mississippi [Mr. STENNIS]. This is the only project in this category and does not violate our commitment to a requirement for a Chief's report.

The following provides some specifics on the Pearl River Basin, MS, project:

Location: Upper Pearl River Basin, including Jackson, MS.

Purpose: Flood control.

Problem: Average annual flood damages are calculated at $8,370,000 for the Greater Jackson, MS, area. Recurrences of the 1979 flood of record would flood 3,500 homes and 1,400 businesses, and cause $640 million damages.

Recommended plan: A dry dam on the Pearl River 40 miles upstream of Jackson would regulate flows up to the 1979 flood level, discharging flows through an ungrated spillway. About 39,000 acres would be acquired for the dry reservoir.

Environmental impact statement: The final environmental impact statement was filed with the Environmental Protection Agency on February 14, 1986.

Total project cost: $80,100,000 (October 1985).

Benefit/cost ratio: 1.05-1, at a discount rate of 8⅜ percent.

Fourth, language is added that deletes the authorization for the lava flow control project in Hawaii. We have made this change at the request of our distinguished colleague from Hawaii [Mr. INOUYE].

The Federal Emergency Management Agency already has authority to do this in emergency situations. This project would, therefore, be a duplication of funding and responsibilities. The State, the corps, and the County of Hawaii have requested the deletion because of possible liability implications.

Finally, Mr. President, a clarification to the disposal of the federally owned townsites in North Dakota, South Dakota, and Montana is provided.

This clarification provides that at the request of the towns, power from the Western Area Power Administration can be made available for a period of 3 years to run the large federally constructed municipal buildings.

As originally conceived, the agreement for the local takeover of these towns provided for a transition period. However, this period was not provided in the language which was passed in the supplemental. Therefore, this clarification will help ease the burden which these towns will assume by taking over these large buildings.

Mr. President, with these changes, I believe this to be a noncontroversial amendment, and I move that the Senate adopt it.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the chairman's statement is, of course, correct. It is the belief of the subcommittee and, I believe, of the full committee, that these are amendments which are acceptable to us and wholly consonant with the purposes and spirit of the bill. We have limited our approval to projects that have gone through the Corps of Engineers' full planning process.

If I may, Mr. President, I would like to emphasize the approach which the committee has taken with this bill. This approach does not arise from any desire to restrict the amount of water projects in this country, but, rather, to make them legitimate, so that they will actually be constructed. We do not choose to offer projects which have not been authorized, have not been engineered, or have not been costed out. Such an approach would continue the stalemate we have had over the last 10 years, during which the corps started only three new projects.

We have added 14 projects in this committee amendment.

For Members who will read the RECORD on Monday, this being Friday afternoon with some Senators absent I want my colleagues to note that the committee has willingly added to this bill those projects which have gone through the corps approval process in the interval between our committee action and bringing the bill to the floor. We are not trying to keep water projects from being built in this country; we are trying to get them to begin once again after 10 years in which we have had three water projects commenced in this country.

So, Mr. President, on this side of the aisle we wholly approve these amendments. They are noncontroversial and they are very much in the spirit of the bill. I would move their adoption.

Mr. ABDNOR. If the Senator will yield for a moment, I just want to say again this shows how knowledgeable the Senator from New York is on water projects. He has spent a great deal of time studying them. Everything he has said is true, and I thank him for his statement, which expresses, I believe, the views of the committee as a whole.

Mr. MOYNIHAN. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1676) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Finance Committee amendment be temporarily set aside so that I may offer an amendment.

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

AMENDMENT NO. 1677

(Purpose: To protect the water of the Great Lakes)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1677.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6 insert the following:

"SEC. 337. (a) The Congress finds and declares that—

(1) the Great Lakes are a most important natural resource to the eight Great Lakes States and two Canadian provinces, providing water supply for domestic and industrial use, clean energy through hydropower production, an efficient transportation mode for moving products into and out of the Great Lakes region, and recreational uses for millions of United States and Canadian citizens;

(2) the Great Lakes need to be carefully managed and protected to meet current and future needs within the Great Lakes Basin;

(3) any new diversions of Great Lakes water for use outside of the Great Lakes Basin will have significant economic and environmental impacts, adversely affecting the use of this resource by the Great Lakes States and Canadian provinces; and

(4) four of the Great Lakes are international waters and are defined as boundary waters in the Boundary Waters Treaty of 1909 between the United States and Canada, and as such any new diversion of Great Lakes water in the United States would affect the relations of the Government of the United States with the Government of Canada.

(b) It is therefore declared to be the purpose and policy of the Congress in this section—

(1) to take immediate action to protect the limited quantity of water available from the Great Lakes system for use within the Great Lakes Basin and in accordance with the Boundary Waters Treaty of 1909;

(2) to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside of the Great Lakes Basin unless such diversion is approved by the Governor of each of the Great Lakes States; and

(3) to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside of the Great Lakes Basin.

(c) As used in this section, the term 'Great Lakes States' means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York and Wisconsin.

(d) No water shall be diverted from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside of a Great Lakes Basin unless such diversion is approved by the Governor of each of the Great Lakes States.

(e) No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside of the Great Lakes Basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effect performed by the Secretary or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909."

Mr. METZENBAUM. Mr. President, this amendment would prohibit new diversions of Great Lakes water except as approved by all the Great Lakes States.

In addition, the amendment would prohibit the use of Federal funds to study the feasibility of diverting Great Lakes water unless approved by the Great Lakes States.

The Great Lakes constitute the largest body of fresh water in the world. To the eight States and the two Canadian Provinces which surround them, the lakes provide an indispensable source of water for individual and industrial use.

The lakes also serve as a major transportation artery. They are a prime source of hydropower and an unparalleled environmental and recreation resource.

There is no question that massive diversions of water from the lakes would wreak economic and environmental havoc on the States and Provinces of the region. Important public water supplies, that are already being depleted by growing consumption, would be dangerously reduced. Losses would occur in hydropower production. Fish and wildlife would be adversely affected by a loss of wetlands. Moreover, the Great Lakes shipping industry would suffer severe economic losses if forced to use smaller ships because of lower lake levels.

This amendment is the product of the concern expressed by Great Lakes officials. In June 1982, officials from each of the eight Great Lakes States and the Provinces of Quebec and Ontario unanimously approved a resolution opposing any diversions of Great Lakes water without regional consent.

Regional cooperation and regional consent is the intent of this amendment. It does not prohibit water diversions. It simply establishes that the jurisdiction over this precious resource remains with the States which hold the water.

I believe it is an important amendment. The Great Lakes are part of the public trust, to be protected and used wisely. I urge my colleagues to support the amendment.

Mr. President, I understand this amendment has been cleared on both sides of the aisle. I believe the managers of the bill will indicate their acceptance.

Mr. ABDNOR. Mr. President, the amendment is acceptable on this side.

Mr. MOYNIHAN. Mr. President, it is a wholly worthy amendment. It is consistent with a provision on the House side. It protects the diversions of waters out of the Great Lakes Basin. I think this is a matter of equity for the region. My State is very much a part of that region. I thank the Senator from Ohio for offering the amendment. It is acceptable on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1677) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HECHT. Mr. President, I ask unanimous consent that the Finance Committee amendment be temporarily laid aside so that I may offer an amendment.

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

AMENDMENT NO. 1678

(Purpose: Proposed Changes to Section 226)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. HECHT] proposes an amendment numbered 1678.

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

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

The amendment is as follows:

On page 29, after SEC. 226(a), add the following new subsection (b), and renumber the subsequent subsection accordingly.

(b) The Secretary shall procure by contract not less than 40 percent of architectural and engineering services required for the design and construction of water resource projects undertaken by the Secretary.

Mr. HECHT. Mr. President, I wish to commend the Committee on Environment and Public Works for its leadership in bringing S. 1567, the Water Resources Development Act of 1986, to the floor of the Senate after a lot of hard work.

This bill has been several years in the making, and the new cost-sharing requirements and harbor and waterway user charges contained in the bill are a responsible way to balance the need to reduce the Federal deficit with the need to improve the Nation's port facilities, generate renewable hydroelectric energy resources, and protect our communities from flooding.

I would now like to offer a brief and simple amendment which I believe will enhance the committee's impressive work on this bill. The thrust of this amendment is to make sure that at least a reasonable portion of the architectural and engineering work this bill makes necessary, by authorizing about 170 water projects, ends up being contracted out to the private sector.

Mr. President, no one in this body has more respect than I do for the professionalism and capabilities of the Army Corps of Engineers. I simply ask my colleagues to remember that the private sector also has remarkable capabilities in the engineering field, and to guarantee the private sector at least a small piece of the water resources pie.

My amendment simply says that the Secretary of the Army shall contract with the private sector for at least 40 percent of the architectural and engineering planning, design, mapping, and surveying work associated with the construction of the water projects authorized by the bill.

There are a number of excellent reasons for supporting this amendment:

The bill authorizes $11.1 billion in new projects. Certainly all this new work will require the Corps of Engineers to increase its activities in a number of ways, including increased staffing. Since the private sector is capable of performing much of this work, it makes sense to create some jobs in the private sector, and not just to increase the Government's payroll.

The private sector's competitive nature should allow the taxpayers to save money by having work contracted out, compared to the cost of Government doing the job itself. My amendment should, therefore, help us to reduce the deficit, by getting the most for the taxpayers' money.

The amendment is consistent with the administration's drive to take commercial and industrial activity that is currently being done inside Government and turn that work over to the private sector, where it can often be done more efficiently and at less expense.

This amendment does not affect work the Corps of Engineers performs for the military. It will therefore not reduce our defense engineering capability in any way. In fact, it may improve our Nation's engineering readiness by encouraging a group of private firms that are familiar with corps contracting procedures, design standards, and specifications. This would enable

the private sector to respond all the faster in case of a national or regional emergency of some sort.

My amendment is modest in approach in that it directs the corps to contract out only a minimum of 40 percent of its architectural and engineering services. Under this amendment the remaining 60 percent could stay inside the Corps of Engineers, if the Secretary of the Army thought that appropriate.

I believe my amendment will be good for the economy, help reduce the deficit and control the size of Government, and be positive for national defense and emergency preparedness.

I urge the Senate to act favorably on this amendment.

Mr. ABDNOR. Mr. President, I understand the Senator from Nevada's amendment. I think the Senator knows that a provision similar to this was included in the House-passed bill. I give him assurance that we will take this under advisement when we go to conference, but because this proposal is controversial, and because section 226 of this very bill, requires a GAO study on a broad range of contracting issues, I hope that he would consider withdrawing his amendment.

Mr. HECHT. Mr. President, I ask unanimous consent that Senators LAXALT and SYMMS be listed as original cosponsors of my amendment.

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

Mr. HECHT. Mr. President, I thank the Senator from South Dakota for his consideration and respectfully withdraw the amendment.

The amendment (No. 1678) was withdrawn.

Mr. ABDNOR. I thank the Senator for his cooperation, and for the reason I stated, I thank the Senator from Nevada for withdrawing it.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the Finance Committee amendment be temporarily laid aside.

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

AMENDMENT NO. 1679

(Purpose: To make technical corrections by updating certain dates in the bill)

Mr. ABDNOR. Mr. President, I send to the desk a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR] proposes an amendment numbered 1670.

On page 2, line 4, delete "1985" and insert "1986".

On page 2, line 14, delete "1986" and insert "1987".

On page 2, line 16, delete "1987" and insert "1988".

On page 2, line 18, delete "1988" and insert "1989".

On page 2, line 20, delete "1989" and insert "1990".

On page 2, line 25, delete "1990" and insert "1991".

On page 7, line 18, delete "1986" and "1990" and insert "1987" and "1991" respectively.

On page 8, line 10, delete "1986" and insert "1987"; and on page 8 line 12 delete "1988" and insert "1989".

On page 8, line 25, delete "1986" and insert "1987"; and on page 9 line 1 delete "1990" and insert "1991".

On page 20, line 8, delete "1986" and "1990" and insert "1987" and "1990" respectively.

On page 28, line 13, delete "1986" and insert "1987"; and on page 28 line 14 delete "1990" and insert "1991".

On page 38, line 1, delete "1986" and insert "1987".

On page 41, line 22, delete "1986" and insert "1987".

On page 42, line 16, delete "1986" and insert "1987"; and on page 42 line 17 delete "1987" and insert "1988"; and on page 42, line 18, delete "1988" and insert "1989".

On page 48, line 13, delete "1986" and insert "1987".

On page 49, line 7, delete "1986" and insert "1987".

On page 49, line 22, delete "1986" and insert "1988".

On page 50, line 4, delete "1989", and insert "1990".

On page 50, line 10, delete "1986" and insert "1987".

On page 52, line 8, delete "1988" and insert "1989".

On page 52, lines 19 and 23, delete "1985" and insert "1986".

On page 56, line 6, delete "1986" and insert "1987".

On page 57, line 6, delete "1986" and insert "1987".

On page 65, line 1, delete "1986" and insert "1987".

On page 65, line 18, delete "1986" and "1989", and insert "1987" and "1991" respectively.

On page 70, line 1, delete "1986" and insert "1987"; and on page 70, line 2, delete "1990" and insert "1991".

On page 70, line 12, delete "1986" and insert "1987"; and on page 70, line 13, delete "1990" and insert "1991".

On page 89, line 4, delete "March 1, 1987" and insert "December 31, 1987".

Mr. ABDNOR. Mr. President, I am sending to the desk a corrected version of the technical amendment to S. 1567 which was printed on page 4326 of the March 11, 1986, CONGRESSIONAL RECORD. This new version is necessary to correct erroneous references to certain lines of page 2 of S. 1567. This simple technical correction is the only difference from the text of the amendment as it was printed in the CONGRESSIONAL RECORD.

Because S. 1567 was reported from the Committee on Environment and Public Works during the last fiscal year, many of the dates in the bill need to be changed. The sole purpose of this amendment is to make those changes.

Mr. President, I believe this amendment to be completely noncontroversial, and I move its adoption.

Mr. MOYNIHAN. Mr. President, as the Senator from South Dakota states, this is a technical correction which is both necessary and entirely agreeable to the committee.

Mr. ABDNOR. I thank the Senator. I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. COCHRAN). Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1679) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

● Mr. MATHIAS. Mr. President, last summer, during a meeting in the Capitol in which I participated, the Senate Republican leadership and the administration came to terms on a cost-sharing formula for water projects. This historic meeting, in my view, was a turning point in our efforts to obtain funds for the long-delayed Baltimore dredging project. Against the backdrop of the Federal deficit, I believe this formula—reflected in the bill before us today—is a fair and equitable solution to the problem.

I commend both the Senate Environment and Public Works Committee and the Senate Appropriations Committee for arriving at a consensus on a difficult and contentious situation. However, I am concerned about one aspect of the bill which gives Maryland the short end of the stick. Under the provisions of the bill, States that have heretofore invested money in land disposal sites can only apply a portion of the costs to the local share of the channel-deepening projects. Using this formula, Maryland, which has far and away the most expensive locally funded spoil disposal site in the Nation, would be short changed. The State would receive, at most, a $24 million credit for its investment of $54 million in Maryland taxpayers money for the acquisition, construction, and development of the Hart-Miller spoil disposal site.

When the Baltimore channel-deepening project was initially authorized 16 years ago, the law required Maryland to pay for its dredge disposal site. The theory behind this policy was that the Federal Government had to absorb the entire cost of the channel deepening project. So, at the time, making Maryland pay for disposal made sense. Since then, Maryland has forked out $54 million for the development of the Hart-Miller disposal site and additionally will have to spend another $5 million for the receipt of the dredge materials when the channel is deepened.

Now the rules of the game have changed. The States are being called upon to bear a major part of the financial burden for dredging projects.

By the same token, the Federal Government should be obligated to pick up most of the tab for spoil disposal sites. That is already happening in many cases. The Federal Government has paid for a number of Army Corps of Engineers dredge disposal sites nearly as large and as expensive as Hart-Miller. Maryland should be treated the same way.

Maryland has been a leader in the effort to dig deeper channels for our ports. As Congress has been grappling with reforms in the water development program, Maryland was one of the first States to step forward and endorse the concept of cost-sharing. It was one of the first States to put money on the table for a spoil disposal site and to set aside funding for its own dredging project. In fact, Maryland has been so eager to move forward with the project that last year, it pared down the cost by one-third—from $330 million to $220 million. Its efforts should be rewarded, not penalized. The House of Representatives has recognized Maryland's unique case by giving Maryland full credit for Hart-Miller. I urge the Senate to support the House version when the conferees meet.

● Mr. STAFFORD. Mr. President, I appreciate the remarks of my colleague from Maryland. As Senator MATHIAS has pointed out, the provisions in the bill dealing with this issue reflect the agreement reached last summer on the overall funding issue for deep draft ports. However, he has made a persuasive case on behalf of providing greater credit to Maryland for its spoil disposal site and I shall weigh his views carefully when the Senate and House meet in conference.

● Mr. SARBANES. Mr. President, I would like to associate myself with the remarks of my colleague, the Senator from Maryland, and to underscore some of the points that he has raised. This is a matter of fairness and equity.

In order to comply with the original 1970 authorization of the Baltimore channel project, Governor Hughes and the Maryland General Assembly committed extensive resources to develop a major dredge material disposal site at Hart-Miller Islands. This site has been completed at a cost of over $53 million—entirely a State expenditure. Maryland understood that this expenditure would be fully reimbursed by the Federal Government in keeping with the authorization and the 100 percent Federal financing policy at that time. Indeed, the Hampton Roads, VA, Wilmington, DE, and Philadelphia, PA, dredge disposal sites were all built entirely at Federal expenses.

To achieve equity with these other ports and to keep the commitment made by the Federal Government when the Baltimore channel project was first authorized, the State of Maryland should be given full credit for funds already spent in the development and operations of the Hart-Miller disposal area. I would urge the Senate conferees on the water resources legislation to agree to the House provisions on this matter and give Maryland full Federal reimbursement for the Hart-Miller site.

● Mr. STAFFORD. Mr. President, I thank my colleague from Maryland for his remarks and shall certainly give this matter careful consideration in conference committee.●

● Mr. MATHIAS. Mr. President, with thanks to the leadership of Senators STAFFORD and ABDNOR, we have before us today a water resources development bill that is responsive to the needs of the public. I support this legislation.

Almost 10 years have passed since Congress last enacted a comprehensive water bill. Critical projects needed to maintain our Nation's ports and protect communities from the ravages of floods have been held up. The delay has been caused for the most part by a dispute over how costs are to be shared between the Federal taxpayer and the local beneficiary. The growing Federal deficit cries out for reforms in this area. The bill before us today addresses that problem.

This bill is a major triumph for Members of Congress who have worked tirelessly over the years to craft a compromise to a complex problem. It is good news for our Nation's infrastructure, for the health of our economy, for our balance of trade and it sends an important signal to our allies overseas that the United States is serious about expanding its coal trade. Most importantly, in my State, it is good news for the long delayed Baltimore channel-deepening project.

My experience with the delays in the Baltimore project in many ways captures the frustrations many of my colleagues have also felt during this long period.

Sixteen years and four Presidents ago, as a freshman Senator, I undertook the challenge of moving Baltimore's 50-foot dredging project off dead center. In 1970, I actively supported a bill—the Rivers and Harbors Act of 1970—which authorized this project. At that time, the project had already been in the works for over a decade. Little did I know then that the issue would still be kicking around today—on the eve of my departure from the Senate. Most projects I have worked on have come and gone. Few have been around as long as this one.

During the 10 years following its authorization, the project encountered legal and regulatory barriers. But we managed to overcome them, and in 1980 the project was ready to begin. Then, we faced another hurdle. We had to find a way to finance it. Under the law, the project was entitled to 100-percent Federal funding. But the rules of the game had changed, and the administration and Congress were exploring new methods to fund channel-deepening projects. The growing deficit required the States to share some of the costs.

The problem was that the concept was relatively new, and no funding formula existed. We spent the better part of the last 5 years working with the administration and the Congress to come up with a reasonable funding formula. Last summer, the Senate Republican leadership and OMB worked out a cost-sharing formula for water projects. New life was breathed into the Baltimore project.

The bill before us, by setting in concrete the cost-sharing formula so carefully crafted last summer, gives us hope that the Baltimore project, first proposed by the Army Corps of Engineers in 1958, will soon become a reality.

The Senate Appropriations Committee has already included start-up money in the 1985 Supplemental Appropriations bill for water projects such as Baltimore's. And the administration has given the green light by including funds in the 1987 budget for this purpose. Maryland has said it is ready to put its share of the cost of the project on the table. And the House of Representatives passed its omnibus water bill last year.

Passage of the Senate omnibus water bill will provide one of the final missing ingredients in this effort. I urge my colleagues to vote in favor of this legislation.●

Mr. CRANSTON. Mr. President, I am pleased to support S. 1567, the Water Resources Development Act, reported by the Environment and Public Works and Finance Committees. This bill includes authorizations for vitally important California projects which have been favorably reviewed by the Corps of Engineers—Cache Creek flood control, Redbank and Fancher Creeks flood control, Santa Ana River flood control, Oakland Outer Harbor improvements, Richmond Harbor improvements, and Sacramento River deepwater ship channel.

The legislation also represents a major reform in the way these corps projects are funded—by requiring non-Federal interests to provide upfront financing and a greater share of the costs of project construction, operation, and maintenance than in the past. These cost sharing and user fee provisions should make projects more cost effective and efficient while providing for the Nation's vital water infrastructure. They have my support.

I am particularly pleased S. 1567 includes authorization of flood control improvements on the Santa Ana River. The area below the existing Prado Dam on the Santa Ana River

faces the most serious flood threat in the Western United States. It needs priority attention. While the corps project is an expensive one, the local sponsors are prepared to meet the cost-sharing requirements embodied in this bill and provide the required up-front financing. The committee bill resolves the controversy over the proposed Mentone Dam feature of the project, by authorizing an alternative if approved by the Chief of Engineers. Also the Orange County Water Agency believes there is an excellent opportunity for water conservation in connection with the project. I thank the Committee for including language as I requested to investigate the feasibility of including water supply and conservation storage at Prado Dam. This provision will add no cost to the bill as the local water agency has agreed to pay the cost of the water conservation studies.

I'm also pleased S. 1567 addresses the critical need for additional flood protection for the Fresno metropolitan area by authorizing the Redbank and Fancher Creeks project. I've long been an advocate of this corps flood control project and sponsored separate legislation in both the 96th and 97th Congresses to authorize its construction. As with the Santa Ana River project, the local sponsor is prepared to meet the cost-sharing requirements for the Redbank and Fancher Creeks project. I am aware of the concerns that property owners in Fresno County have about the Big Dry Creek portion of the project. They have questioned the need for enlargement of the existing dam on Big Dry Creek and expressed concern about adverse impacts on nearby citrus orchards. I asked the corps to look into these matters and have been assured that the corps will not overbuild the project. I intend to continue to follow the project to be sure this is the case.

Re the Oakland Outer Harbor project contained in S. 1567, the construction requires that certain modifications be made to ensure the safety of the Bay Area Rapid Transit [BART] subway tube. The tube could be damaged by the actual dredging and construction of the Outer Harbor project and by subsequent navigation after completion of the project. The corps general design memorandum estimates that $4.9 million in modifications must be undertaken. I note that the House bill provides that the safety modifications imposed on BART because of the Oakland project be undertaken at Federal expense. The language will ensure that contruction of this important project not be delayed as a result of a dispute between BART and the port over who is responsible for the work on the BART tube. I urge the managers of the bill to give careful consideration to the need for this language when the bill goes to conference with the House.

While I support the Senate committee's decision to include only projects which have been approved by the Chief of Engineers, there are projects included in the companion House measure which do not meet this criteria but are critical to California's well-being. I'd like to bring several of them to the attention of the floor managers in the event there is some modification of the Senate position in conference.

First, H.R. 6 addresses the critical need to dredge and expand the Los Angeles-Long Beach harbors. This port complex now has wharfside depths to accommodate world class vessels, but lacks adequate entry channels. The project authorized in the House bill represents phase 1 of a comprehensive master plan for the two ports, known as the 2020 plan. Although a Chief of Engineers report has not yet been issued on the project, its importance to California is clear. It will generate 800,000 new jobs a year, $4 billion increase in annual customs receipts, and $7.7 billion in annual tax revenues. While the Federal authorization is $230 million, the two ports will contribute at least $600 million and are ready to spend $230 million to start phase 1 of the project this year.

The House bill also contains a provision modifying the authorized San Lorenzo River flood control project in Santa Cruz County, CA. The project was constructed by the corps following the 1957 floods and was intended to provide 100-year flood protection. It involved construction of river levees and dredging of the river to approximately 7 feet below sea level. The corps estimated at that time that only a minimal amount of annual dredging would be required to maintain the new riverbed. Unfortunately, nature did not cooperate and the riverbed quickly refilled to its original level. The corps is now restudying the project and information indicates that the flood control system must be modified to provide adequate flood protection. Both the city of Santa Cruz and the corps agree that the existing river levee system will not work even if the riverbed were redredged to 7 feet below sea level. The House bill authorizes $3.5 million for the needed project modifications.

The city of Redondo Beach, CA, is also in need of additional flood protection. Last month storm waves again swept unabated over the 14-foot breakwater in Redondo Beach causing $300,000 in damages to both public and private property. In the last 24 years, the existing breakwater has been inadequate on seven occasions. I know that King Harbor, Redondo Beach, is frequently referred to as a major regional recreational facility. But it also is a commercial complex of significance to the local economy. Businesses associated with the harbor employ over 2,000 people and generate $67.5 million in gross receipts annually. They rely upon the existing corps breakwater for protection and their long-term continuation is dependent upon improvements to the breakwater. Over the past 3 years, the corps has been studying the need to raise the breakwater to 22 feet. The House bill includes language to authorize the corps to raise the breakwater to a height of 22 feet.

H.R. 6 also includes authorization for the Sonoma County wastewater reclamation project. Residents of Sonoma County, CA, face a wastewater storage crisis. Last year due to several factors including inadequate wastewater holding capacity, over 750 gallons sewage effluent were discharged into the Russian River potentially threatening the health of area residents who rely on the river for their water supply. The language in the House bill would allow the corps to develop the most cost-effective and environmentally sound approach to addressing the country's long-term wastewater storage needs. Given the seriousness of the situation, I hope that the floor managers will help provide appropriate assistance on this matter.

Finally, although it is not included in the bill, I want to comment on the need for a corps study of the flood problem in Imperial County, CA. I've written to the chairman of the committee about this situation and much appreciate the fact that he is pursuing the matter with the corps. With the chairman's assurance that he will help through the adoption of a committee resolution to authorize the corps to undertake the Imperial County flood control study, I will not offer an amendment to this bill to authorize the study.

Mr. STAFFORD. I thank the senior Senator from California for his support of S. 1567 and for his comments. I shall keep his concerns in mind when we go to conference and see if we can help there. Also I am aware of the Senator's interest in an Imperial County flood control study and have asked the Corps of Engineers to comment on the request. I appreciate the Senator's not offering an amendment to this bill and assure him that I shall help through a committee resolution.

Mr. STENNIS. Mr. President, I do not have an amendment. If someone else has an amendment he wishes to present now, I shall be glad to yield. I want to express a few words of appreciation to these gentleman who have worked 9 years to my certain knowledge and have finally been able to bring us this bill.

Mr. President, I especially want to thank them and I feel I can speak in a

measure for every Member of this body for the long years and years of patience and hard work, with problem after problem for their consideration, carrying the added load of work required to work out a method of local contribution and they extended their efforts and problems over into the Finance Committee. They are certain to be included in these words of appreciation and thanks.

This is the first major subcommittee that I had the privilege of serving on when coming to the Senate. I got an early chance to find out more about our country, more particularly to see the development process that has been going for almost 150 years. So it was filling out and filling up and strengthening our great Nation here in a fiscal way and all that goes with it.

This is hard work that these Members have done. They have carried on and been repulsed by developments and votes against them and all the problems that go with financing; as I said, we owe them a debt of gratitude.

I want to call the chairman by name, the Senator from Vermont [Mr. STAFFORD]. I remember the day he got here as a member and how he immediately went to work. He has been at it ever since.

We also thank Senator BENTSEN of Texas, the ranking minority member, for his resourcefulness and his untiring patience; the Senator from New York [Mr. MOYNIHAN] who is carrying a big part of the load here.

I remember talking especially to our fine friend from South Dakota [Mr. ABDNOR], the chairman now of this subcommittee, this active, intelligent, and important subcommittee and the diligence with which they worked.

They had to go through all the processes of our changeover to the system under the Budget Committee, and all the ups and downs that we went through with that. We are indebted to them, the people throughout the Nation, and their home States and every State, and will appreciate what they have done.

I do not know of anything or any group I have been associated with that I feel better about than the fine work these gentlemen have done in such a special way.

My colleague from Mississippi [Mr. COCHRAN] is in the chair at this moment. We talked about these matters many time and I am going to talk with him about each of us making a statement of appreciation here together.

The effort that has gone into preparing these projects should not be lost. Again I strongly urge that a water authorization bill be given national priority and signed into law.

In the decade that has passed since enactment of the last water authorization bill, an enormous toll in flood damage, human misery, and loss of economic growth has been exacted from the people and the economy. I don't say this to lay blame on anyone. The difficulty in reaching this point of agreement cannot be overstated. It is more in the vein of giving credit to those who have worked to bring this legislation to this point that I urge my colleagues to act and restore order and discipline to the water development and flood control responsibilities of this Government.

I am aware of the policy differences which have held this legislation back. Those differences still exist, but we must resolve these differences and make progress toward doing work that has been delayed too long.

I don't fully agree with the cost sharing provisions of this legislation. I am deeply concerned about whether or not we are placing too great of a burden on the towns and counties in my State and other States that are plagued with flooding problems.

As I understand this legislation, in flood control projects, local sponsors must raise the money to pay the full costs of all lands, easements, rights of way, and relocations regardless of the percentage this contribution is of the total project costs plus at least 5 percent of the total project costs for a cash payment to the Federal Government. And, should the costs of the lands, easements, rights of way, and relocations be less than 20 percent to the total project costs, local authorities have to come up with the cash difference to pay the Federal Government during the period of construction. If the local people cannot raise that much cash to pay during the construction period, they can elect to take up to 30 years to pay with interest. However, if the long-term payment plan is elected, they must pay a minimum of 35 percent, in cash and lands. Easements, rights of way, and relocations.

Mr. President, if my understanding is correct on this matter of cost sharing for flood control projects, I believe this new policy may be placing more of a tax burden on local authorities than they could practically bear. I say this because many areas are having an extremely difficult time in meeting obligations toward schools, roads, and other public needs. For all practical purposes, this new policy means that needed flood control projects will not be constructed; and, the economic problems of many areas will only worsen because of periodic flooding. Considering the great cost of flooding in human misery and property damage; the great costs in terms of emergency assistance programs; I urge my colleagues to consider adjustments in this policy which will make flood control projects less burdensome.

I am willing to move forward in the spirit of compromise to determine the will of this body. However, it is my hope that we can arrive at practical and fair polices for the Federal Government in this important area of water resources mangement. I hope that we can arrive at a cost-sharing policy that can be applied to projects of the Corps of Engineers, the Bureau of Reclamation, the Soil Conservation Service, and other water agencies, like the Tennessee Valley Authority. The burden of water resource management should be fairly shared by our citizens, in all areas of the country. Either here on this floor or in conference every effort should be made to make these new cost-sharing policies fair and equitable and above all practical in terms of costs so that progress continues to be made in this important area of Federal responsibility.

I know how he feels about it.

I do mention here one other thing, the burden that is carried by the coal contributions. I do not object to that to some degree, but I do point with some care and caution to the places where that is going to put a burden on the people who may not be able to meet it or to pay it. Let us carry that forward as a continuing problem and perhaps make modifications of it.

So without taking further time of the body and with special appreciation to those who have worked on it, staff members, members of the Corps of Engineers, and others who have put this over, I say again a great warm thank you very much. With that sentiment, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. PRESSLER). The Senator from New York.

Mr. MOYNIHAN. Mr. President, there is not a Member of this body who is more loved and respected and honored than the senior Senator from Mississippi. As one of those who has been involved with this measure, I express my appreciation to him. I agree fully with the remark he made when he was a member of the Water Resources Subcommittee years ago. He said that one gains a special sense of admiration for the Nation from overseeing the magnificent transportation, and water systems of the country. The Senator from Mississippi has contributed to the planning and amelioration of these transportation and water systems for almost 2 centuries.

It was in the case of Gibbon against Ogden in 1824, which involved the operation of a steamboat on the Hudson River, a river which is shared by New Jersey on one shore and New York on the other, that Justice Marshall gave the meaning to the commerce clause of the Constitution and that gave Congress plenary power over navigable rivers and harbors, as they were called. That was the beginning of the great canal systems and the Corps of

Engineers, which, I might note, was first located in Brooklyn, NY—West Point being an engineering college.

The corps began clearing the snags on the Ohio and Mississippi Rivers, and by 1850, the United States had more tonnage on its inland waterways than the entire British merchant fleet. It was water transportation that developed this country until the railroads came along. It is this commerce that has enabled that development, and we are here to say, "Why have we stopped doing it just when we learned how to do it so well?"

So we thank the Senator.

Mr. ABDNOR. Mr. President, before we leave this subject, I would just like to say that I will never forget what a thrill it was for me to first meet the Senator I used to read about so much. Having the opportunity to work with him personally has been a real honor and a real pleasure. I can tell you, Mr. President, in the 5-plus years that I have had the pleasure of serving as chairman of this subcommittee I almost felt as if Senator STENNIS has been one of its members. He is always concerned about the progress we were making. The great concern he has for water development in this Nation is not only a great benefit to his State of Mississippi but it is a benefit to the whole country. I for one have always appreciated his thoughts, advice, and counsel as we have gone along.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Mississippi for his comments about the Senator from Texas. Senator STENNIS is one of the great patriots of this country. He is an American first and a Mississippian second. There is no one more diligent in pursuing the best interests of his State. He is premier at it. We are all impressed and love the Senator from Mississippi. We are delighted to have been able to work out the problems with this project on Pearl River.

AMENDMENT NO. 1680

(Purpose: To deauthorize the Dickey-Lincoln School project, Saint John River, Maine)

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

Mr. COHEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment.

The bill clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 1680:

On page 65, between lines 5 and 6, insert the following new section.

SEC. 337. The Dickey-Lincoln School project, Saint John River, Maine, as authorized by section 204 of the Flood Control Act of 1965, is hereby deauthorized.

Mr. COHEN. Mr. President, the amendment I am offering would very clearly terminate the authorization for the Dickey-Lincoln hydroelectric project on the St. John River in northern Maine. If it is retained and approved in the final version of the legislation, it is going to bring to a close a public debate which began over 20 years ago during the Presidency of John F. Kennedy.

I think every Member who is sitting on this floor today has heard the words Dickey-Lincoln mentioned probably more than they would care to recall. It has been said that Dickey-Lincoln debate has generated more heated argument and less electricity than any other water project ever debated on the floors of both the House and Senate.

But I have no intention of occupying the Senate's valuable time in giving a long history of the sorry story about Dickey-Lincoln. What I would like to do is offer a little bit of perspective as to what occurred with this particular water project.

It was remarkably informative for the people of Maine. Everyone had an opportunity to partake in a full and, I believe, fair debate and all viewpoints were ably represented. We learned a great deal from this process.

My involvement during the past 13 years on this one water project has left me with a number of related and important impressions. I would like to share just a few of them this afternoon.

First, even though the debate has been protracted and often trying, on balance it has been very useful for us. To a considerable extent Dickey-Lincoln actually served as a catalyst for a much-needed examination of the entire energy policy within the State of Maine, not to mention the Nation itself. It did not settle the question of what is best for the State of Maine, but to this day I think it continues to contribute in very important ways to the ongoing debate. We in Maine also come to better understand how very difficult it is to reach a public consensus when required to balance competing energy and economic and environmental considerations and the inevitable subjective judgments involved in this effort. This has been a very valuable and enduring lesson as we went about trying to plan our own State's energy future.

During the course of the debate on Dickey-Lincoln, we have been reminded over the years that the energy and budget realities of the sixties, the decade that gave birth to the dream of Dickey-Lincoln, bear little resemblance to those of today. As such, we are no longer able to sustain or validate many of the underlying assumptions that served to justify the Dickey-Lincoln project when it initially was conceived and authorized.

Much of the same rationale holds true for hundreds of other federally sponsored and supported water resource projects.

There have been some other valuable lessons. We have learned, for example, that a series of landmark environmental laws enacted after Dickey-Lincoln was authorized in 1965 have served us well as evaluative tools of public policy and, perhaps more than any other single factor, they helped focus the Dickey-Lincoln debate and illuminate the available options, measure the costs and benefits of the project and importantly, I think, provided an accessible public forum for everyone to be heard on this question. I think these significant benefits have to be acknowledged and applauded, and I want to take just a few minutes to do that this afternoon.

On a less positive note, I have also come to appreciate all too often why it is that our Federal water resources development program has ground to a halt and why passage of the reforms embodied in S. 1567 are so important. Like a lot of my colleagues, I have learned that too often when Congress debates a federally sponsored public works project, there is an irreversible lure of generous Federal subsidies, cheap power, or expanded employment opportunities, and that triumphs over economic reason, valid environmental concerns and, at times, simple common sense. Once you have momentum that starts to build for a project, no matter how valid the reasons for opposing it, those reasons often seem to fall on deaf ears. Fortunately, I would say in this case Dickey-Lincoln appears to be a notable exception to the general rule.

Mr. President, our Nation's water resources development program has produced a great many benefits over the years, and I would point with a similar amount of pride to the senior Senator from Mississippi as being a leader in producing many of these benefits.

At other times, the Nation's taxpayers have not fared so well as scarce budget resources have been misspent on projects of dubious merit.

Allow me to state what I believe has been obvious for some time: We must rethink and reform past practices in the water resources development program or risk further policy gridlock in this critically important area. Without the needed reforms that will be put in place by enactment of S. 1567, our Nation will continue to suffer from an absence of a responsible, cost-effective and farsighted water resources policy. Past practices are neither acceptable nor affordable. The times have

changed and so must our Nation's water resources policies.

As we close the book on Dickey-Lincoln, there remains the pivotal question of what the future holds for the St. John River. Will private developers move in once Dickey-Lincoln is deauthorized, in effect frustrating the wishes of those who remain steadfastly opposed to any dam on the river? Should Congress take steps to forever protect the river from any hydroelectric development? Is there an energy development option for the St. John that makes sense and that a clear majority of Maine citizens can comfortably and responsibly support? Will energy and economic developments that we cannot now foresee or predict argue persuasively for development on the St. John River at some point in the future?

In pondering these questions, we return, I suspect, to the point I made earlier about the exceedingly difficult tradeoffs involved in most development versus preservation decisions. And while there are no guarantees that matters will be easier next time we are asked to make a choice about the fate of the St. John River, I do believe that the Dickey-Lincoln experience has better prepared us for this eventuality. Therein may lie the most valuable of all of Dickey-Lincoln's legacies.

I urge adoption of the amendment and passage of the reforms incorporated in S. 1567.

Mr. MITCHELL. Mr. President, in 1981 Congress directed the Army Corps of Engineers to study the economic and financial feasibility of constructing a hydroelectric project at the Lincoln School Dam site on the St. John River. The corps completed its study in April 1984.

Under the standards by which the corps conducts its analyses, economic feasibility is determined by weighing the proposed project's anticipated benefits against its anticipated costs over a 100-year period. These benefits and costs include, but are not limited to, those derived from the power to be generated by the project.

Financial feasibility, by contrast, is determined through a repayment analysis. In order for a project to be financially feasible, the Government's total investment for the generation and distribution of power must be recovered, plus interest at 9½ percent, within 50 years; the repayment must come from the sale of power generated by the project. As can be seen, the scope of evaluation in determining financial feasibility is more limited—both in the subject to be considered and in the period of time involved—than it is with economic feasibility.

In its report the corps concluded that the proposed Lincoln School project is economically feasible as a source of electricity that would intermittently displace the operation of existing oil-fired generators, though the availability of hydropower from Quebec reduces this feasibility substantially. But the corps also concluded that the project is not financially feasible.

The corps' report raises two questions for me: The first is whether, in view of the corps' conclusion that the project is not financially feasible, I should continue to support its construction.

The answer to that question must be no. Especially at this time of large Federal budget deficits, when restraint in Federal spending is necessary, I cannot in good conscience support further spending on a project which is not financially feasible under existing Federal standards.

When the Lincoln School study was initiated, I said that further action on my part with respect to hydropower development of the St. John would depend on the conclusions of the Corps of Engineers. When I said that I was fully aware that construction of Lincoln School Dam might depend on whether or not the power generated could be marketed at rates sufficient to recover the investment and operating costs in compliance with Federal law and regulations.

The corps has determined that Lincoln School's power can not be marketed at a price sufficient to recover the project's costs, plus interest, within the required 50-year period. I will respect that determination.

The corps' report raises a second and related question: If further Federal expenditures to advance the project are unwarranted, how and when should the project be deauthorized?

Federal law contains a procedure for deauthorizing such projects, since a finding that a project is not economically or financially feasible is not uncommon. Under that procedure the Secretary of the Army is required to submit to Congress each year a list of inactive water projects which the Secretary determines should be deauthorized; prior to going on the Secretary's list a project must have gone 8 years without receiving any congressional appropriations. A project on the Secretary's list is automatically deauthorized in 90 calendar days of continuous session of Congress unless the appropriate House or Senate committees adopt a resolution stating that a project shall continue to be an authorized project.

I am familiar with this procedure because I serve on the Senate Environment and Public Works Committee. This procedure has been used by that committee to deauthorize 476 projects since the statute was enacted, including 60 projects since 1980, when I became a Member of the Senate.

The authors of the statute creating this procedure recognized that: First feasibility studies are only as good as the economic assumptions on which they are based, and second deauthorization should not occur until the Congress is certain that there is no longer justification to reexamine those assumptions and the conclusions which result from them.

In other words, when Congress passed the statute, it sought to preclude deauthorizations based upon snapshot evaluations, which reflect important economic facts—like the price of oil—only at a specific point in time. In lieu of such snapshots Congress established an 8 year holding period during which economic trends should be discerned. If such trends confirm the snapshot, the inactive project is routinely deauthorized. If there are important changes in those trends during the 8-year period, a further review may be in order.

The price of oil is an important factor in this and similar evaluations. Its volatility in recent years is strong evidence in support of the congressional deauthorization process. Over the past 17 years, that price has fluctuated from a low of $3 per barrel to a high of $37. While we hope that the current price of $15 will remain stable, or even decline, we obviously cannot rule out the possibility of an increase. Further turmoil in the Persian Gulf, resulting from the continuing war between Iran and Iraq or from internal conflict in Saudia Arabia or any of the Gulf oil states, is a daily possibility. Were that to occur, the price of oil could again skyrocket overnight.

Utilization of the existing procedure for deauthorizing Lincoln School is wise for another reason. During the 8-year holding period the St. John River would be protected from private development.

The St. John is a public asset. It belongs to all the people. While a hydroelectric generation facility should not be constructed by the Government as long as such construction is not feasible under Federal standards for publicly funded projects, as soon as the project is deauthorized it will be possible for a private developer to seek a license to reserve a portion of the river for an alternative development scheme.

It would be ironic if, after nearly 20 years of public effort, a private organization, using information obtained by the Government and paid for by the taxpayers, is granted the right to develop the St. John. Such private development is possible because under the Public utilities Regulatory Policy Act of 1978 electricity generated by a private hydropower project must be purchased by utility companies at a price equal to the most expensive equivalent amount of electricity otherwise available to the utility. The purpose of the act is obviously to encourage nonuti-

lity alternative energy development and to discourage the use of expensive imported oil by utilities.

In addition, the Federal Power Act gives the power of eminent domain to licensed private developers of hydro projects. The effect, in the case of the St. John River, may be a private power project instead of a Federal project.

Those who are pressing for immediate deauthorization of the project say they do so to protect the St. John River from development. But they may well contribute to precisely the opposite result.

In view of the corps' report, there is likely to be little support currently for the Lincoln School project in the New England congressional delegation. And of course the other three members of the Maine delegation are committed to its immediate deauthorization.

For the reasons I have given, I believe that to be an unnecessary and unwise course of action. If private developers move on the St. John, those who now talk of protecting it will regret immediate deauthorization.

Had the corps' report been favorable and I therefore were able to justify continued support for construction of the project itself, I would be prepared to commit myself to that effort. But the report is not favorable; I cannot in good conscience continue my support for construction of the project; and I do not believe that the question of how and when deauthorization occurs is so important as to justify a prolonged and divisive fight within our delegation. Therefore, should the other members of the delegation persist in seeking immediate deauthorization, I will not oppose it.

I have discussed this matter with Governor Brennan and in the event of immediate deauthorization have asked him to join with me in considering all options available under State and Federal law to protect the St. John River.

I make one final point with regard to the Dickey-Lincoln project. Opponents of the project have raised the potential of adverse environmental risks. Yet, other sources of energy result in far more serious environmental consequences.

The only currently feasible alternatives to hydroelectric power are oil, coal, and nuclear power. Each have associated monetary and environmental costs.

Dickey-Lincoln would provide power without consuming a barrel of imported oil, without spewing pollutants into our air, and without creating radioactive wastes.

Dickey-Lincoln would not increase our dependence on high-cost imported fuel. It would not contribute to acid rain. It would not result in the gouging and tunneling of mines in scenic hillsides throughout our Nation. It would not contribute to the now all-too-real possibility of storing radioactive wastes near our own neighborhoods.

The citizens of Maine are acutely aware of the awesome burden of disposing of high-level nuclear waste because Maine is one of the States under consideration as a host for the second, or crystalline rock repository called for under the Nuclear Waste Policy Act of 1982.

The country's operating commercial reactors generate about 2,000 metric tons of uranium [MTU] annually. According to the DOE, through 1984, spend fuel assembles containing more than 10,000 MTU had been removed from reactors and placed in adjacent deep water storage pools. The inventory of commercial spent fuel is expected to reach 50,000 MTU by the year 2000.

Defense high-level waste, which includes material that results from the reprocessing of specially designed and irradiated fuel to obtain nuclear weapons, occupies a volume almost seven times more than the accumulated volume of commercial spent fuel.

For 30 years, this country ignored the problem of nuclear waste disposal. But ignoring the problem cannot make the waste disappear. Tons of spent fuel still exist in pools at every commercial reactor. Hundreds of thousands of cubic meters of defense waste remain at three DOE facilities across the country. The processing, transportation and disposal of high-level nuclear waste will remain a costly and dangerous legacy of nuclear power generation for the next 10,000 years.

Our Government is still struggling to shape a national energy policy which is consistent with the needs of our people and our economy, and with environmental values. I understand and share these concerns with the people of Maine.

Our State is energy dependent and environmentally vulnerable. We face crucial decisions which will affect Maine for decades. As we make those decisions we must do so by reviewing all alternatives and their associated risks. In that context, hydropower becomes an attractive choice.

Mr. ABDNOR. Mr. President, I thank my colleague from Maine for his comments on the water bill. Everything he has said has much merit.

With regard to his amendment, I understand that there has been a long controversy in his home State, and it is his desire to see that the project be deauthorized and taken off the books. I certainly have no objection.

Mr. MOYNIHAN. Mr. President, we thank our colleague from Maine for his remarks. We are aware that this has long been a controversy in the State of Maine. If it is the desire of the Senators from Maine to see this project deauthorized, then we on this side of the aisle certainly have no objections, and Senator MITCHELL has said exactly so.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1680) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, in 1970, Congress authorized the Kindred Lake Reservoir Project to control recurrent flooding along the Sheyenne River which also impacts the adjacent Red River of the North, Wild Rice River, and Maple River. the Kindred Lake project proved unacceptable, and the corps now recommends the Sheyenne River Flood Control project as an alternative. The corps' recommended plan consists of three major components for Federal implementation: First 13.1 miles of levee and 4.0 mile diversion channel from Horace to West Fargo; second, 7.6 miles of flood diversion channel from Horace to West Fargo; and third, a 5-foot raise of the Baldhill Dam flood control pool.

The current benefit-cost ratio is 7.6 to 1 at 8⅝ percent. The total Federal cost for these three components is estimated at $41 million, with the non-Federal costs at $21.7 million.

Mr. ANDREWS. It is my understanding that the local sponsor will be required to provide lands, easements, and right-of-way, presently estimated at $10.6 million, modify or relocate buildings, utilities, roads, and other facilities, except railroad bridges, where necessary in the construction of the project, presently estimated at $9.04 million. In addition, S. 1567 also requires a 5-percent cash contribution of $2.05 million. The total non-Federal share is $21.7 million.

According to the fiscal year 1987 corps budget justification, the current Federal cost estimate of $19.3 million is a decrease of $6.9 million over the lastest estimate—$26.2 million—presented to Congress. This change includes a decrease of $7.35 million based on the Administration's and S. 1567 current Federal and non-Federal cost-sharing policy, partially offset by an increase due to higher price levels, $450,000.

Mr. BURDICK. According to the corps, the General Design Memorandum is scheduled for completion in October, 1986. Preconstruction planning is scheduled to be completed in September, 1987.

Unfortunately, Sheyenne Valley residents suffered $104 million in flood damages during 1975 and 1979. As a result, the Ransom County Water Management District constructed a

local project called Dead Colt with $600,000 attributable in flood benefits to reduce recurrent damage.

Both Senator Andrews and myself are concerned about the high cost of the non-Federal share for these three components. It is our understanding that the House bill contains a provision capping local traditional costs at 30 percent with the 5-percent cash contribution requirement. If this provision would be enacted into law, the non-Federal sponsor would save several million dollars. Have the floor managers reviewed this provision or other methods of reducing local costs?

Mr. STAFFORD. As chairman, I share your concern about the inability of a local sponsor to afford necessary flood control projects. I would like to point out that under S. 1567, the corps can determine an economic hardship case and administratively reduce the local sponsor's share. In addition, the corps can take local completed improvements into consideration in the future.

Mr. BURDICK. Even though it would be in North Dakota's interest for us to offer the House provision as a floor amendment, we will refrain from offering the amendment. We recognize that an understanding exists between the Senate leadership and the Reagan White House on major policy issues. However, we would appreciate it very much if the Senate conferees would consider the House provision, and for the corps to administratively consider a lower cost share on Sheyenne.

Mr. STAFFORD. I can assure the Senator that the conferees will review all of the House provisions. I appreciate the courtesy of the two Senators from North Dakota on not offering a floor amendment. Clearly, the conferees would like to keep all points open for negotiations with the House. I would like to add, however, that on the basis of the information shared with me, the corps will be able to consider administratively whether a lower non-Federal cost share might be appropriate for the Sheyenne River project.

AMENDMENT NO. 1681

(Purpose: To amend section 606(a) to clarify the ability of non-Federal interests to issue bonds to retire debt incurred in participation in a project)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Louisiana [Mr. LONG] proposes an amendment numbered 1681:

On page 90, line 2, at the end of line 2, substitute a comma for the period and add: "or for the purpose of retiring debt of the non-Federal sponsor to the extent incurred for such purpose, including payment of principal and interest on obligations issued by the non-Federal sponsor for such purpose to the extent issued for such purpose."

The PRESIDING OFFICER. Will the Senator withhold? The Finance Committee amendment is pending, and it needs to be set aside.

Mr. PACKWOOD. Is this an amendment to the Finance Committee section?

Mr. LONG. Yes.

Mr. PACKWOOD. That is what I thought.

Mr. LONG. Mr. President, this is a clarifying amendment.

Under the amendment as proposed, any appropriate non-Federal sponsor such as a port authority is authorized to impose user fees to recover its costs, provided that such fees are established at the public hearing, and provided such fees reflect, to a reasonable degree, the benefits provided by the project to a particular class or type of vessel.

The act provides that such fees may only be used for the purpose of paying the non-Federal share of the construction costs plus any incremental maintenance work.

The concern of some of the port authorities—and particularly the Port of New Orleans—is that it might not be clear under the act that this would permit them to retire the bonds they have issued to pay for their share of a project.

This amendment simply clarifies that the non-Federal share of a project's costs includes the costs of retiring the debt of a non-Federal sponsor incurred to pay for such costs. Thus, in the common case in which a port authority issues tax-exempt bonds to pay for such authorized expenses, this amendment clarifies the intent of the act that such fees may be used to retire such bonds—to the extent such bonds are used for such authorized expenses—including both principal and interest. This is the intention of the legislation. This amendment simply clarifies that intent in the statutory language.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Finance Committee amendment be temporarily set aside,

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

Mr. PACKWOOD. Mr. President, this is not an amendment to the Finance Committee section, as I read it. I have no objection to it. I think it is appropriate to the bill. I do not know if the manager of this section has any comment on it or not.

Mr. STAFFORD. Mr. President, I believe this is an amendment to a part of the bill that is in the jurisdiction of the Committee on Environment and Public Works. Speaking for myself, I have examined the amendment, and it is acceptable to us.

Mr. MOYNIHAN. Mr. President, there is no objection on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1681) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1682

Mr. BOREN. Mr. President, I have an amendment which I wish to send to the desk, which I think has already been discussed by all the managers of the bill. It has to do with the hydroelectric generating facilities to the W.D. Mayo Lock and Dam to be constructed by the Cherokee Nation.

Mr. President, I ask unanimous consent that the pending amendment be set aside in order to consider the amendment I send to the desk.

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

The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself and Mr. NICKLES, proposes an amendment numbered 1682.

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

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

The amendment is as follows:

(Amendment). On page 65, after line 5, insert the following and number appropriately:

"Sec. . (a) Notwithstanding any other provision of law, the Cherokee Nation of Oklahoma is authorized to design and construct hydroelectric generating facilities at the W.D. Mayo Lock and Dam on the Arkansas River in Oklahoma, as described in the report of the Chief of Engineers dated December 23, 1981: *Provided*, That, the agreement described in subsection (d) of this section is executed by all parties described in subsection (b) of this section.

"(b) Conditioned upon the parties agreeing to mutually acceptable terms and conditions, the Secretary and the Secretary of Energy, acting through the Southwestern Power Administration, may enter into a binding agreement with the Cherokee Nation of Oklahoma under which the Cherokee Nation of Oklahoma agrees—

"(1) to design and initiate construction of the generating facilities referred to in subsection (a) of this section within three years after the date of such agreement,

"(2) to reimburse the Secretary for his costs in—

"(A) approving such design and inspecting such construction, and

"(B) providing any assistance authorized under subsection (c)(2) of this section, and

"(3) to release and indemnify the United States from any claims, causes of action, or liabilities which may arise from such design or construction.

Such agreement shall also specify:

"(1) the procedures and requirements for approval and acceptance of such design and construction are set forth,

"(2) the rights, responsibilities, and liabilities of each party to the agreement are set forth, and

"(3) the amount of the payments under subsection (f) of this section, and the procedures under which such payments are to be made, are set forth.

"(c)(1) No Federal funds may be expended for the design construction of the generating facilities referred to in subsection (a) of this section prior to the date on which such facilities are accepted by the Secretary under subsection (d) of this section.

"(2) Notwithstanding any other provision of law, the Secretary is authorized to provide, on a reimbursable basis, any assistance requested by the Cherokee Nation of Oklahoma in connection with the design or construction of the generating facilities referred to in subsection (a) of this section.

"(d) Notwithstanding any other provision of law, upon completion of the construction of the generating facilities referred to in subsection (a) of this section, and final approval of such facilities by the Secretary—

"(1) the Cherokee Nation of Oklahoma shall transfer title to such facilities to the United States, and

"(2) the Secretary shall—

"(A) accept the transfer of title to such generating facilities on behalf of the United States, and

"(B) operate and maintain such facilities.

"(e) Pursuant to any agreement under subsection (b) of this section, the Southwestern Power Administration shall market the excess power produced by the generating facilities referred to in subsection (a) of this section in accordance with section 5 of the Act of December 22, 1944 (58 Stat. 890; 16 U.S.C. 825s).

"(f) Notwithstanding any other provision of law, the Secretary of Energy, acting through the Southwestern Power Administration, is authorized to pay to the Cherokee Nation of Oklahoma, in accordance with the terms of the agreement entered into under subsection (b) of this section, out of the revenues from the sale of power produced by the generating facilities of the interconnected systems of reservoirs operated by the Secretary and marketed by the Southwestern Power Administration—

"(1) all costs incurred by the Cherokee Nation of Oklahoma in the design and construction of the generating facilities referred to in subsection (a) of this section, including the capital investment in such facilities and interest on such capital investment, and

"(2) for a period not to exceed 50 years, a reasonable annual royalty for the design and construction of the generating facilities referred to in subsection (a) of this section.

"(g) Notwithstanding any other provision of law, the Secretary of Energy, acting through the Southwestern Power Administration, is authorized—

"(1) to construct such transmission facilities as necessary to market the power produced at the generating facilities referred to in subsection (a) of this section with funds contributed by non-Federal sources, and

"(2) to repay those funds, including interest and any administative expenses, directly from the revenues from the sale of power produced by the generating facilities of the interconnected systems of reservoirs operated by the Secretary and marketed by the Southwestern Power Administration.

"(h) There are authorized to be appropriated to the Secretary for the fiscal year in which title to the generating facilities is transferred and accepted under subsection (d) of this section, and for each succeeding fiscal year, such sums as may be necessary to operate and maintain such facilities."

(Amendment). On page 119, strike lines 5 through 8, and renumber following paragraphs appropriately.

Mr. BOREN. Mr. President, this amendment would authorize the Cherokee Nation to design and construct the addition of hydroelectric grenerating facilities to the W.D. Mayo lock and dam near Sallisaw, OK. Currently, in S. 1567 the Corps of Engineers are authorized to construct this facility. With this amendment the financing, engineering design, and actual construction of the addition will be accomplished by the Cherokee Nation of Oklahoma.

I might mention that this will result in a saving to the taxpayers in the range of $15 million to $30 million, depending on the final cost of the project.

The design and construction will be approved and inspected by the U.S. Army Corps of Engineers. At the completion of construction, the Corps of Engineeers will own, operate, and maintain the facilities.

Under this legislation, the Southwestern Power Administration will market the power produced at the facilities in accordance with section 5 of the 1944 Flood Control Act. The Southwestern Power Administration will be authorized to repay the Cherokee Nation the costs incurred for design and construction only after completion of the facilities and revenues can be realized from the sale of power.

The Cherokee Nation is striving to broaden their business base in a depressed geographical area and in what can only be described as a depressed regional economy. For these reasons the development of hydroelectric power on the Arkansas River makes sense as a tribal development.

The Nation is prepared to bring 100 percent of the financing to the table to facilitate developing these facilities at the Mayo lock and dam. It is their intent to keep within the administration's water project financing and cost-sharing policies.

Given the existing situation on the Arkansas River, with the corps' ownership and operation of all the locks, dams, and hydroelectric generation facilities within a reasonable distance up and down the river from W.D. Mayo, it appears that the public interest would best be served by the corps' operation of the hydroelectric facility at the Mayo site. This would result in the most efficient management and operation of this water resource, as well as maximum compatibility with the existing system. Also, utilizing the existing infrastructure would negate the need to hire and train additional personnel, or construct new powerlines.

As has been stated, it is the Cherokee Nation's intent to provide the financing and development of the project in return for a reasonable royalty. This project will provide, in the near term, much needed jobs in northeastern Oklahoma. Most importantly though, the income stream from this project will enhance the possibility of tribal independence from Federal subsidy programs. I applaud the efforts of the Cherokee Nation to expand their capabilities and I ask my colleagues to join with me in support of their efforts.

Mr. NICKLES. Mr. President, on October 1 of last year I joined with my Oklahoma colleague, Senator DAVID BOREN, in introducing legislation which would authorize the Cherokee Nation to finance, design, and construct hydroelectric generating facilities at W.D. Mayo Lock and Dam No. 14 near Sallisaw, OK. Today, after making necessary modifications, we are offering that legislation as an amendment to the measure before us today, S. 1567, the Water Resources Development Act of 1985.

This plant will add needed low-cost power to the Southwest Federal Power System in the shortest possible timeframe. This system would be constructed through financing provided by the Cherokee Nation in cooperative with the U.S. Army Corps of Engineers, who would own, operate, and maintain the facility.

The marketing of the power would be performed by the Southwest Power Administration, in accordance with section 5 of the 1944 Flood Control Act. The Southwest Power Administration would be authorized to reimburse the Cherokee Nation for the project costs along with a reasonable annual royalty.

This approach to the operational and marketing aspects of the project in cooperation with the existing Federal infrastructure, could result in an estimated taxpayer savings of between $15 and $30 million.

This project is indicative of the efforts on the part of the Cherokee Nation to attain self-sufficiency. This amendment we offer today is highly worthy of the Senate's support. I urge my colleagues support.

Mr. ABDNOR. I thank the Senator for this amendment. I think he should be commended for his work on behalf of the Cherokee Nation of Oklahoma.

The amendment allows the Cherokee Nation to develop the site and turn it over to the Federal Government for operation. Some of the revenue that would accrue from the sale of the power would be used to pay the Cherokee Nation back for the cost of construction.

I think it offers a reasonable alternative to Federal development of hydropower at the Mayo lock and dam.

We have looked this over carefully before we ever came on the floor. We think it is a good amendment, and this side certainly will agree to its inclusion.

Mr. MOYNIHAN. Mr. President, we find this a wholly acceptable amendment and congratulate the Senator from Oklahoma for bringing it forward. There is no cost involved.

Mr. BOREN. I thank my colleagues on both sides of the aisle for their kind remarks.

I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1682) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1683

(Purpose: To establish the jurisdiction of United States district courts over the imposition, computation, or collection of certain fees by non-Federal sponsors)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 1683.

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

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

The amendment is as follows:

On page 90, after line 24, add the following:

(c) The United States district court for the district in which is located a non-Federal sponsor that imposes fees subject to this section shall have original and exclusive jurisdiction over any matter arising out of, or concerning, the imposition, computation, or collection of such fees by a non-Federal sponsor under this section and, upon petition of the Attorney General or any party subject to such fees imposed by the non-Federal sponsor—

(1) may grant appropriate injunctive relief to restrain any act by that non-Federal sponsor that violates the conditions in this section;

(2) shall order that refunds be paid to the extent it is found that fees were collected in violation of this section; and

(3) may grant such other relief or remedy as may be appropriate.

Before the start of construction of a project subject to section 602 or 604, the non-Federal sponsor shall notify the Secretary that it consents to the jurisdiction of the district court as set forth in this subsection.

Mr. DANFORTH. Mr. President, the amendment that was just sent to the desk is a simple and I hope noncontroversial amendment.

Section 606 of the legislation before us provides non-Federal sponsors of commercial channel or harbor construction with the authority to recover their costs by the collection of user fees on commercial vessels using such projects.

Such fees by the terms of the legislation "shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel."

The amendment I have proposed would do two things:

It would establish the jurisdiction of the U.S. district courts over the imposition, computation, or collection of such fees, and it would permit the courts to order refunds of any fees that are unlawfully collected.

In such cases through the use of the legal doctrine of sovereign immunity, States have refused to refund tax payments even after the tax at issue has been declared unconstitutional, limiting taxpayers to prospective relief.

Where a State is a non-Federal sponsor of a harbor construction project, Congress should not sanction the State's retaining dredging fees which are found after full judicial review to have been unlawfully collected.

Yet unless a technical amendment such as this is adopted, such an unintended result could occur.

Similar language is contained in subsection 109(c) of H.R. 6, and I believe this provision is acceptable to the managers.

Mr. PACKWOOD. Mr. President, my good friend from Missouri was very kind to withhold this amendment during the committee because it was offered and we had not had a chance to look at it. I asked him to withhold it until we got on the floor. He did.

We had a chance to look at it. The amendment is a good amendment and acceptable.

Mr. LONG. Mr. President, while I support the amendment, I also hope that an effort will be made to resolve and address in conference a concern that has been raised by public port authorities and bond counsel about the amendment.

For nearly 200 years, the Federal Government has funded the development and maintenance of channel navigation projects deemed necessary to meet the Nation's trade and security requirements. S. 1567 would change the policy through the establishment of an historic and unprecedented cost-share regime for new Corps of Engineers construction projects. The new policy would shift part of the project funding burden onto the non-Federal sponsor. For Federal navigation projects, the bill would require the local non-Federal sponsor to commit, during the period of construction, 10 percent of total project costs for projects 20 feet deep or less, 25 percent for projects deeper than 20 feet to 45 feet, or 50 percent for projects deeper than 45 feet. In addition, the non-Federal sponsor would be required to pay 10 percent of the total project costs over a period not to exceed 30 years.

The authority granted by section 606 to assess local channel fees is intended to provide a mechanism by which local project sponsors are able to finance their new cost-share requirements. In fact, considering the current austerity in State fiscal programs which will likely limit or eliminate State funding or financing options, and the historical fact that public ports are not profit centers with significant retained earnings to cover up-front project costs, the authority provided in section 606 will likely prove to be a critical factor enabling most ports to meet their cost-share obligations under this legislation. The mechanism utilized by public port authorities (or other non-Federal sponsors) will be to issue revenue bonds which will be retired by the revenue generated by the local channel fees.

The amendment proposed by the Senator from Missouri would provide some assurance to users of the channels that they would have the right to contest the legality of the channel fee and to be awarded appropriate remedies including refunds. The public port industry does not contest the appropriateness of the concern that led to this amendment or the reasonableness of the amendment itself.

The amendment does, however, bring into focus some important procedural questions that are of concern to the public port industry. These questions revolve around the potential for litigation brought by users of the channel challenging the legality of the local user fees under the standards established by this legislation. S. 1567 does not prescribe any Federal statute of limitations on the rights of affected parties to sue.

Public port authorities are concerned that the discretionary authority granted them under section 606 could be frustrated by the uncertain prospects of lengthy legal challenges to that authority unless there is a Federal statute of limitations. There is precedent. For example, the time available for appeal of rulings by Federal and State regulatory agencies are limited. Without such a limiting period, no guarantees can be made that local fees will cover debt obligations issued to finance the local share.

According to bond counsel consulted at a number of public port authorities, revenue bonds could not be issued until the relevant statute of limitations on suits challenging the legality of the channel fees had expired. Such uncertain and lengthy delays could, in turn, delay or jeopardize the ability of the public port authority to issue revenue bonds and, consequently, postpone the initiation of the project or cause the project to be withdrawn entirely.

Mr. President, port authorities and bond counsel have informed me that their only interest is in providing some reasonable limitation on challenges to a port's comprehensive user-fee scheme in order to facilitate the issuance of bonds for authorized port development. It is not their intent to foreclose the right of individual vessel operators or owners to challenge the way in which a comprehensive user-fee schedule is applied as to a specific user.

I believe that this is a serious, if somewhat technical, problem that should be addressed in conference. It is my understanding that the affected industry groups have and continue to be engaged in a cooperative effort to achieve a mutually satisfactory resolution of this issue. I would encourage those groups to continue their efforts, and provide the results of their efforts to the appropriate Members of Congress and their staff.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1683) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

Mr. PACKWOOD. Just a moment.

I suggest the absence of a quorum for just a second.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. 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. PACKWOOD. Mr. President, I ask unanimous consent to temporarily lay aside the Finance Committee amendment.

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

AMENDMENT NO. 1684

(Purpose: To authorize construction of a flood control project at Clifton, Arizona)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. DECONCINI, proposes an amendment numbered 1684.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following new section, and number accordingly:

"SEC. —. (a) Secretary of the Army, acting through the Chief of Engineers, shall—

(1) construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) a project for flood control on the San Francisco River at Clifton, Arizona, for the purpose of protecting residential and commercial properties on the east side of the river downstream of the State Highway 666 Bridge, for an estimated total cost of $3,500,000: *Provided,* That such work shall be considered to complete all studies and proposals of the Secretary for such area."

Mr. BENTSEN. Mr. President, I submit this amendment on behalf of Senator DECONCINI of Arizona, it is an amendment that has been discussed with the managers.

Mr. President, I understand that this amendment has been discussed with the managers of the bill for the majority and for the minority, and they have no objections to it.

The amendment directs the Corps of Engineers to scale down the study at Clifton, AZ, to enable the corps to do a small levee project that is within its existing authority for small projects.

Mr. MOYNIHAN. Mr. President, may I confirm what the distinguished Senator from Texas has said. This is basically an effort to see whether a smaller project would not achieve the purposes of a presently authorized larger project.

It is a coherent proposal and fully acceptable on this side of the aisle.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. ABDNOR. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1684) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

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

AMENDMENT NO. 1685

(Purpose: To require that benefits to Indian tribes be considered for purposes of cost-benefit analysis of certain projects)

Mr. BENTSEN. Mr. President, on behalf of the Senator from Arizona, Senator DECONCINI, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. DECONCINI, proposes an amendment numbered 1685.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following and number accordingly:

SEC. 337. For purposes of future studies undertaken pursuant to Section 223 of this Act, the Secretary is authorized to consider benefits which may accrue to Indian tribes as a result of a project resulting from such a study."

Mr. DECONCINI. I thank the chairman, ranking minority, and their staffs for all of their understanding and assistance in helping to provide a solution to the damaging flood potential in Clifton, AZ. The amendment which I have sponsored will authorize the Secretary of the Army to undertake flood control work in the southern portion of Clifton through the construction of a 2,500-foot levee. The Corps of Engineers has been studying flood control solutions for this community since it was hit by one of the severest floods in its history on October 1, 1983. At that time, floodflows reached depths of more than 9 feet and left behind piles of debris up to 6 feet high. Emergency costs and damages totaled nearly $20 million. Because of a shortage of emergency housing, people were living in seriously overcrowded conditions, up to 40 per house, even a month later. Coupled with the flood was a long and bitter labor dispute between Phelps Dodge Corp. and the steelworkers union. Hundreds lost their jobs and the community was torn apart if not literally, then economically and psychologically.

Since that time, Mr. President, residents of this small community of 4,000 have patiently waited for relief and help from the Federal Government. The Army Corps of Engineers, through the Los Angeles district, has laboriously studied flood control solutions. We have come to the conclusion that the majority of the flood control for this town can be provided by the construction of a 2,500-foot levee. While relocation is still necessary, recognizing budgetary constraints, we are willing to forego the nonstructural ele-

ments of the project calling for relocation at this time. If the levee is built, it will give the town protection from a 100-year flood. It will ease the minds of Clifton residents who worry that a potential flood could occur this spring if Mother Nature brings another heavy rainfall. It will not allow those individuals, living in a floodprone area, to relocate to safer harbors. For that reason, I hesitate to offer this amendment. But because of the compelling need to install immediate flood control measures, I have become persuaded that this is the best solution for now.

Mr. President, the amendment I am proposing today specifically authorizes the Corps of Engineers to proceed on the construction of a levee as the flood control solution for the Clifton, AZ area. It can be accomplished under the small project authority of section 205. For this reason, it will add no budgetary authority to the bill.

Again, I thank Chairman STAFFORD, Chairman ABDNOR, and ranking minority members for their help on this amendment. I also want to thank Hal Brayman for patiently working with my staff on this issue.

Mr. President, I urge my colleagues to support his amendment.

Mr. BENTSEN. Mr. President, this is another amendment by the Senator from Arizona that I understand has been discussed with the managers for the majority and with the managers for the minority.

The amendment is to evaluate Indian needs for water projects in future water studies.

I consider it an appropriate amendment that meets the standards of this piece of legislation. I ask that it be considered favorably at this time.

Mr. MOYNIHAN. Mr. President, this is a wholly commendable proposal by the Senator from Arizona. It directs the Corps of Engineers to evaluate Indian needs, which has not always sufficiently been the case, and it is very much the view of this committee, of which the Senator from Texas is a ranking minority member, that the corps should so do.

The measure is fully acceptable on this side.

Mr. ABDNOR. Mr. President, we have had the amendment under review, and we think it is an excellent amendment and have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1685) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily.

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

AMENDMENT NO. 1686

(Purpose: To amend TITLE V to provide that the replacement cost of the navigation lock connecting the Mississippi River Gulf Outlet and the Mississippi River authorized by PL 84-455 be allocated between deep draft and shallow draft (inland water) navigation)

Mr. BENTSEN. Mr. President, I have an amendment on behalf of Senator JOHNSTON of Louisiana, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] for Mr. JOHNSTON proposes an amendment numbered 1686.

Mr. BENTSEN. 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:

A new section 505 to be added to TITLE V—INLAND NAVIGATION to read as follows:

"SEC. 505. The navigation lock authorized by the River and Harbor Act of 1956, PL 84-455, provides for replacement of the navigation lock connecting the Mississippi River Gulf Outlet with the Mississippi River. Inasmuch as this new lock will provide substantial benefits to shallow draft navigation (inland waterway), the costs should be allocated between deep draft and shallow draft navigation, and the Secretary is authorized to utilize the Inland Waterways Trust Fund to pay for one-half of the costs allocated to shallow draft navigation with the remaining half of such allocated costs to be paid only from amounts appropriated out of the general fund of the Treasury."

On page 150, line 22, after "502" delete "and" and insert a comma after 504(e) and add "and 505".

Mr. JOHNSTON. Mr. President, this amendment would amend title V of this legislation to provide that the replacement cost of the navigation lock connecting the Mississippi River gulf outlet and the Mississippi River authorized by Public Law 84-455 be allocated between deep draft and shallow draft navigation.

The existing industrial canal lock passes barge traffic between the Mississippi River and the Gulf Intracoastal Waterway at New Orleans and is a vital link in the National Intercoastal Water System. This lock also represents the only cross route between the Mississippi River and the Mississippi River gulf outlet, New Orleans' ultimate ship channel to the Gulf of Mexico. The existing lock, in operation since 1923, is antiquated and dimensionally inadequate for both shallow draft and deep draft navigation as a result of continually increasing barge traffic and larger oceangoing vessels now in service.

Even though the lock is a ship/barge lock, recent statistics indicate that approximately 98 percent of the tonnage passing through the lock is conveyed via barge. Further, it is most important to recognize that 80 percent of the traffic using the lock neither originates nor terminates in the State of Louisiana. This is truly America's lock—as one recent chief of the U.S. Army Corps of Engineers stated, it is the second most important lock in our Nation's vital inland waterway system. With the completion of the replacement lock, we could expect 75 percent of the forecasted traffic to be barge and 25 percent to be oceangoing vessels in foreign commerce trade.

This amendment allows cost sharing in relationship to the allocation of costs as to shallow-draft or deep-draft benefits.

The American waterway operators [AWO], who represent the barge and towboat owners industry, are not opposed to this amendment.

The National Wildlife Federation supports this amendment.

Mr. ABDNOR. Mr. President, this amendment is perfectly agreeable to this side.

Mr. MOYNIHAN. Mr. President, the amendment is one that is wholly agreeable to this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1686) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, what are the plans of the distinguished majority leader for the rest of the day?

Mr. DOLE. If the distinguished minority leader will yield, it is my hope that we can continue on this bill. There are a number of Senators who have amendments, as I understand it; I know Senator GORTON, Senator STEVENS, and Senator KASTEN on this side.

I have not been on the floor. I do not know how many amendments there are. It is my understanding that the managers are making progress and we would like to go as far as we can.

Mr. STAFFORD. If the leader will yield, I have one more amendment that I believe is noncontroversial that I would offer for Senator ARMSTRONG.

Mr. DOLE. Mr. President, I am not a part of the process here, except I just came to the floor. I checked with the manager on this side and he thought they were making good progress and felt it would be good to continue until they reached a point that they could

not do any more. If they come to that, then I assume we will have to set it aside.

Mr. BENTSEN. Mr. Leader, if you are looking for other amendments, I will be offering one more amendment for Senator JOHNSTON that I understand is noncontroversial.

Mr. MOYNIHAN. And we also have a number of noncontroversial amendments.

Mr. DOLE. It seems to me that if the managers reviewed the amendments and are willing to accept the amendments, that is progress and we ought to continue, if we can.

Mr. BYRD. Mr. President, a good many Members have probably left for the weekend. I guess that some of them were under the impression that there would not be much done on this bill this afternoon and there would not be much done on it Monday, as far as any rollcall votes were concerned.

I believe that we may have about reached a point where we will not be able to go any further today. I do not want to stand in the way of the distinguished Senator from Texas from offering his amendment or the distinguished chairman of the committee. But I have to say that, for a number of reasons, which are pretty well known here on the floor, I do not think we ought to plan on going much further today.

Mr. PACKWOOD. Mr. President, may I ask the distinguished minority leader a question? Would he object to the acceptance of a few amendments from the Finance Committee section agreed to on both sides? We are ready to offer them. They are relatively short.

Mr. BYRD. Would the Senator say that again, please?

Mr. PACKWOOD. There are two amendments, one from the Senator from Washington, Mr. GORTON, and one from the Senator from Alaska, Mr. STEVENS, on the Finance Committee section of the bill that had been agreed upon. I would like to be able to have them accepted this afternoon to get them out of the way.

Mr. BYRD. Well, I certainly will not stand in the way of those two amendments. I would suggest that we not do any rollcall votes, because, as I say, some Senators have already gone on the strength of the understanding that there would be no more rollcall votes.

So that would be one by Mr. BENTSEN and two from——

Mr. PACKWOOD. From Senators GORTON and STEVENS.

Mr. BYRD. And one by the distinguished chairman.

Mr. MOYNIHAN. And Senator SYMMS has an amendment.

Mr. KASTEN. If the minority leader will yield, I, too, have an amendment. It would not require a rollcall vote. It would simply involve a colloquy worked out by both the majority and the minority.

Mr. BYRD. Mr. President, may I ask the distinguished majority leader if we could agree that those amendments would be all for the day?

Mr. ABDNOR. If the leader will yield, I have four other colloquys I would like to put into the RECORD.

Mr. BYRD. I have no objection to that. I am not trying to create trouble, but I want to have some discussions, perhaps outside the Chamber. So I would relent on those that have been indicated and I hope that indicates that I am a reasonable man.

Mr. DOLE. It seems to me that anybody who is in town who stayed here to offer their amendment ought to have that opportunity. We certainly will have a rollcall, because I believe that I did indicate that probably after 3 o'clock there would not be any more rollcalls. I would not want to penalize anyone. If we got to that point, obviously, we would need to put the vote over.

I understand also that is another concern of the Senator from West Virginia, and I am trying to cooperate in that area, too.

But I hope Senators who have stayed here all day are not going to be precluded now from offering their amendments if they are going to be accepted. If there are going to be rollcalls, obviously, we would have to put them off until a later time. I hope we can accommodate some of the concerns the Senator from West Virginia has.

Mr. BYRD. Mr. President, I appreciate that. I hope that the distinguished majority leader will do whatever he can to accommodate those concerns, and I believe he will.

I have no objection to the amendments that have been indicated here. I hope that once we reach the end of those amendments, however, that someone would put in a quorum and send for me.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

AMENDMENT NO. 1687

(Purpose: To amend S. 1567, to add a new provision increasing the single project ceilings for certain of the Secretary's continuing authorities without increasing the overall program ceilings)

Mr. BENTSEN. Mr. President, on behalf of Senator JOHNSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], on behalf of Mr. JOHNSTON, proposes an amendment numbered 1687.

Mr. BENTSEN. 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 reads as follows:

On page 35, after line 16, add the following:

"SEC. 238. (a) Section 208 of the Flood Control Act of 1954 (68 Stat. 1266; 33 U.S.C. 701g) as amended, is hereby amended by striking out "$250,000" and inserting in lieu thereof $500,000".

(b) Section 14 of the Act of July 24, 1946 (60 stat. 653; 33 U.S.C. 701r), as amended, is hereby amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

(c) Section 205 of the Flood Control Act of 1948 (62 Stat. 1182; 33 U.S.C. 701s), as amended, is amended by striking out "$4,000,000" and inserting in lieu thereof "$4,500,000".

(d) Subsection 107(b) of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 577), as amended, is amended by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000".

(e) Section 3 of the Act approved August 13, 1946 (60 Stat. 1056; 33 U.S.C. 426g), as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000."

Mr. JOHNSTON. Mr. President, I have an amendment to S. 1567, which I believe has been cleared by the leadership of the Environment and Public Works Committee, which I would like to offer at this time.

This amendment is to increase the project cost ceilings for certain continuing authorities of the Corps of Engineers. This amendment would not increase the existing ceilings on the overall program nationwide, which would remain unchanged. It raises the single project cost of several continuing authorities which have remained unchanged for a considerable time. This proposal is justified by normal cost increases and other effects since the Congress last authorized increased cost limitations. This same proposal was contained in S. 534, the administration's proposed Water Resources Development Act, introduced by the committee chairman, Senator STAFFORD, on February 27, 1985. Furthermore, the applicability of the National Environmental Policy Act and other environmental statutes are not affected by this amendment.

Mr. BENTSEN. Mr. President, this amendment has been discussed with the managers of the bill and I understand it is acceptable to them.

Mr. ABDNOR. Mr. President, the amendment is most acceptable to this side of the aisle.

Mr. MOYNIHAN. Mr. President, the measure is acceptable on this side of the aisle, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1687) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. STAFFORD. I do not have the floor, but, if I am recognized as chairman of the committee, I will.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. Mr. President, I must say for the record that a good many Members on my side of the aisle have gone and they went under the understanding or at least the impression that the distinguished majority leader had said this morning that this measure would—I may be misstating the majority leader, because I do not have the statement in front of me—but there seemed to be an indication that this measure would not even be called up today and it would be on Monday.

Now, those Members have amendments, I would assume, some of them. I can tell you right now that some of the Members on my side are very upset because this bill has already got to the floor.

I was just told—I did not hear the majority leader, what he said this morning, but I want to state for the record that if that was the understanding, if that was what was said, then I hope that we will not go any further today or that we certainly make it clear that those Members will have an opportunity to offer their amendments on Monday or Tuesday, or whenever.

I am told that it is all right with respect to those amendments that rollcalls will not occur on. Thus far, that has not happened.

The distinguished majority leader has said that there would not be any rollcalls, and we would proceed with amendments that could be acted upon by voice vote. Thus far, that is what has happened.

Mr. DOLE. Will the minority leader yield?

Mr. BYRD. I yield to the distinguished majority leader.

Mr. DOLE. Let me also indicate, again, I have not been an active player but, as I understand it, the Senator from New Mexico, Senator DECONCINI, had a couple of amendments that have been resolved. I think it has been evenhanded on both sides. There has been no effort to do otherwise. I do not want to preclude anyone, if someone did leave with that impression.

But I must say I tried to make it clear as early as Monday or Tuesday that we would be here Friday, and then I was advised earlier that the distinguished manager on the Democratic side, Senator MOYNIHAN, had a commitment on Monday that precluded very much action on this bill.

So it is our hope that as long as we can proceed with amendments that do not require rollcalls, we would accommodate as many on either side as we could. I think the manager has been remarkably successful in working out nearly every case.

Mr. MOYNIHAN. We are not having any problems.

Mr. BYRD. Very well.

I am glad we clarified this for the record.

Mr. KASTEN addressed the Chair.

Mr. MOYNIHAN. Mr. President, may we have order?

Mr. KASTEN. Mr. President, have I been recognized?

Mr. STAFFORD. Mr. President, as chairman of the committee, I was seeking recognition.

The PRESIDING OFFICER. The Senator from Vermont.

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

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

AMENDMENT NO. 1688

(Purpose: To modify a project for flood control on the Platte River, Colorado)

Mr. STAFFORD. Mr. President, I send an amendment to the desk, on behalf of Senator ARMSTRONG of Colorado, which is unprinted and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for Mr. ARMSTRONG, proposes an amendment numbered 1688.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 337. Section 88(c) of the Water Resources Development Act of 1874 is amended by—

(1) inserting after "encroachments" the following: "(other than the Mineral Avenue/Ken Caryl Road extension and associated transmission lines)"; and

(2) inserting "significantly" after "areas which would".

Mr. STAFFORD. Mr. President, I am offering this amendment on behalf of Senator ARMSTRONG. I believe it has been considered by the managers of the bill.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Vermont.

Mr. STAFFORD. I believe this amendment has been considered by the managers on both sides of the aisle.

This amendment allows the city of Littleton to extend Mineral Avenue/Ken Caryl Road between South Santa Fe Drive and Platte Canyon Road. This roadway would provide the only continuous east-west street across Denver metropolitan area south of Hampden Avenue and relieve serious congested traffic problems currently existing on Bowler Avenue. The roadway will cross a 640-acre floodplain park that Littleton purchased with the aid of Federal funds primarily from the U.S. Army Corps of Engineers. It has broadbase support of local government jurisdictions in Colorado and it does not require the expenditure of any State or Federal moneys. It will be constructed with local funds.

It has been approved by the Corps of Engineers, and the city of Littleton as the necessary amendment.

I trust that the managers of the bill will adopt it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STAFFORD. 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. STAFFORD. Mr. President, I ask unanimous consent that the pending amendment may be temporarily laid aside.

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

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. I thank the Chair.

Mr. President, I ask unanimous consent that the Finance Committee amendment be temporarily laid aside.

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

AMENDMENT NO. 1689

(Purpose: To modify the project for Racine Harbor, Wisconsin)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] proposes an amendment numbered 1689.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following new section:

SEC. 337. The project for Racine Harbor, Wisconsin, authorized by section 2 of the

Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 19), is hereby modified as described in Racine County Federal permit application number 85-196-02. The Secretary of the Army, acting through the Chief of Engineers, is authorized to dredge the modified harbor area at an estimated cost of $3,000,000, if all appropriate non-Federal interests agree to operate, maintain, repair, rehabilitate, and replace the modified project, including the breakwaters previously constructed by the Federal Government.

Mr. KASTEN. Mr. President, this amendment is targeted at improving economic conditions in the city of Racine.

The city of Racine is located on the shores of Lake Michigan and like many other Midwestern cities is experiencing high unemployment and a declining economic base. Efforts to revitalize Racine are centered around the development of a harbor marina complex.

Unemployment in this distressed city stands at 8.3 percent and economic growth has been at a standstill for the past several years. In addition, many residents and businesses in Racine are employed by the American Motors Co. AMC operations in southeastern Wisconsin are antiquated and the company is considering relocating their automobile plant to another State. This move would displace approximately 7,000 to 16,000 individuals and devastate southeastern Wisconsin.

The harbor project represents progress and hope for Racine. City and county officials and private industry have pledged resources and personnel in order to make this idea a reality. The State of Wisconsin has also approved funding for this undertaking.

The Racine Harbor, once an active commercial port, now lies dormant. Past efforts to revitalize the area have been unsuccessful.

Mr. President, the city of Racine and Racine County are very close to making this project a reality. Approximately 400 new permanent jobs and thousands of construction jobs for the area are at stake. Additionally, the downtown area will experience revitalization and utilize an area of the city that has unlimited potential.

The amendment I am proposing today is designed to help the city improve the conditions of their harbor. Recent studies indicate that the harbor is in need of dredging in order to make the channel area viable for recreational boaters.

The dredging of the harbor is an essential element to the overall construction of this project. Approximately 400 boat slips are planned and many spinoff projects are anticipated. The harbor area has not been dredged for several years and lacks the appropriate depth to sustain any type of recreational activity planned. Without dredging, the future of the project remains in doubt.

Under my amendment, the U.S. Army Corps of Engineers would dredge the harbor and then relinquish any responsibility for the waterway to the city and county. This arrangement would be a wise, long-term investment and it would set the Racine area on the road to economic prosperity.

Mr. President, my request for $3 million to dredge the Racine harbor would be a one-time Federal investment with great potential for far greater economic returns. I urge my colleagues to join me in support of this cost-effective measure and to make the Racine project a reality.

The PRESIDING OFFICE. Is there objection to the amendment?

Mr. MOYNIHAN. Mr. President, very reluctantly, I would have to oppose consideration of amendment at this time. It is a matter that I think needs to be reviewed over the next several days before we resume consideration of the bill Tuesday. If I can ask the distinguished Senator from Wisconsin if he would have the goodness to let us lay this aside rather than objecting to it, as I do not want——

Mr. KASTEN. If the Senator from New York will yield, I believe I have tried to work with the staff of the committee.

Mr. MOYNIHAN. I will defer to my chairman.

Mr. ABDNOR. I thank the Senators from Wisconsin and New York.

We did have an arrangement worked out. I was talking here when I should have been listening. I apologize. I want to say that I appreciate the tireless efforts of the Senator from Wisconsin to make the Racine Harbor project a possibility. I know because we have visited for quite some time. I certainly realize what he is trying to do, and how important the project is to the economy of the Racine area. It goes without saying that I can understand the Senator's interest in facilitating that revitalization.

While I support the Senator's goal, the Senator from New York knows that I would oppose this amendment because it violates the terms of the agreement we reached with the administration on new water projects. Specifically, we are obliged to reject any new water projects prior to approval by the Chief of the Army Corps of Engineers. I am sorry.

Mr. MOYHIHAN. Mr. President, may I say that this was exactly my understanding. And I very much admire the work of the Senator from Wisconsin.

I do not doubt in the least that it will work its way through the Corps process. The purposes are very harmonious with the general development of harbors these days. But as we are laying down a standard in this bill about projects that have not gone through that process, I, of course, support my chairman in this regard.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I can appreciate the restraints which the chairman and ranking member express here. But I want to reemphasize, if I can, the importance of getting this project approved and getting this project underway.

Mr. ABDNOR. Let me again say to the Senator from Wisconsin that he is doing a yeoman job of trying to correct this problem. We wish we could be more cooperative through the regular authorizing channels. But perhaps we can work out something whereby the local interests could proceed with the project on their own terms without the assistance of the Federal Government.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Is the Senator suggesting we deauthorize the Federal project?

Mr. ABDNOR. Yes. If that would allow local officials to move forward with the dredging of the harbor canal, and get the project off the ground.

Mr. KASTEN. Mr. President, with all due respect to the Senator from South Dakota, I have one goal and that is to get the project going one way or the other. If we cannot get the dredging money authorized here and now, I would like to make sure that we have some kind of flexibility to move the project along.

While I prefer the Racine harbor project authorization agreed to by the House in H.R. 6, I think it is important that the Senate bill provide some kind of recognition of the Racine project. If the deauthorization is the only alternative that we have for this project in the Senate today, I will withdraw my original amendment and submit instead a deauthorization amendment. But I respectfully ask the Senator from South Dakota and the Senator from New York to give favorable consideration to the House authorization of the Racine project in the conference.

Mr. ABDNOR. Mr. President, I want to say to the Senator from Wisconsin, speaking for myself, that I will certainly review the Racine project carefully during the conference, and I thank the Senator for his cooperation in this matter.

Mr. MOYNIHAN. Mr. President, I am not so sure I understand the proposal before us. I could not at this point agree to a deauthorization without consulting with the senior Senator from Wisconsin [Mr. PROXMIRE].

Mr. KASTEN. If the Senator will yield, I would say to the Senator from New York that this is a project on

which we have coordinated. It is a project that the State delegation has been working toward.

Mr. President, I ask unanimous consent that my original amendment be withdrawn.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

AMENDMENT NO. 1690

Mr. KASTEN. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Finance Committee amendment will be temporarily set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] proposes an amendment numbered 1690.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following new section:

SEC. 337. The project for improvements at Racine Harbor, Wisconsin, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (59 Stat. 19), as amended, is hereby deauthorized.

The Secretary shall transfer without consideration to Racine County, Wisconsin, title to any facilities constructed by the United States (as part of the project described above).

Mr. KASTEN. Mr. President, the amendment I am now proposing would simply deauthorize the Federal dredging project at Racine Harbor. In effect, this would relinquish any future responsibility of the Federal Government for this project, including future maintenance responsibilities and it would enable local interests to pursue the dredging of the harbor. I urge adoption of this amendment and ask for its immediate consideration.

Mr. MOYNIHAN. Mr. President, with great respect to my friend from Wisconsin, I would have to say that we do not know the views of the senior Senator, his colleagues and friend. Absent that, and, as the minority leader said, so many Senators being absent, certainly we will be back on this measure on Tuesday and I wonder if the distinguished Senator from Wisconsin would be willing to lay the amendment aside and call it up again.

If I could ask the Chair, an amendment laid aside can be called up at any time prior to the completion of action?

The PRESIDING OFFICER. Amendments that are laid aside return automatically in the order in which they are laid aside.

Mr. MOYNIHAN. I thank the Chair. That is my understanding.

So, depending on whether there is another such amendment this afternoon, the amendment of the Senator from Wisconsin will be first or second on Tuesday.

Mr. KASTEN. Mr. President, it is my understanding that this amendment would be acceptable to the senior Senator from Wisconsin, but until we can verify that for the Senator from New York, I ask unanimous consent that my amendment be laid aside.

The PRESIDING OFFICER. Is there objection? Without objection it is laid aside.

Mr. MOYNIHAN. I thank the Senator for his courtesy and consideration of his colleagues.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

LITTLE ROCK PORT PROBLEM

Mr. PRYOR. Mr. President, during the past several weeks the city of Little Rock has been experiencing, what I would term, a serious breach of faith with the Federal Government through the actions taken by the Army Corps of Engineers. Last November the voters of Little Rock adopted a local tax to support a portion of the local sponsor share of a $7 million slack water harbor development project on the Arkansas River. This development was spearheaded by the work of the Little Rock District of the Army Corps of Engineers under the continuing authority of section 107 of the Rivers and Harbors Act of 1960.

Mr. President, as you know, this authority allows the corps to spend up to $2 million on small harbor projects. In the case of Little Rock the local sponsor was and is committed to spend $5 million on a project that will greatly enhance the utilization of the McClellan-Kerr navigation system. This is exactly the kind of Federal-local partnership in economic development that President Reagan has spoken so eloquently of so often.

Unfortunately, after all of the close coordination that took place between the Little Rock District of the Corps of Engineers and officials of the city of Little Rock in developing the project, the Army has now advised us that the policy on section 107 and other harbor developments changed in 1984, and was expressed in a series of letters regarding harbor projects in Memphis, TN; Greenville, MS; and Helena, AR.

Mr. President, I can only say I am sorry that the Secretary of the Army did not advise its southwest division and its Little Rock district of this change. We could have avoided a lot of heartbreak. We could have avoided putting the Federal Government into this untenable position.

This project is most definitely a transportation project of national interest and concern. We have spent over $1 billion developing the McClellan-Kerr Navigation system on the Arkansas River for the sole purpose of enhancing and attracting the development of commercial navigation industries. If this port does not contribute to that effort in a direct and forthright manner, I simply do not know of any such section 107 project that does. Is it the Secretary's intention to eliminate the 107 program without asking for congressional approval? If that is his desire, I recommend that he submit draft legislation to the Senate Environment and Public Works Committee.

Mr. President, this port in Little Rock is not the only development in my State that has been directly affected by this turn of events with the policy. We also have another section 107 project on the Mississippi River in Desha County, AR, at a location known as Yellow Bend. Local sponsors have already spent our $100,000 pursuing a 107 harbor project, for which the Vicksburg District Engineer has provided a project report to his superiors recommending funding. He, also, apparently did not know of the Secretary's change of policy. We must help the Secretary to do whatever is necessary to ensure that the full faith and credit of the Federal Government is protected.

Mr. President, I hope that the chairman of this committee will help us get the proper guidance to the Army by specifically looking into this situation and providing appropriate directives to the Army.

Mr. President, at this time I yield to my distinguished senior colleague from Arkansas, Senator BUMPERS.

Mr. BUMPERS. Mr. President, first I want to thank the distinguished floor manager from North Dakota for his cooperation in trying to get a sensible colloquy into the RECORD on a subject of vital economic importance to the State of Arkansas and vital importance to the enhancement of the Arkansas River, commonly known as the McClellan-Kerr navigation system.

I will be very brief, but I want to say that this problem concerns section 107 funds for small continuing navigation projects. There is money in the account. It is not a question of whether or not the Federal Government has the money.

In 1979, the city of Little Rock, in its effort to build a slack water harbor which it desperately needed, asked the people of Little Rock to pass a bond issue, or vote a tax on themselves to finance a bond issue, and it was defeated by a count of 70 percent against, 30 percent for.

Subsequently, the Little Rock Port Authority went to the Corps of Engi-

neers and told them they were trying to build a $7 million slack water harbor on the Arkansas River.

The corps went through the reconnaissance report and the detailed project phase at Federal expense, and assured the city of Little Rock that this was a good project.

Subsequently, in June 1985, the city of Little Rock held an election, and asked the people of Little Rock to tax themselves so that we could pay $5 million as our share of a $7 million project. In other words, the city of Little Rock and the Little Rock Port Authority would be paying 70 percent of the cost of this.

It was narrowly defeated.

So they came back in November 1985 and held another election on the same grounds, again advising the people of Little Rock that there was $2 million in section 107 corps funds to tail this out. Not one time was one word ever raised by the Little Rock Corps of Engineers, the Dallas District Corps, or the Secretary's office in Washington. In fact, approval had been recommended by the Little Rock Corps and by the Dallas district office.

Then in December, after the people of Little Rock voted for this tax on themselves to finish this project, all of a sudden the Corps of Engineers says, "We have a policy on section 107 funds whereby if this project is more for the economic development of the city of Little Rock than it is for the enhancement of navigation on the Arkansas River, it does not qualify."

We said, "When was that policy ever implemented?"

They said in 1984.

We said, "This has been a more closely guarded secret than the CIA could have ever kept."

Nobody ever heard of such a policy and the corps, frankly, and I commend Secretary Dawson for his candor, said, "We admittedly botched up in this policy change. Nobody ever knew about it."

Here we have been proceeding for 2½ years, pleading with the people of Little Rock to vote in support of this project and finally they do it. After it is done, on the representations that there is available $2 million in section 107 funds, the corps suddenly comes up with what an internal memo in the corps office from General Hatch to Secretary Dawson has called an "evolving policy." That same memo says that even under the "evolving policy," 95 percent of the cost of this will be beneficial for the enhancement of navigation.

So, by their own studies and their own internal memos, this project fulfills their policy requirements in spades. Certainly, the President ought to take a personal hand in this because he is hot for cost sharing, and we are putting up 70 percent of the cost. What else could he possibly ask for? What else could the Government as for?

Mr. President, I ask unanimous consent that a position paper by the city of Little Rock documenting the enhancement of navigation on the river be printed in the RECORD.

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

LITTLE ROCK PORT AUTHORITY POSITION PAPER ON FEDERAL INVOLVEMENT IN LITTLE ROCK PORT SLACK WATER HARBOR PROJECT

BACKGROUND

The Little Rock Port Authority was established by Municipal Ordinance in 1959. It was the intent of the city government to establish a port which would make maximum use of the Federally developed McClellan/Kerr Navigation System. The Port Authority retained Tippetts-Abbett-McCarthy-Stratton (TAMS) in 1960 to determine the best location for a port facility and to develop the preliminary design for the port terminal and support facilities. The project was funded entirely by Little Rock City bonds authorized by the voters in 1964.

Ten years of infrastructure development and port operation indicated a need for additional waterfront facilities. In 1974 the Port Authority purchased the site of the proposed slack water harbor project. In 1978 Tippetts-Abbett-McCarthy-Stratton was commissioned to conduct a comprehensive, indepth analysis of the Port Authority's operations and facilities and to evaluate the need for a slack water harbor. This study by TAMS was objective, considered the need for the project on a sound economic basis, and compared three alternative designs.

The results of the TAMS study indicated to the Port Authority that the slack water harbor was needed; was economically justified and that the harbor facilities would be a very strong attraction for industry for the Little Rock area and that the harbor would substantially increase usage of the McClellan/Kerr System.

MUST HAVE FEDERAL FUNDS TO BUILD PROJECT

The Port Authority undertook an analysis of methods to finance construction of a slack water harbor based on TAMS recommended design. It was clearly apparent from the analysis that revenue supported debt funding was not feasible for the Port Authority. The rate at which revenues could be predicted to develop was not adequate to meet even the most lenient debt service requirement. The Port Authority, therefore, elected to seek public financing aid through the existing General Obligation Bond Authority of the State of Arkansas and the City of Little Rock. The City held an election in November, 1979 to raise approximately 7.9 million dollars to provide all funds necessary to construct the first phase of the slack water harbor project. The voters of Little Rock defeated the proposition by a count of 70% against, 30% for. Based on these results it was clear that it was not politically feasible to fund the project solely with local tax supported bonds.

The only alternative available to the Port Authority was to seek Federal aid in developing a slack water harbor project. This was done in a 1982 request to the Corps of Engineers for a project under the authority of Section 107 of the Harbors and Rivers Act of 1960 as amended.

The Corps 107 project proceeded through the Reconnaissance Report phase into the Detailed Project phase. Liaison with the Little Rock District office indicated positive findings and encouraged the Port Authority during late 1984, when the Little Rock District was funded for the preparation of the Detailed Project Report, to develop a source for approximately 2.5 million dollars to provide local share of the project cost. Through market research the Port Authority determined that an election held under new state laws (1984) would succeed if Federal matching dollars were available for the project.

An election held in June, 1985 narrowly failed due to apathy and very vocal opposition from a group seeking to impose certain hiring practices on port users as a condition for their support.

After the City adopted a city wide "first source" policy, a follow-up election was held in November, 1985. The result of this third election was positive, and the means for the local share of the project's money needs was assured.

The key element to the election was the availability of 2.0 million in Federal funds. This project cannot be funded with revenue supported debt capital due to cash flow limitations, and it is politically dependent on Federal support for local tax supported funding.

IMPACT ON NATIONAL ECONOMY AND FEDERAL TRANSPORTATION INTERESTS

In their 1978 study, TAMS developed a list of 57 industry types suited to the proposed slack water harbor. (Attached.)

A review of Port Authority records indicates that at least 36 of the companies who had visited the Port as industrial development prospects in the past were of the types named by TAMS and were likely candidates to use the slack water harbor facility. They are listed below.

	Sic code
Ershigs (Fiber glass tanks)	3079
Unknown (Petro Chemical)	2999
S.I. Lesaffre (France-Yeast Processing)	2082
AIDC prospect (unknown-chemical processing)	2899
Thompson Hayward (Chemical Company)	2899
Riverside Recycling (paper)	2621
O'Neal Steel (Steel Service Center)	3317
Unknown (Alcohol processing)	2899
Unknown (Machinery Manufacturing)	35
Weyerhaeuser (Wood Products Distribution)	26
Unknown (Fantus-heavy metal mfg.)	34
Unknown (Chemical processing)	2899
Poverex West Inc. (Concrete/Gypsum)	3273
Morgan Manufacturing Co. (Mining Equipment)	3532
Unknown (Fantus-Pharmaceutical)	2899
Bitucote (Bituminous products)	2999
Unknown (Chemical plant)	2899
William Powell Co. (Valves)	3494
William Strickland (Anonymous, Mfg. Distribution)	35
Tubular Steel Corp. (Product Distribution)	3498
Bruce Groff (Metal Fabrication)	3444
A.T. Kearney (Consultant-Steel Processing)	34
Anonymous (Ship Building)	3731
Wolverine Metals Corp. (Tubing)	3498
Grove Manufacturing Co. (Heavy Equipment)	35
B.C. Equipment Sales Co. (Pipe)	3498
Unknown (Gil Helmken-Fabrication-Dist.)	34
Wheatland Tube (Tubing)	3498

	Sic code
Unknown (Rubber Manufacturing)	2822
Unknown (Michael Mullis, Consultant, Steel Fabrication)	34
Western Tube & Conduit (Tubing)	3498
Jack Lemm (Chemical)	2899
Gary Hodges (Ethynol Manufacturing)	2899
Ed Volke (Anonymous-Mfg. Distribution)	35
Matsushita (Refrigeration Equipment)	35
Ameri-Steel (Mini Steel Mill)	3317

Interviews with representatives of these companies or their consultants strongly indicate that the existence of a slack water harbor would have been a key factor in their site selection.

These companies represent new ventures or expansions and not relocations of existing facilities. In many cases foreign investment is involved, and in all instances operations of these firms involves distribution of goods and products to a large geographic region or the entire Nation.

OMEGA TUBE EXAMPLE

Omega Tube and Conduit Company opened its facilities at the Port of Little Rock in 1985. They manufacture various types of electrical conduit and industrial tubing from sheet steel. This company is a well capitalized subsidiary of Sumitomo Corporation (Japan). It has operated West Coast facilities for a number of years. New centrally located facilities were needed to serve the market east of the Rockies. From their Little Rock location on the river they are able to receive coiled steel from domestic mills, process it into product, and distribute it to a market covering all of the United States east of the Rocky Mountains. The economic impact is clearly national in scope both from the standpoint of steel feedstock and from distribution of finished product. The local economy benefits from taxes and payroll. The Omega scenario depends on a number of factors, but the one factor that is essential is the availability of water transportation which allows the landed cost of feedstock steel to be competitive.

FEDERAL TRANSPORTATION INTEREST

Construction of a slack water harbor at the Port of Little Rock will serve the Federal transportation interest in a number of ways. The slack water harbor will cause increased use of the navigation system. Increased use will positively impact the National economy as shown above. For this use to develop, however, other elements must be in place. The Port of Little Rock is a locus of intersection of four modes of transportation and as such is unique. All national rail and interstate highway facilities are in place at the Port, and commercial air access is available at Adams Field located adjacent to the Port's Industrial Park. It is because these intermodal facilities are already in place that the slack water harbor will truly serve the Nation.

Federal transportation interests are served through the preservation of critical industries; such as, the drawing, molding, and rolling of aluminum. Reynolds Aluminum will continue operations in South Central Arkansas because they can economically ship aluminum ingots from Canada via water to the Little Rock Port. These facilities depend on the continuation of commercial navigation of the McClellan/Kerr System and that continuation can only be assured by ongoing port development.

The Federal transportation interest is directly served by a new annual movement of 135,000 tons of military jet fuel from Houston through the Little Rock Port Terminal to the Little Rock Air Base in Jacksonville, Arkansas. This material is owned by the Federal Government and must remain free from contamination during transportation and storage. Barge transportation is safe and economical and minimizes handling, thereby, reducing potential for contamination. This move came about as a result of the loss of pipeline availability, which had previously facilitated the transportation of this essential commodity. It is important, from the National perspective, to have a well developed river system as an alternate transportation mode for this and other military and National Defense needs.

The continuing operation of the McClellan/Kerr Navigation System and of the inland waterways as a whole depends on expanding commerical use. That commercial use can only be maximized from the National perspective if harbor development is continued. Port development projects such as the slack water harbor at Little Rock are critical to the survival of the waterways system and should be supported by both Federal and Local investment.

THE HARBOR AND RIVER SAFETY

The 1982 catastrophe at Dam #2 serves as warning to all interests of the river system that breaches of safety can result in major and catastrophic losses. Nineteen eighty five was a year when high flow conditions were experienced for 122 days. During such conditions, navigation operations on the river are extremely strained. Marker buoys are lost, dikes are submerged and constitute navigation hazards. Navigation practices must be flawless and mooring facilities must be of the highest quality. But even with all controllable factors in the best possible condition, the possibility of human error and minor defects can constitute a threat to the irreplaceable lock and dam structures on the system. Although it would be difficult to justify a harbor for the purpose of refuge only, it is important to note that the slack water harbor at Little Rock will serve that purpose in addition to the other benefits attendant to it. The harbor at Little Rock is located only 2½ miles above the David D. Terry Dam. It is ample in size to provide refuge for large numbers of barges and towboats. In emergencies this facility could house in excess of 100 vessels.

HARBOR IMPACT ON EXPORTS

Arkansas is an exporting state and needs growing, safe, harbor facilities to facilitate the movement of goods to seaports for export. Future increases in petroleum prices, which are likely to follow this present period of declining prices, or critical shortages of petroleum will intensify the State's need for adequate water transportation facilities. This critical need is clearly of National scope and should be considered as part of the justification for Federal support for this project. It is important to our Nation to take all measures possible to improve our export position.

CURRENT PORT USE AND CAPACITY

At present Little Rock Port is in a growth mode. Since the cessation of bauxite shipments in 1980, the Port has sought to broaden its base of customers and commodities handled. The 300,000 tons of bauxite had constituted a very large portion of the annual tonnages. Since 1980, tonnages have begun to build back. Tonnage history for the years 1981 through 1985 are as follows:

Year:	Tonnage
1981	118,534
1982	124,104
1983	129,152
1984	174,945
1985	218,142

Tonnages for 1986 are presently forecasted to be 417,000. Although tonnages indicate the use of the Port, they do not tell the whole story. Tonnages for 1986 are comprised of a broad variety of commodity movements and are two-way movements with inbound roughly equal to outbound. Both factors indicate stability and an excellent prospect for continued growth. A breakdown of 1986 projected tonnages is shown below by commodity and the number of customers being served for each commodity.

	Number of customers	Tonnage
Commodity:		
Iron and steel	10	70,000
Aluminum ingot	1	120,000
Clay (raw)	1	40,000
Liquids (cottonseed oil, molasses)	2	16,000
Paper (newsprint, woodpulp)	2	30,000
Ores (bauxite, ferro silicon)	2	14,000
Rock	2	15,000
Alumina	1	60,000
Soybeans	1	15,000
Rice (bulk)	1	20,000
Fertilizer	3	17,000
Total	26	417,000

The practical capacity of the exisitng general purpose cargo facility, which is located on the main body of the river, is in the range of 300,000 to 400,000 tons annually depending upon product mix. This limit is imposed by apron capacity and storage capacity, both of which are constrained by infrastructure development and land configuration. In any event, present port usage indicates a need for expansion. A slack water harbor as proposed will provide expansion in close proximity but not within the restrictive confines of present port facilities.

In addition to commodities handled over the general cargo wharf, the Port Authority has separate handling facilities to serve the transfer of commodities moveable through pipeline. Projections for 1986 are that 135,000 tons of military jet fuel will move inbound through the Port. Also, new facilities under construction for the storage of portland cement will begin receiving waterborne cement in March at a minimum annual rate of 40,000 tons.

The Port Authority and its stevedore are presently negotiating for other movements through the Port, which can result in new commodities starting to move in 1986. These movements comprise potential additional annual tonnages of 390,000.

If Port expansion is not begun at this time, restrictions imposed by existing facilities will have a negative impact on river usage. Attendant National transportation savings and economic benefits could be permanently lost.

IMPACT OF SLACK WATER HARBOR ON RIVER USE AND USER FEES

The slack water harbor development at this time will increase total tonnages through the Port. As tonnages increase, the interest of the towing industry is peaked and more towing operators are attracted to the McClellan/Kerr System. This is extremely healthy because it inevitably results in more favorable rates. At a time when our National economy is adjusting to a general deregulation of the transportation system, favorable rates are important. Favorable transportation rates to this Port are likely

to attract additional investment which will result in more river usage which in turn will favorably impact rates and so on. Increased usage of the river system favorably impacts the national economy through the mechanisms illustrated above, and it also serves the National interest from the standpoint of National Defense. The development of a stable alternate transportation mode is of great importance to our National safety and security. Development of additional facilities here at Little Rock will contribute significantly to the development and growth of the McClellan/Kerr System.

A direct result of additional river tonnage will be seen in the growth of user fee revenue. User fee rates will double as a result of current Federal Legislation. These, in the form of added fuel tax, are burdensome to the towing industry, and they pose a significant threat to continued development of McClellan/Kerr System. The increase of tonnage, however, will have a tendency to offset this negative effect. In any event, growth of river use with the attendant user fees will certainly serve the Federal interest by their resultant contribution to the National Coffers.

MC CLELLAN/KERR SYSTEM PURPOSE

From its inception the McClellan/Kerr Navigation System has been recognized as an integral part of National economy and our Federal transportation system. Construction of this system was necessary but insufficient for the realization of its potential benefits to our country. Without Port development, the McClellan/Kerr System would be nothing more than an interesting engineering accomplishment brought about at great expense to the Nation. It is not only in the Federal interest but it is a Federal obligation to develop the system to its ultimate potential.

All of the funding for construction of the Verdigris entrance channel and turning basin for the Tulsa Port of Catoosa was Federal. The slack water harbor at Pine Bluff was completely built with Federal Funds, and maintenance dredging is done by the Corps on a continuing basis. These were a congressional expression of intent to continue to develop the Nation's inland waterway potential.

The construction of a slack water harbor at the Little Rock Port is certainly part of the ongoing need to maximize the potential created by the McClellan/Kerr System.

APPENDIX A.—*Industry types suited to Little Rock Port Industrial Park*

Title:	*Sic code*
Flour and other grain mill products	2041
Rice milling	2044
Prepared feeds, nec	2048
Soybean oil mills	2075
Malt beverages	2082
Pulp mills	2611
Paper mills, except building paper	2621
Paperboard mills	2631
Paper coating and glazing	2641
Converted paper products, nec	2649
Corrugated and solid fiber boxes	2653
Newspapers	2711
Industrial gases	2813
Plastics materials and resins	2821
Synthetic rubber	2822
Organic fibers, noncellulosic	2824
Soap and other detergents	2841
Cyclic crudes and intermediates	2865
Industrial organic chemicals, nec	2869
Nitrogenous fertilizers	2873
Phosphatic fertilizers	2874
Fertilizers, mixing only	2875
Agricultural chemicals, nec	2879
Adhesives and sealants	2891
Chemical preparations, nec	2899
Petroleum and coal products, nec	2999
Miscellaneous plastics products	3079
Glasscontainers	3221
Cement, hydraulic	3241
Ready-mixed concrete	3273
Cut stone and stone products	3281
Abrasive products	3291
Steel wire and related products	3315
Steel pipe and tubes	3317
Secondary nonferrous metals	3341
Aluminum sheet, plate, and foil	3353
Nonferrous rolling and drawing, nec	3356
Nonferrous wire drawing and insulating	3357
Brass, bronze, and copper foundries	3362
Fabricated plate work (boiler shops)	3443
Sheet metal work	3444
Prefabricated metal buildings	3448
Iron and steel forgings	3462
Plating and polishing	3471
Metal coating and allied services	3479
Valves and pipe fittings	3494
Fabricated pipe and fittings	3498
Construction machinery	3531
Mining machinery	3532
Oil field machinery	3533
Hoists, cranes, and monorails	3536
Special industry machinery, nec	3559
Blowers and fans	3564
Motors and generators	3621
Household refrigerators and freezers	3632
Ship building and repairing	3731
Boat building and repairing	3732

Mr. ABDNOR. Mr. President, I just want to say it has been a pleasure working with the two Senators from Arkansas on this problem. I can assure my colleagues from Arkansas that during future oversight hearings, the Subcommittee on Water Resources will look into difficulties that may be arising with the administration on the section 107 small harbors construction authorizations.

Specifically, we will examine the proposed port projects at Little Rock and Yellow Bend to determine whether any pledges, implied or otherwise, of the Federal Government have been abrogated. I believe that if local interests have been led to make investments and/or if a vote on the tax issues pursuant to understandings which were generated on the basis of good faith communications from Army personnel and persons of authority, we should ensure that the commitments of our Government are upheld.

I pledge to my colleagues that the subcommittee will pursue this issue.

Mr. MOYNIHAN. Mr. President, I want very much to associate myself with the statement of the chairman and say that either of the Senators from Arkansas would be most welcome to testify before the committee or to join in hearings, as they choose, because they clearly have reason to bring this to the attention of the Senate and the committee.

Mr. BUMPERS. I thank both of the distinguished floor managers very much for their cooperation, Mr. President.

I yield the floor.

Mr. STEVENS. I ask unanimous consent that the Finance Committee amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, I believe this is an amendment to the Finance Committee portion.

Mr. STEVENS. It is.

AMENDMENT NO. 1691

(Purpose: To exempt Alaska from the Harbor Maintenance Charge except with regard to crude oil)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI, proposes an amendment numbered 1691.

On page 143, line 15, strike out "HAWAII AND" and insert in lieu thereof "ALASKA, HAWAII, AND";

On page 143, line 21, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 143, line 22, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 143, line 24, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 144, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or".

On page 144, strike out lines 8 through 10, and insert in lieu thereof the following:

"(2) CARGO DOES NOT INCLUDE CRUDE OIL WITH RESPECT TO ALASKA.—For purposes of this subsection, the term 'cargo' does not include crude oil with respect to Alaska.

"(3) UNITED STATES MAINLAND.—For purposes of this subsection, the term 'United States mainland' means the continental United States.

Mr. STEVENS. Mr. President, the amendment which Senator MURKOWSKI and I have proposed does nothing more than give our home State of Alaska equity. It will correct what I feel is an oversight in the bill. Alaska's size, widely dispersed population, and geographic location combine to put fairly unique demands on our transportation system. The bill before us fails to recognize that these factors combine to make the State and its people highly dependent on waterborne commerce.

This bill contains a provision which would impose a user fee on cargo passing through federally funded ports. For most of the country ports and waterways are just a part of the transportation network.

With half the coastline of our Nation, Alaska, one-fifth the size of the United States has only 12,441 miles of road. Surface transportation in Alaska is almost exclusively waterborne. For much of Alaska waterborne shipping is the only way to get materi-

als to the communities where they will be used. These communities are almost entirely dependent on waterborne commerce for their basic supplies. Goods are brought into the State, and then distributed from central points. The same cargo may be carried by several different ships or barges between the time it comes into the State and when it arrives at its final destination.

The port user fee would be imposed on cargo coming into Alaska, and then could be charged again on the same cargo as it moved between ports in the State. There is a provision intended to prevent multiple charges of the fee on the same cargo. However, the protection which it provides would not apply to these shipments.

This is a situation unique to Alaska. There has been no recognition in the drafting of this provision of the special demands of commerce in Alaska. Many of my colleagues have heard me speak of the unique character of Alaska before. Undoubtedly, some have raised a questioning eyebrow when the special needs of my State are mentioned. Few, however, who have visited the State could have any doubts about the need—occasionally—to treat Alaska differently from the rest of the country. In fact, I encourage my colleagues to come and visit Alaska.

They should see with their own eyes both its beauty and the rigors of life in the State. Today, however, the request is not for unique treatment; it is to be treated the same as those parts of this country which are similarly situated. The problem with intrastate shipments which I already have discussed is only part of a larger inequity in the application of this user fee to Alaska.

Included in the harbor maintenance charge created by this bill is an exemption for cargo carried to and from Hawaii and the U.S. possessions. The Finance Committee report language states that this exemption is provided in recognition of "the high dependence of these islands' economies on waterborne commerce." There is a careful distinction made between cargo passing through these ports, as either imports or exports, and goods intended to be used on the islands, or the products of these islands being shipped to the mainland United States.

Implicit in this exemption is the recognition that an island can't take advantage of this Nation's infrastructure or road and rail transportation. Conrail and Amtrak are not about to open service to Hawaii or Guam. They are entirely dependent on waterborne commerce, supplemented by air service. A port user fee is thus bound to have an effect on the economy of an island.

As I have already discussed, Alaska has the same dependence on waterborne commerce. There is no rail link to Alaska. It has been pointed out to me that Alaska does have a road connecting it to the rest of the Nation. That is true. Road access through Canada—the Alcan did play an important part in the development of the State. Today, however, less than 5 percent of Alaska's commerce is carried over the Alcan. There is a reason for this. It costs up to five times more to carry cargo to and from Alaska by truck than by ship.

Even if overland transportation was economically feasible it would not matter to vast portions of Alaska. That is because the majority of Alaskan communities have no road link to the rest of the State. Juneau is the only State capital, other than Honolulu, which cannot be reached by road or by rail. In Western Alaska many coastal communities receive all of their supplies by barge. There is a race each year between the barges carrying the winter's supplies and the winter ice pack. These Alaskans have no choice but to rely upon waterborne transportation for almost all of their commerce.

There should be no doubt that, when it comes to water-borne commerce, Alaska deserves to receive the same treatment as Hawaii and the U.S. possessions. And yet, under the provisions of the bill which is before us, the people of Alaska would be forced to bear an increase in shipping costs which the islands have been spared. Consumers in most States will never notice an increase in costs due to the harbor maintenance charge. But, because of the many factors which isolate places like Alaska and Hawaii, making them almost entirely dependent on waterborne commerce, this kind of fee has an impact on every aspect of the economy.

For most of the country, waterborne commerce consists of bulk shipments of what are basically homogeneous goods. When alternative carriers are available waterborne shipments will be most economical when made in bulk. Thus the business of most American ports is primarily bulk shipments of exports and imports, raw materials and manufactured goods. By the time goods are brought to the consumer's market the cost of waterborne transportation represents no more than a fraction of total price—if it was required at all.

Consumer goods in Alaska start off costing more than they do in the lower 48 because of the extra distance they must be carried. Transportation costs end up a larger fraction of total costs in Alaska. And, as I have already pointed out, most of these goods will be brought from the lower 48 to Alaska by water.

When a store in Alaska receives a shipment of food stuffs or hardware it arrives in a container truck. Containerized cargo is a great innovation in transportation. Cargo is loaded into these containers which may be placed on a wheeled trailer and trucked to a railhead, lifted off their wheels and placed on flatcars, brought by train to a port, hoisted up again and stacked along with several hundred others in a container ship, and then carried to another port. It is a great system—very efficient and very versatile. However, it means that the cargo which arrives in Washington by truck or by rail arrives in Alaska by water.

Therefore, the same goods on the market in Washington, or in most other parts of this country, get an extra charge placed on them when they are sent to Alaska—on top of the cost of transportation. When these goods are then moved between the ports of Alaska they could be charged an additional port user fee. These charges add up—and Alaska is the only State that would have to bear the costs of port user fees on almost everything brought into or taken out of the State.

When the Finance Committee was marking up this provision they recognized that the islands—Hawaii and the U.S. possessions—would be subject to exactly the same kind of extra charge on their commerce. These islands were given an exemption because of their dependence on waterborne commerce. The people of Alaska deserve the same exemption.

The amendment which Senator MURKOWSKI and I propose provides a limited exemption to the harbor maintenance charge for goods passing between Alaska and the rest of this country. We recognize that the fee being established will be used for a very important purpose. The users of federally funded ports should be expected to pay for a portion of the operation and maintenance costs of those ports.

With this in mind we have tailored this exemption to minimize the effect on revenues while guaranteeing the people of Alaska are treated fairly. This is accomplished by exempting shipments to and from the State other than unrefined petroleum. Incidentally, much of the oil shipments do not leave from federally funded ports—Valdez and Prudhoe are not Federal ports.

According to the Joint Tax Committee, Alaska would contribute about $7 million annually through the port user fee. Approximately $5 million of this represents fees on shipments of crude oil. Therefore the impact of the exemption which we have proposed on the harbor maintenance trust fund is only a $2 million reduction in annual receipts. In return for this reduction we achieve fairness for the people of Alaska.

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Alaska will still contribute its share to the trust fund. I understand that total revenues are projected at $170 million a year. I believe that less than 500,000 people should not be asked to contribute any more to this nationwide trust fund.

This is an issue of simple fairness. We cannot recognize the unique needs of commerce with the islands and yet ignore the other State which is similarly situated. Waterborne shipments are an essential part of life in my home State. It is as much a part of Alaska's commerce as it is Hawaii's or any other place which is geographically isolated. I have no choice but to ask that we be treated equally.

Mr. President, as I said, this amendment deals with the problem of the user fee for the harbor maintenance trust fund that is in the bill. The bill does exempt Hawaii and U.S. possessions, because of their dependence on water commerce, from the provisions of the bill. Only 5 percent of the shipments that are surface shipments to and from Alaska are overland. The remainder, 95 percent, is waterborne commerce.

In terms of my State, because of the fact that it has one-half of the coastline of the United States and has no road system that connects the various residential areas of our State, a great portion of our shipments are intrastate shipments of supplies that have been brought to our States in Jones Act vessels, paying the highest transportation rates paid by any Americans. The impact of this fee on our State would be to add another burden to our consumers.

The amendment that we offer excludes from the exemption crude oil shipments because those shipments are, in fact, in interstate commerce and deal with a different concept. I urge the managers of the bill to recognize the equity of exempting the Alaska consumer shipments from this harbor maintenance charge.

Incidentally, Mr. President, I point out that we have very few federally funded ports in Alaska. The bulk of them were federally funded as a result of the great earthquake and tidal wave that hit my State. Prior to that, they had been intact and locally financed.

This port maintenance charge, if it went into effect without our amendment, would have about a $2 million impact on our State. Yet, under this provision, despite the fact that we have half the coastline of the United States and such a great dependence upon waterborne commerce, we would receive a very small amount, $1,150,000 annually. That compares to some $5-plus million that will be generated from the shipment of oil from and within my State. The oil shipments are not exempted by our amendment.

Mr. President, I do believe that the amendment has merit and I urge my colleagues to accept the amendment in the interest of fairness to the largest State in the Union with the longest coastine of any State.

Mr. PACKWOOD. Mr. President, the amendment of the Senator from Alaska having excluded oil from the exemption, would be perfectly acceptable to the Finance Committee.

Mr. MOYNIHAN. Mr. President, on behalf of Senator LONG, who is necessarily absent momentarily, I say this is acceptable to this side as well.

May I add an observation from personal experience? I have traveled with the corps to oversee projects in Alaska. The Senator from Alaska describes the situation exactly. There are no intrastate roads that could carry normal modes of transportation. There is some truck and rail transportation—but not much.

They transport goods within Alaska by seagoing ships in the most difficult weather known. I remember a day in Nome, AK, where we looked at that very small, almost fragile harbor, from which half the entire north country lives. If the corps is listening, I would like to ask them to get on with improving that harbor in Nome. It looks like it is about to blow away with the very next gust of wind they get up there.

As I said, Mr. President, we accept this amendment and I thank my colleague for offering it.

Mr. STEVENS. I thank the Senator from New York and the chairman of the Finance Committee for their understanding.

● Mr. MURKOWSKI. Mr. President, I am pleased that the Senate adopted the amendment I cosponsored with the senior Senator from Alaska, TED STEVENS, to the Water Resources Development Act of 1985.

This amendment excludes Alaska cargo other than crude oil from the ad valorem tax. The reason for this amendment is the same as stated by the Senate Finance Committee when it gave a similar exemption for Hawaii. In its report the committee stated that the port use charge generally should not apply to the loading or subsequent unloading of cargo to Hawaii or to U.S. possessions for shipment to the U.S. mainland, and vice versa. This exemption is because of the high dependence of Hawaii's economy on waterborne traffic. Alaska is just as dependent on waterborne traffic.

As far as transportation is concerned, Alaska is an island. Over 95 percent of all truck cargo to Alaska is shipped on marine transport. There are no railroads connecting Alaska to the rest of the contiguous 48 States. In fact, the cost of shipping goods to Alaska exceeds the cost of shipping goods to Hawaii.

Under this amendment, Alaska will still pay for its share of revenues for water resource development. In fact, the Joint Committee on Taxation estimates that Alaska will contribute annually about $5 million.

This amendment primarily exempts Alaskans from paying user fees on domestic consumer goods. Americans generally do not pay user fees for these types of goods because many of their domestic consumer goods are transported overland by trucks.

The amendment will also resolve another unitended problem in the bill. In Alaska, it would be an administrative nightmare to try to enforce the user fee. As I have mentioned, goods are transported to Alaska by ship or barge; most of the goods are sent in small quantities—whether personal belongings or goods used by small businesses. In either case, the shippers of these goods will not understand this complicated tax. In most cases, the 0.04-percent tax would raise less money than the cost of collecting it.

Alaska has the largest coastline in the country. Most of our communities are located along Alaska's coastline. Most of these towns are not connected by roads. They are separated by fjords, mountains, and enormous expanses of land. Cargo must be transported to these communities by boat and plane.

It would be wrong to add to the economic burden of these communities. This amendment is intended to guarantee that the transportation costs to those communities are not increased.

Mr. President, I thank the chairman of the subcommittee, Senator ABDNOR, the ranking member of the subcommittee, Senator MOYNIHAN, and Senator PACKWOOD, for their favorable consideration of this important amendment.

And, I thank my colleagues for having adopted the amendment.

Mr. MOYNIHAN. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No 1691) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1692

Mr. GORTON. Mr. President, I have an amendment at the desk to the Finance Committee portion of the bill, and I ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for himself and Mr. EVANS, Mr. BRADLEY, and Mr. LAUTENBERG, proposes an amendment numbered 1692.

On page 144, after line 18, insert the following:

"(d) NONAPPLICABILITY OF CHARGES TO CERTAIN CARGO.—

"(1) IN GENERAL.—Subject to paragraph (2), the charge imposed pursuant to Section 4461(a)(1) shall not apply to bonded commercial cargo entering the United States for transportation and direct exportation to a foreign country.

"(2) IMPOSITION OF CHARGES.—Paragraph (1) shall not apply—

"(A) after the date on which the Secretary determines that the Government of Canada had imposed a substantially equivalent fee or charge on commercial vessels or commercial cargo utilizing Canadian ports: *Provided*, That subject to subparagraph (B), paragraph (1) shall apply after the date on which the Secretary determines that such fee or charge has been discontinued by the Government of Canada.

"(B) with respect to a particular United States port (or to any transaction or class of transactions at any such port) to the extent that the study made pursuant to section 807(a) of the Water Resources Development Act of 1985 (or a review thereof pursuant to section 807(b) of such Act) finds that—

"(i) the imposition of such charge at such port (or to any transaction or class or transactions at such port) is not likely to divert a significant amount of cargo from such port to a port in a country contiguous to the United States, or that any such diversion is not likely to result in significant economic loss to such port; or

"(ii) the nonapplicability of such charge at such port (or to any transaction or class of transactions at such port) is likely to result in significant economic loss to any other United States port.".

On page 144, line 19, delete "(d)" and insert in lieu thereof "(e)".

On page 144, line 22, delete "(e)" and insert in lieu thereof "(f)".

On page 145, line 20, delete "(f)" and insert in lieu thereof "(g)".

On page 146, line 6, delete "(g)" and insert in lieu thereof "(h)".

On page 154, beginning on line 2, delete all through "agencies" on line 4 and insert in lieu thereof:

"(a) INITIAL STUDY.—The Secretary of the Treasury, in consultation with United States ports, the Secretary of the Army, the Secretary of Transportation, and other appropriate Federal agencies".

On page 154, strike line 7 and insert in lieu thereof "cargo from particular United States ports to any port in a country contiguous to the United States. The".

On page 154, after line 11, insert the following:

"(b) REVIEW.—The Secretary of the Treasury may, at any time, review and revise the findings of the study conducted pursuant to subsection (a) with respect to any United States port (or to any transaction or class of transactions at such port).

"(c) IMPLEMENTATION OF FINDINGS.—For purposes of section 4462(d)(2)(B) of title 26, United States Code, the findings of the study or review conducted pursuant to subsections (a) and (b) of this section shall be effective 60 days after notification to the ports concerned.".

Mr. GORTON. Mr. President, I offer this amendment for myself and my distinguished colleague from Washington [Mr. EVANS] for the two distinguished Senators from New Jersey. It has been approved by the chairman of the Finance Committee, my distinguished friend from Oregon [Mr. PACKWOOD], as well as by the Secretary of the Treasury and the Secretary of the Army. The amendment seeks to prevent the diversion of cargo from U.S. ports as a result of the imposition of the port user fees.

This amendment would exempt bonded cargo exported from or transported to foreign countries through U.S. ports unless and until a study conducted by the Secretary of the Treasury finds that imposition of the port user fee would not result in a significant amount of cargo diversion, or unless the cargo that is diverted would not cause a significant economic loss to the port.

The exemption may also be terminated if the study finds that another U.S. port suffers economically because of the exemption at a particular U.S. port. The exemption would also be terminated if Canada imposes a substantially equivalent fee.

In this time of intense international competition, it is vital for the Government to be sensitive to the impact that its policies have on our ports, our carriers, and our businesses. This amendment is a fair and equitable means to ensure that our ports retain their ability to compete with ports of foreign countries.

Mr. President, would the distinguished chairman of the Finance Committee be willing to clarify one point regarding private sector participation in the study called for in section 807 of the Water Resources Development Act of 1985?

Mr. PACKWOOD. I would be glad to answer any question from my colleague from the State of Washington.

Mr. GORTON. Section 807 requires the Secretary of the Treasury to conduct a study to determine the impact of the port use charge on the potential diversion of cargo from U.S. ports. The Secretary is required to consult with the U.S. ports, the Secretaries of the Army and Transportation and other relevant agencies in carrying out this study.

I am sure my colleague from Oregon would agree that U.S. ports, and also the carriers who serve those ports, possess information that will be of value to the Secretary in preparing this report. I believe it is essential that all pertinent information be evaluated and that all viewpoints be considered in the Secretary's report. Does the distinguished chairman agree that in order to accomplish this goal, the Secretary must actively seek input from affected ports and carriers as well as the designated agencies.

Mr. PACKWOOD. I agree with my colleague from Washington.

Mr. GORTON. I thank the chairman. I appreciate his clarification of this matter and his assistance in working out this amendment to resolve the diversion problem.

Mr. PACKWOOD. Mr. President, the amendment of the distinguished Senator from Washington is acceptable. We have reviewed it, we have debated it. He has very generously pointed out it originally had additional scope. We accept it.

Mr. MOYNIHAN. Mr. President, I think it is acceptable, speaking on behalf of Senator LONG, who is necessarily absent.

I sponsored the amendment by the Committee on Finance which calls for the Secretary of the Treasury to study the impact of an ad valorem cargo tax on the displacement of tonnage from the two ports we are concerned with.

I think that the Senator from Washington has creatively provided for the use of this study. I think this resolves what might have been a difficulty. I congratulate all for their flexibility and ingenuity.

Mr. GORTON. I thank both of my distinguished colleagues for their help.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1692) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, the legislation before us today culminates a struggle over national water policy that has raged for more than a decade. It is not the bill I would have written if it were up to me alone to write, but it is a carefully crafted compromise that strikes a reasonable balance between those who would greatly diminish the Federal role in constructing water projects and those who see a continuing need for a major Federal presence in this area. For that accomplishment, I especially commend the distinguished Senator from South Dakota [Mr. ABDNOR], who has shown extraordinary dedication to this task.

The centerpiece of the compromise was the agreement reached last June between the administration and a group of interested Republican Senators about the imposition of user fees to finance water project construction. I was privileged to be a part of that group, and I devoted particular attention to the impact of such cost sharing on the inland waterway industry. That industry has suffered a series of devastating economic blows in recent years and remains in a severely depressed condition, with barge capacity greatly in excess of demand. For this reason, I was gravely concerned by proposals to increase the financial burden on an industry that just 5 years ago had begun

to pay waterway fuel tax for precisely the same reason. Nonetheless, there is a clear and pressing need to get on with important improvements to the Nation's waterways—particularly, construction of a second chamber at locks and dam 26 on the Mississippi River—and I reluctantly agreed to gradual increases in the waterway fuel tax, beginning on January 1, 1988, as part of the overall compromise that will allow this legislation to go forward.

As difficult as the fuel tax increase may be for shippers and carriers to absorb, at least it is a known quantity against which they can plan and manage their operations. They can make investment decisions, plan equipment acquisitions and plant expansions, and negotiate long-term transportation contracts with a clear knowledge of what tax they should calculate into their operating costs during the coming years.

This tax increase in set forth in section 804 of the bill, as reported by the Finance Committee. A point left unstated in the bill or committee report, however, is the agreement reached among the principals on the effect of this compromise on future water policy decisions. Simply stated, all parties agreed that this compromise forecloses further increases in the fuel tax for the duration of the period covered in the bill—for example., through 1997. In this context I would like to recall for my colleagues an assurance provided to me by Mr. David Stockman when he was Director of the Office of Management and Budget. Mr. Stockman wrote:

With the adoption of this compromise the Administration will consider that the user fee principle has been affirmed and we will not seek additional inland waterways user fees during the years ahead.

Mr. President, I ask unanimous consent that the entire text of Mr. Stockman's letter be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, June 20, 1985.

Hon. JOHN DANFORTH.
U.S. Senate, Washington, DC.

DEAR JACK: Thank you for the opportunity to comment on the proposed compromise concerning inland navigation user fees. As I understand the proposal, the existing fuel tax used to fund the Inland Waterways Trust Fund would be increased by 10¢ a gallon over ten years, beginning on January 1, 1988. It is my further understanding that the precise form of this increase will be left to the discretion of the jurisdictional committees providing that the amount of revenue which is raised from the inland waterway industry is equivalent to that which would be generated if the tax were imposed in equal installaments over those ten years.

Although the Administration has supported more comprehensive inland waterway user fee legislation in the past, we believe this is a sound and workable compromise which we will endorse and support.

With the adoption of this compromise the Administration will consider that the user fee principle has been affirmend and we will not seek additional inland waterways user fees during the years ahead.

Sincerely,

DAVID A. STOCKMAN.

Mr. DANFORTH. Mr. President, when this agreement was struck last June, I sought similar assurance from the various principals—the majority leader and the Senators from Vermont [Mr. STAFFORD], South Dakota [Mr. ABDNOR], Oregon [Mr. HATFIELD and Mr. PACKWOOD], and New Mexico [Mr. DOMENICI]—that if we enact this legislation, they do not intend to support additional fees or taxes on the inland system during the 10-year period involved. My colleagues were most gracious in providing those assurances. Since that colloquy is part of the CONGRESSIONAL RECORD of June 21, 1985, I see no need to reproduce it here. Nonetheless, it represents a critical element in my willingness to go forward with this legislation.

Mr. President, in addition to the second chamber at locks and dam 26, there are a number of projects of interest to Missouri in this legislation. Flood control projects are authorized for Brush Creek in Kansas City, Maline Creek in St. Louis, as well as Cape Girardeau and the St. Johns Bayou-New Madrid Floodway area in southeast Missouri. The Brush Creek project is particularly urgent. In September 1977 Brush Creek flooding killed 12 persons and caused millions of dollars in damages. The city of Kansas City feels so strongly about the need for this project that it is financing on its own a larger scope of work than the Corps of Engineers itself would undertake. The result is that $10 million in Federal dollars will build a $36 million project.

Other projects of interest to Missouri include much-needed improvements to St. Louis Harbor and completion of the Trimble Wildlife Area replacement near Kansas City. The later was originally approved for $7,870,000 in funding but has been reduced to $1,569,000 to reflect the fact that the Missouri Deparment of Conservation was forced to proceed with an alternative replacement plan, using funds previously provided by the corps, when it became apparent that Congress would not act in time to avoid a December 1985 deadline for replacement. This project is needed to offset the destruction of Trimble Wildlife Area, a nationally significant breeding area for the Canada goose, by the construction of Smithville Lake.

Mr. President, I am glad to lend my support to this legislation, which will enable these needed projects to go forward after many years of delay, and I again commend the Senator from South Dakota for his diligence in moving this bill to the floor.

Mr. President, S. 1567 differs from H.R. 6, its counterpart legislation in the other body, in many ways, but I would like to take this opportunity to discuss with the managers three particular items of interest to Missouri that are contained in H.R. 6 but not in S. 1567, for their consideration in conference.

Section 1107 of H.R. 6 authorizes $100 million for unspecified flood control projects, to be undertaken at full Federal expense, along the Meramec River and its tributaries. Several years ago, I was succcessful in including in Public Law 97-128 the deauthorization of the Meramec Park Lake project. As part of that legislation, Congress authorized $20 million for flood control measures along the Meramec, excluding construction of dams or reservoirs. Since that time the corps has been unable to identify projects that are "economically and engineeringly feasible"—as the legislation requires—amounting to $20 million. The language in H.R. 6, however, would provide an additional authorization of $100 million and extend its reach to the Meramec's tributaries, with no prohibition on dams or reservoirs on the tributaries. In my judgment, this is a blank check that Congress should not sign, and I ask the distinguished Senator from South Dakota for his support in this regard.

Mr. ABDNOR. Mr. President, the Senator from Missouri has made a strong argument on this matter, and we will oppose inclusion of the House language in conference.

Mr. DANFORTH. Mr. President, on another point, section 720 of H.R. 6 modifies the project for replacement of locks and dam 26 to provide for the repair of the Red School House County Road in St. Charles County, MO. This road has been used for access to the construction site of the replacement locks and dam and as a result has suffered extensive damage that was not anticipated at the time of the project's design. It seems reasonable that repair of the road at least to minimum county standards, at an estimated cost of $150,000, should be an obligation of the corps.

Mr. ABDNOR. Mr. President, the Senator from Missouri brings a matter to my attention that I have not had a chance to consider. However, he can be sure that we will give this proposal careful attention in conference.

Mr. DANFORTH. Mr. President, I thank the distinguished manager. Finally, I would like to discuss authorization of a flood control project for Ste. Genevieve, MO. This project, included in section 301 of H.R. 6, earned the following unusual legislative language in that bill:

Congress finds that, in view of the historic preservation benefits resulting from the project, the overall benefits of the project exceed the costs of the project.

Mr. President, this is a unique project. By conventional reckoning it achieves a benefit-to-cost ratio of only 0.16, where a figure of 1 represents break-even. However, this result says more about the calculation process than it does about the merits of the project. Ste. Genevieve predates St. Louis as a center for commerce and industry for early French settlers along the Mississippi River. It contains about 25 percent of the existing French colonial buildings in North America and the only collection of such buildings on the continent. Ste. Genevieve has been designated as a national historic landmark, a distinction that is conferred only on those historic resources that have transcendent value to the Nation as a whole and whose integrity is not compromised. In 1966 the most historic section of the community, comprising 79 buildings and dating from the late 1700's, was placed on the National Register of Historic Places, and as many as 450 buildings ultimately may be so honored.

The initial recommendation of the corps, made at the district level, was opposed to a Federal flood control project. In commenting on that recommendation, the National Trust for Historic Preservation wrote as follows:

We understand the regulatory constraints the corps faced in considering the intangible aspects of preservation which do not lead themselves to quantification and lie outside the scope of the standard cost-benefit analysis required in evaluating Corps projects. We believe this method of analysis is deficient and cannot accurately reflect the true value of historic resources nor the public benefits that accrue through their preservation * * *.

The cost-benefit analysis of the corps relies on the assumption that the replacement of historic mid-18th century buildings with non-historic structures erected in the 20th century can create the same value. The assumption is incorrect.

The district engineer's recommendation was reversed by the division engineer, who noted expressions of support from "State, local, national, and international interests" including the Consulat General de France, the Office of the Secretary of the Interior, and the Advisory Council on Historic Preservation in addition to the National Trust. He determined that "the historic value of this unique community warrants an exception to corps policy."

The Board of Engineers for Rivers and Harbors concurred with the following comments:

The Board concludes that the city of Ste. Genevieve is a significant historic resource having national importance. Repeated flooding is having an adverse impact on this historic resource which is resulting in its deterioration and is inhibiting restoration and preservation efforts by governmental agencies and private groups and individuals. Flood protection will assist greatly in the preservation and restoration of structures as examples of historic development for future generations. The Board believes that preservation of the historic structures in Ste. Genevieve is of sufficient importance in this case to waive the requirement of economic justification for proposed projects, and warrants an exception to the criteria in the Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies which require maximization of net economic benefits.

Mr. President, I have decided not to offer an amendment to include Ste. Genevieve in S. 1567 because the managers have chosen—wisely, in my opinion—to oppose any projects for which a recommendation from the Chief of Engineers has not yet been submitted to Congress. As much as I am convinced of the merits of this project, I do not want to create a breach in that policy through which less meritorious projects may flow. However, I earnestly urge the managers of this bill to give this project their most serious consideration when they go to conference with the other body.

Mr. ABDNOR. Mr. President, the Senator from Missouri has made a persuasive case of the merits of this project. I appreciate his decision not to offer an amendment to the bill before us, and I give him my assurance that we will review this matter in conference with the other body.

Mr. DANFORTH. I thank the Senator.

ROWLESBURG DAM

Mr. HEINZ. Mr. President, I rise today for the purpose of clarifying, with the distinguished chairman of the subcommittee, the committee's disposition toward the Rowlesburg Dam flood control project. Located on the Cheat River in West Virginia near the Pennsylvania border, the Rowlesburg Dam was originally studied by the Corps of Engineers in 1972, but was never constructed. The potential importance of this dam for flood control in Pennsylvania was underscored during investigation of the extensive and devastating flood damages in the Monongahela River Valley this past winter.

I took a tour last November of those flood-ravaged areas in the Mon Valley, and made several inquiries of the Corps of Engineers with regard to actions that might have been taken to prevent such extensive damage. In response to these inquiries, the Corps of Engineers provided me with information which indicated that had the Rowlesburg Dam been in operation during this flooding, it would have prevented $77 million of the $85 million in total damages in Pennsylvania. Based on this analysis, I requested that the Corps of Engineers reclassify the project to active status. In December, the corps reclassified the project as active, thus enabling the corps to proceed with preparation of feasibility studies necessary to determine whether or not construction of the dam should take place.

The purpose of my inquiry today is that in H.R. 6, the House version of the Water Resources Development Act, the Rowlesburg Dam project is listed for deauthorization. No such reference appears in S. 1567.

Given the damages that the Corps of Engineers believes the dam would have prevented during last winter's disastrous flooding on the Mon, it would seem to me that this project should not be deauthorized. It would be far more appropriate to see the corps go forward with completing any studies necessary to update the project, and to have a decision to begin construction of the project on the basis of these studies. I respectfully ask the subcommittee chairman, will he give his assurance that he will make every effort during the House-Senate conference on the bill to see that this project is not deauthorized?

Mr. SPECTER. I believe that the Rowlesburg Dam project is of major importance to flood control in the Monongahela Valley in West Virginia and Pennsylvania. I learned first-hand about the significant damage prevention that the Rowlesburg Dam would have provided had it been built prior to last Novembers' flooding on the Mon at a hearing I held in Charleroi, in December. At this hearing, Col. Richard Rothblum, Commander of the Corps of Engineers for the Pittsburgh District, testified that if the Rowlesburg Dam had been in place, it would have prevented flood damages of $77 million along the Cheat and Monongahela Rivers, not to mention the hardship and suffering that might have been avoided had the dam been in place.

I am pleased to report that through the efforts of Senator HEINZ and myself, some action on this dam has taken place since the hearing I held. Most notably, following the hearing and a letter I have written, the corps has placed the project on the active list. While this reclassification provides the corps with the authority to undertake studies necessary to update the project, H.R. 6, the House-passed Water Resources Development Act, lists the Rowlesburg Dam for deauthorization. Such action has been proposed by the House because of the inactive status of the dam prior to last November's flooding. For this reason, I join Senator HEINZ in requesting that the subcommittee chairman work in conference to strike the provision deauthorizing the dam, in order to allow the corps to proceed on this very important project. I would also like to express my hope that the corps would

undertake any studies necessary to update this project as expeditiously as possible. In addition, I will request that Colonel Rothblum's testimony before my December 31 hearing in Charleroi be placed in the RECORD at the conclusion of this colloquy.

Mr. ABNOR. I thank the Senators from Pennsylvania for bringing this important matter to the attention of the Senate, and assure them that I will make every effort in the House-Senate conference on the Water Resources Development Act to ensure that the Rowlesburg Dam will not be deauthorized. In addition, I would like to express my support for the suggestion made by the Senators from Pennsylvania that the corps should undertake any studies necessary to update the project as expeditiously as possible.

Mr. BYRD. Mr. President, I would just like to confirm my understanding of the intent of the Senators from Pennsylvania with respect to the Rowlesburg Dam which is being discussed here. Is it correct that the Senators from Pennsylvania wish, at the present time, to have the U.S. Army Corps of Engineers study further the feasibility of constructing a dam on the Cheat River near Rowlesburg, WV, in terms of economic, environmental, land use, flood protection, and other issues? And is my understanding also correct that the Congress is not at this time making a specific recommendation with regard to eventual construction of the dam, and that such a recommendation, to build or not to build, would be made by the corps' study?

Mr. HEINZ. The Democratic leader is correct. Senator SPECTER and I are asking only that the Rowlesburg Dam project not be deauthorized, that any necessary studies be completed for this project, and that the corps use the findings of these studies to make a recommendation with regard to construction of the dam.

Mr. ROCKEFELLER. Mr. President, I wish to associate myself with the remarks of the Senators from Pennsylvania and my distinguished colleague from West Virginia with regard to the Rowlesburg Dam. This is a matter that I have been concerned with for a long time, both in my present position and formerly as Governor of West Virginia. I join my colleagues in this effort to see that this important project is not deauthorized and that the Corps of Engineers engage in a feasibility study of this dam, and any alternative flood control projects it deems appropriate.

Mr. BENTSEN. Mr. President, S. 1567, The Water Resources Development Act of 1986, as amended by the committee leadership of the Environment and Public Works Committee, provides that, in regard to Federal harbor projects constructed deeper than 45 feet in depth, pipeline owners and local project sponsors shall share, 50-50, necessary relocation or alteration costs. Nothing is said in the bill regarding responsibility for costs of relocation or alteration of pipelines on Federal harbor projects which are not constructed deeper than 45 feet in depth. However, I note that in the committee report, 99-126, for the Water Resources Development Act of 1985, S. 1567, there is language to the effect that the cost of relocation of pipeline, cable and related facilities for all Federal harbor projects remain the responsibility of the pipeline or cable owners. No distinction is made in the report language between Federal harbor projects deeper than 45 feet and those not 45 feet in depth.

I am concerned that the committee report language might lead to some confusion regarding the intent of the water resource legislation. It is my understanding that the legislation requires 50-50 cost sharing for pipeline relocation on all non-Federal harbor projects and on all harbor projects, Federal and non-Federal, deeper than 45 feet in depth. Further, that on Federal harbor projects less than 45 feet deep, no change is being made to existing law. Therefore, for Federal harbor projects less than 45 feet deep, pipeline and cable relocation costs will not be the responsibility of the Federal Government. Responsibility for costs associated with relocation or alteration of pipeline or cable for Federal projects less than 45 feet deep will remain unchanged by this bill and will continue to be subject to prevailing State and local law and practices. Have I stated the meaning of the legislation in the way that it was intended to be applied?

Mr. ABDNOR. I can assure my colleague from Texas [Mr. BENTSEN] that his description accurately explains the intent of this legislation. The sentence to which the Senator refers in the committee report is inaccurate to the extent that it does not recognize the distinction between Federal project depths of greater than or less than 45 feet. It is the intention of this legislation as amended by the Environment and Public Works Committee that for Federal projects less than 45 feet deep the Federal Government will bear no responsibility for the cost of pipeline and cable relocation or alteration and that such costs shall remain unchanged by this bill and will continue to be subject to prevailing State and local law or practices.

Mr. BENTSEN. I thank my colleague for that clarification.

WANDO RIVER PROJECT

Mr. HOLLINGS. Mr. President, I should like to discuss a point with Senator ABDNOR regarding the Wando River Channel project in the Charleston Harbor, SC. I understand that S. 1567 provides for the deepening of the Wando River Channel and for widening the turning basin to a minimum of 1,400 feet by 1,400 feet. I ask the Senator if my understanding is correct.

Mr. ABDNOR. Mr. President, the Senator from South Carolina is quite correct. The bill provides for both the deepening of the channel and the widening of the turning basin to the minimum dimensions the Senator has specified.

WEST KENTUCKY TRIBUTARIES PROJECT

Mr. FORD. Mr. President, the West Kentucky Tributaries project, commonly known as the Obion Creek project, has long been the focus of great controversy in the western part of the Commonwealth of Kentucky. The project was authorized by the Flood Control Act of 1965 and funds were appropriated by Congress in 1971 to initiate construction. However, no construction has been accomplished primarily due to intense disagreement over environmental matters.

The presently approved plan includes 41.7 miles of channel improvement and 8.2 miles of continuous embankment of excavated material to be placed along the planned diversion channel below the valley mouth of Obion Creek. Due to the potential adverse environmental impacts resulting from project construction, a fish and wildlife study was conducted which resulted in a recommendation to acquire 6,000 acres of land for the mitigation of project related fish and wildlife losses.

The local project sponsor, the Obion Creek Watershed Conservancy District, had not anticipated an offset requirement of this size and, to put it mildly, was stunned by the ruling. After years of negotiation with Federal representatives, on April 6, 1984, the conservancy district formally withdrew its support for the Obion Creek project as requiring the acquisition of mitigation lands. It further requested that the Corps of Engineers limit the project to clearing and snagging of the existing channel in lieu of the planned channel enlargement and diversions.

The Corps of Engineers' report which recommended the mitigation lands acquisition was returned to the Memphis district on July 20, 1984, from higher authority for reconsideration of the basic project as requested by the conservancy district. The reformulation studies required to evaluate the requested clearing and snagging alternative will be initiated as soon as funds become available. It is anticipated that the reevaluation will be initiated during fiscal year 1986 and will require approximately 14 months to complete.

We appreciate the corps' cooperation and willingness to work with our constituents, but the money for mitigation remains in the bill before us

today and is a source of grave concern to our constituents.

Mr. McCONNELL. As we have stated, Mr. President, the local conservancy board will not sponsor the Obion Creek project if mitigation funds are required. They have asked, and the corps has agreed, that the project be reformulated and scaled down to require only snagging and clearing. The reduced scope plan will not and must not require mitigation.

The problem arises in the fact that the House and Senate versions of the water resources bill include mitigation language. It is my understanding that the Environment and Public Works Committee believes this language is necessary to make the original authorization whole. While one would assume that the mitigation requirement would not be triggered if the project is scaled down to the proposed clearing and snagging design, we believe that additional language is necessary to assure that mitigation lands will not be mandated notwithstanding the reformulation of the project. Specifically, the committee has agreed to add the following language on page 125, line 2 of the bill:

: *Provided,* That the mitigation requirements shall be adjusted to reflect any decrease in the scope of the basic flood control project as authorized in the Flood Control Act of 1965 (Public Law 89-298)

It is our understanding that the language, as amended, will not mandate mitigation lands upon the implementation of a reduced scope plan for clearing and snagging. Is that the judgment of the committee leadership?

Mr. ABDNOR. Yes, that is the understanding of the committee leadership. Mr. President, the Senators from Kentucky are to be commended for their efforts on behalf of their State. Both Senator McCONNELL and Senator FORD have shown great foresight and leadership in crafting language to clarify the West Kentucky Tributaries fish and wildlife mitigation plan.

Mr. McCONNELL. I greatly appreciate the help of the committee, and particularly the assistance of the subcommittee chairman, in resolving this issue of growing concern to the people of western Kentucky.

SOUTH FORK ZUMBRO AND LOWER RIO GRANDE PROJECTS

Mr. DURENBERGER. Mr. President, I wish to discuss with the floor managers of this bill the implementation of the South Fork Zumbro River project, which is authorized in section 703(a) of S. 1567.

This is a much needed project designed to provide flood control benefits for the city of Rochester, MN. Part of it, the part authorized in this bill, will be implemented by the Army Corps of Engineers at a total cost of $60,470,000. The remaining features are to be constructed by the Soil Conservation Service under its small watershed project authority (Public Law 566) at a total cost of $11,481,900. The SCS portion of the project has been authorized since 1982.

Construction of this project is ready to begin. In anticipation of the Zumbro authorization in this bill, the administration has included $1.4 million in the corps budget for fiscal year 1987 to begin work. The SCS portion of the project is also ready to be implemented. Local sponsors have acquired all the lands necessary at a cost of $1.2 million. The city of Rochester has been collecting a local sales tax since 1983 to fund its share of the project. The SCS has completed plans and specifications; bids for the first structure have been received.

Unfortunately, proposed administration budget cuts could have a severe impact on the SCS portion of this important project. The administration has proposed a recision of fiscal year 1986 funds and has recommended no funding at all for the Public Law 566 program in fiscal year 1987. This would mean that an essential element of the Zumbro project would not be implemented.

Along with many other Members of Congress, I intend to work to ensure that this recision will not be approved by Congress and that the small watershed program of the Soil Conservation Service will be continued. But if we fail, I want the other members of the Environment and Public Works Committee to know that I intend to offer legislation transferring construction of the SCS portion of this project to the Corps of Engineers. It would be my hope that the committee would be willing to act expeditiously on such legislation so that this project, so important to the city of Rochester, could be implemented as expeditiously as possible.

Mr. ABDNOR. I assure my distinguished colleague from Minnesota that as chairman of the Water Resources Subcommittee, I would be ready and willing to address such legislation as quickly as possible, knowing the merits of this particular situation.

Mr. MOYNIHAN. I share the view of my friend, Senator ABDNOR, I would support such legislation.

Mr. BENTSEN. Mr. President, I have listened to this exchange with a great deal of interest. In addition to the Zumbro project in Minnesota, section 703(a) of the legislation before us contains authorization for a flood control project in the Lower Rio Grande Valley in Texas.

The Lower Rio Grande project is similar to the Zumbro project in that the Corps of Engineers is to implement one part and the Soil Conservation Service the other two parts. S. 1567 authorizes the corps to construct and improve channels and provide bank protection along the Arroyo Colorado at an estimated total cost of $195.3 million. Phases II and III would consist of measures providing flood prevention and agricultural benefits in subwatershed areas of the Lower Rio Grande as well as an accelerated land treatment program for agricultural lands. These phases would be implemented by the SCS under the same small watershed program as the Zumbro plan.

I share Senator DURENBERGER's concern that the proposed zeroing out of the small watershed program would have a disastrous effect on the Rio Grande project as well as the Zumbro project. As I said in my floor statement, I have worked to secure flood protection for the lower Rio Grande Valley since I came to the Congress. I was born and brought up in that area. Should the Public Law 566 program be terminated, I, too, will be offering legislation authorizing the Corps of Engineers to implement the Lower Rio Grande project in its entirety. I ask the distinguished flood managers of this bill, as well as my good friend Committee Chairman BOB STAFFORD, if the committee would be prepared to expedite approval of such legislation.

Mr. STAFFORD. I am well aware of the efforts of the ranking member of the Environment and Public Works Committee to secure authorization of the Lower Rio Grande project. I would support the legislation he has just described.

Mr. ABDNOR. The arguments of both my colleagues are very convincing. I would support the legislation as well.

Mr. MOYNIHAN. I join the chairmen of the full committee and the Water Resources Subcommittee in supporting the legislation proposed by my colleagues from Minnesota and Texas.

ROANOKE FLOOD CONTROL AMENDMENT

Mr. TRIBLE. Mr. President, last fall floods relentlessly pounded Virginia's Roanoke Valley. As reports continued to come out of the area, a terrible picture developed. "A wild wall of water" paralyzed much of the area taking many lives and requiring the evacuation of thousands.

Damage caused by the flooding has had a tremendous economic impact on the community. In Roanoke City alone, 5,500 homes had significant damage. One hundred and seventy-eight businesses were affected, 10 of which were a total loss. The sewage treatment plant was entirely under water with damages to the facility exceeding $1 million, and 54 public buildings were damaged.

The sad part is that the tragedy might well have been avoided. Since 1970 the U.S. Corps of Engineers have been studying the recurring flood problems of the Roanoke River and tributaries. On August 2, 1985, the

Chief of Engineers issued a report recommending flood control measures for Roanoke City. The corps' plan includes the following changes:

First, 10 miles of channel construction along the river to contain runoff;

Second, installation of a flood warning system;

Third, replacement of low bridges; and

Fourth, floodproofing Roanoke Memorial Hospital and the Roanoke sewage treatment plant.

It is essential that we act now. The bill I introduced last fall with the approved report of the Army Corps of Engineers, directs the corps to begin work on the project.

Mr. President, I thank the chairman for excepting my legislation and including it in the amendment package. We in Congress can avert such catastrophes in the future and I hope the water resource bill will be approved promptly.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

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

The PRESIDING OFFICER. The clerk will report.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. 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. HEINZ. Mr. President, I would like to ask a question of the chairman of the Committee on Finance with regard to the administration of the ad valorem fee imposed by title VIII of S. 1567 as reported by the committee. The committee affirmed that responsibility for remitting this charge and the ultimate responsibility for payment rests with the cargo interest, not with the vessel owner or operator.

In examining the record on this issue as considered in H.R. 6, the water resources development legislation approved by the House of Representatives in November, the report of the Committee on Merchant Marine and Fisheries states (H. Rept. 99-251, part 4, p. 27):

> Regardless of the potential difficulty in administration, the Committee reiterates that the cargo, being the beneficiary of the familities provided by the port, is for purposes of this act the user responsible for paying the fees required for ongoing operation and maintenance. The Committee intends that no burden, financial or administrative, fall on vessel owners or operators.

In order that the record on S. 1567 be clear and free from ambiguity, I would like to ask a question of the chairman: Is it the intent that cargo interests alone bear the responsibility for payment and administration of the ad valorem port use charge in title VIII?

Mr. PACKWOOD. The Senator is correct. The financial and administrative burdens of payment and collection are not to be imposed upon vessel owners or operators with respect to the ad valorem port use charge authorized by section 802 of title VIII. The cargo interest—the importer, exporter, or shipper—is the responsible party.

Mr. HEINZ. I thank the chairman for clarifying this important matter.

Mr. WARNER. Mr. President, I ask unanimous consent that the pending amendment be set aside.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, it is my understanding that Mr. SYMMS had an amendment which he has sent to the desk. He has asked that the reading of the amendment be dispensed with. He has not had an opportunity for the Chair to put that question.

I understand that Mr. EXON has an amendment.

The PRESIDING OFFICER. The amendment of Mr. SYMMS has not yet been reported.

Mr. SYMMS. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BYRD. Will the Chair withhold? Are there any more amendments?

Mr. KASTEN. Mr. President, will the minority leader yield? In response to the minority leader, we have an amendment about which I spoke to him before. We are verifying the approval of the senior Senator from Wisconsin. It has been temporarily set aside. When it is cleared, I hope we might be able to go forward with it sometime this afternoon.

Mr. BYRD. I do not want to impose on the time of the Senate. I have no objection to going ahead with the amendments of Mr. SYMMS, Mr. KASTEN, Mr. WARNER, and Mr. EXON. Then I would hope that Senators would understand that the managers have indicated that they would like to leave pretty soon. So I hope we can stop for the day on this measure at that point.

Mr. EXON and Mr. SYMMS addressed the Chair.

AMENDMENT NO. 1693

(Purpose: Directing that certain activities be taken to protect Salmon, Idaho, against flooding as a result of ice dams)

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Idaho.

The legislative clerk read as follows:

> The Senator from Idaho [Mr. SYMMS] proposed an amendment numbered 1693.

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

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

The amendment is as follows:

> On page 8, following line 11, insert the following, and reletter the subsequent subsection accordingly:
>
> "(e)(1) The Secretary is directed to complete an experimental program placing screens in the Salmon River in the vicinity of Salmon, Idaho, to trap frazzle ice, and thus eliminate flooding caused by ice dams in the river. Within one year of the enactment of this Act, the Secretary shall report to the Congress of the feasibility of such experiment, including consideration of any adverse environmental or social effects that could result from such experiment. If, in the Secretary's judgment, such experiment is not feasible or acceptable, the Secretary is authorized to consult with local public interests to develop a plan that is workable and practical, then submit such plan to Congress.
>
> "(2) For the purposes of this subsection, there is authorized to be appropriated to the Secretary the sum of $1,000,000 for the fiscal year ending September 30, 1987, or thereafter, such sum to remain available until expended."

Mr. SYMMS. Mr. President, first, I want to compliment the distinguished Senator from South Dakota and the distinguished Senator from New York for their fine work to bring this bill to the floor.

I have been in Congress since 1973. We had one very small water bill in 1976 that passed Congress, and I note that this is the first major move forward for this Nation to recognize the significance and importance of our water supply to the country.

I wish to compliment these two Senators for their leadership. Senator ABDNOR, I know, has worked tirelessly on this, and I appreciate it.

The PRESIDING OFFICER. The Chair must inform the Senator that the Finance Committee amendment is pending.

Mr. SYMMS. Mr. President, I ask unanimous consent that the Finance Committee amendment be temporarily laid aside and that the Symms amendment be in order.

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

Mr. SYMMS. Mr. President, this amendment is very important to the people of the Salmon, ID, community. It recognizes the basic obligation the Government has to its citizens to protect lives and property. Periodically, during cold winters, ice forms in a slack water reach of the Salmon River about 26 miles below the city of Salmon. When conditions are right the ice formation builds up, forming a partial ice dam, the river rises above this dam and floods the town. Conditions have been right too often. The records show 12 major floods since 1885.

Severe flooding occurred in 1974, 1982, and 1984. The Corps of Engineers and the Forest Service have tried to solve the problem at least since 1948. In 1956 the corps did some minor channelization and recommended constructions of a 2,000-foot long channel to speed the flow out of the Deadwater area. This was never done. In 1979 the Forest Service constructed a diversion ditch upstream on a side stream that flows into the Salmon River below the Deadwater area. This diversion was designed to minimize sediment flow into the river. This sediment, partially the result of early mining, settles along and in the river further restricting the river flow below the Deadwater reach and may be a principal cause of the flooding.

Mr. President, the logical, simple way to cure this problem is to lower the stream gradient, increasing the stream velocity and minimizing ice formation. Unfortunately, the stretch of the Salmon in question was made a wild and scenic river when the Central Idaho Wilderness was created in 1980. Any disturbance of the stream channel seems to be precluded, regardless of the cost in human misery and financial loss.

The Corps of Engineers has been searching diligently for a workable solution. I commend them for their efforts. However, they haven't found the key yet. Their latest review in 1984 identified four alternative solutions. They are:

First, changing the channel of the river;

Second, permanent evacuation of part of the community;

Third, constructions of a series of levees thru the town; and

Fourth, no action.

Of these alternatives, the channel alteration is apparently illegal—and it doesn't seem possible to amend the law. The other three options are not acceptable to the community.

Two additional solutions have been suggested by private parties. In both cases these are entities with significant engineering expertise. These two solutions, one a series of spur dikes and the other a bypass tunnel to be used to speed up the flow at critical times—were ruled impractical by the corps.

During the winter of 1985-86 the corps' Cold Region Research and Engineering Laboratory experimented in the Salmon area with placing movable screens in the river to form a partial ice barrier to minimize frazzle or drift ice migrating down to the Deadwater and adding to the buildup and eventual flooding.

This is the project my amendment addresses. At this moment, it seems to offer the best hope for relief for the people of Salmon. Please note that it provides for the Congress to develop a practical, workable solution, assessing environmental and social impacts.

Mr. President, this is a Federal problem because it could be readily corrected if it were not for Federal law. At least 80 percent of the area of Lemhi County is Federal land. The economy of the area is dependent on timber, mining, ranching, and tourism. All of these activities have been negatively impacted by Government policies in the past few years. If it were not for the Federal law, local people tell me they would be willing to channel the river at no cost to the Nation.

If something is not done, sooner or later the flooding will be a life and death issue. I have seen movies of elderly people carried out of their homes on Christmas Eve through ice-choked water 3 feet deep. I have seen the damage the floods cause. This amendment is a totally justified expenditure of funds already authorized in this bill, and I urge its adoption.

Mr. President, it is my understanding that this amendment has been approved by the majority and the minority.

Mr. ABDNOR. Mr. President, I thank my good friend from Idaho for his amendment.

The flooding caused by ice on Dump Creek at Salmon, ID, is a serious problem. Ordinarily, a problem such as this one would not be difficult to address under an existing Corps of Engineers small project authority. However, the fact that Dump Creek has been designated as a wild and scenic river precludes any sort of solution which might change the river's character.

The suggested amendment would instruct the Corps of Engineers to address the ice flooding problem at Salmon under section 209 of this bill. This section creates a small river ice control authority for the Corps of Engineers. Since the Federal designation of wild and scenic river prevents this problem from being addressed in the usual manner, it seems reasonable that the corps should try to address the problem at Salmon under this new authority in section 209.

Furthermore, the amendment will not increase the cost of the bill, and I therefore support its adoption for all of these reasons.

Mr. MOYNIHAN. Mr. President, I thank the Senator for his kind words with respect to the Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1693) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1694

(Purpose: To provide for the establishment of a demonstration program in the State of Nebraska to prevent and control streambank erosion)

Mr. EXON. Mr. President, I ask unanimous consent that the pending amendment be laid aside for the consideration of an amendment by myself and Mr. ZORINSKY, which I send to the desk.

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

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself and Mr. ZORINSKY, proposes an amendment numbered 1694.

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

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

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 337. (a) The Secretary of the Army (hereafter in this section referred to as the "Secretary"), acting through the Chief of Engineers, is authorized and directed to establish and conduct at multiple sites within the State of Nebraska for a period beginning on the date of enactment of this section and ending five years after such date a demonstration program consisting of projects for streambank erosion prevention and flood control.

(b) Demonstration projects carried out under this section shall include projects for the construction, operation, and maintenance of flood damage reduction measures, including bank protection and stabilization works, embankments, clearing, snagging, dredging, and all other appropriate flood control measures.

(c) For each demonstration project under this section, the Secretary shall evaluate the environmental impacts of such project with respect to both riverine and adjacent land use values, with the view of enhancing wildlife and wildlife habitat as a major purpose coequal with all other purposes and objectives, and with the view of minimizing environmental losses.

(d) Demonstration projects authorized by this section shall be undertaken to reflect a variety of geographical and environmental conditions, including naturally occurring erosion problems and erosion caused or incurred by man-made structures or activities. At a minimum, demonstration projects shall be conducted at sites on—

(1) that reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska;

(2) that reach of the Platte River from the boundary between Colfax and Dodge Counties, Nebraska, to its confluence with the Missouri River;

(3) that reach of the Elkhorn River from the boundary between Antelope and Madison Counties, Nebraska, to its confluence with the Platte River; and

(4) other locations deemed appropriate by the Secretary in consultation with the State of Nebraska, if sufficient funds are available.

(e) The Secretary shall condition the construction, operation, and maintenance of

any project under this section upon the availability to the United States of such land and interests in land as he deems necessary to carry out such project and to protect and enhance the river in accordance with the purposes of this section.

(f) The Secretary shall establish a Nebraska Advisory Group consisting of representatives of the State of Nebraska and political subdivisions thereof, affected Federal agencies, and such private organizations as the Secretary deems desirable. Projects under this section shall be carried out in coordination and consultation with such Advisory Group.

(g)(1) Except as provided in paragraph (2), projects carried out under this section shall be at full Federal expense.

(2) Prior to construction of any project under this section, non-Federal interests shall agree that they will—

(A) provide without cost to the United States lands, easements, and rights-of-way necessary for construction, operation, and maintenance of such project;

(B) hold and save the United States free from damages due to construction, operation, and maintenance of such project (other than damages due to the fault or negligence of the United States or its contractors; and

(C) operate and maintain the projects upon completion.

(h) There are authorized to be appropriated for fiscal years beginning after September 30, 1986, $25,000,000 to carry out the provisions of this section.

(i) Beginning twelve months after the date of enactment of this section, and at intervals of twelve months thereafter, but not later than five years after such date, the Secretary shall prepare and transmit to the Congress a report describing the progress achieved in carrying out the demonstration program established pursuant to this section.

(j) The Congress finds that demonstration projects established pursuant to this section are economically feasible. Such projects shall emphasize the development of low-cost erosion and flood control measures.

Mr. EXON. Mr. President, the amendment which Senator ZORINSKY and I are offering provides for a 5-year program demonstrating low-cost, environmentally sound streambank protection projects in the State of Nebraska. The amendment authorizes up to $25 million over 5 years for this important program. Streambank erosion losses have been astronomical over the last several years and Federal assistance is desperately needed to mitigate future losses of farms and other valuable land.

Recently, nearly 72 million tons of precious topsoil was lost to erosion in only 1 year alone. The soil conservation service estimated that the cost of this erosion in Nebraska was in the $360 million range.

This amendment, Mr. President, would establish a program of bank stabilization and flood control projects in Nebraska which would have basinwide applicability. A limited program similar to what I am proposing here was established on the Water Resources Act of 1974 under the so-called section 32 authority. This important program expired at the close of 1982.

With soil erosion losses escalating on rivers which drain into the Missouri River, further demonstration and development of such a program is vital. As I noted, this program would directly preserve tons of valuable farmland, and indirectly reduce the costs of damage to other structures in need of cleaning or repair as a result of erosion.

The State of Nebraska has expended over $3 million in State funds for one bank protection project alone and is considering numerous other projects. Nebraska's taxpayer's are making a significant contribution to the flood control efforts in the face of diminishing Federal support.

My amendment, simply authorizes the Corps of Engineers to develop a program demonstrating low-cost erosion and flood control designed to mitigate further soil losses. Local sponsors of the projects would be required to bear the full cost of operation and maintenance upon completion of the 5-year demonstration. Prior to building the projects, local sponsors are required to provide, without cost to the corps, all lands, easements, and rights-of-way needed for the demonstration. This contribution by the locals can amount to anywhere between 10 and 20 percent of the project costs.

A form of this legislation has already been approved by the House of Representatives. Unlike the House-passed bill, this measure authorizes a comprehensive statewide program. The House-passed bill restricts the demonstration projects to three specific sites. This amendment includes these sites initially, but requires the corps to include other areas identified by the State. This amendment makes it clear that it is a streambank stabilization program. As such it is just like the national section 32 program, and the Federal Government will fully fund the projects. Operation and maintenance costs become the responsibility of the non-Federal sponsors of each demonstration project at the end of the 5-year demonstration period.

A most important aspect of this legislation is the establishment of a Nebraska Streambank Erosion Advisory Board. It is vital that the Corps of Engineers coordinate and consult with this panel of State and local officials in determining priority needs of the State. This advisory panel is important because these State and local officials know the water needs of the State. Washington cannot tell the State what its water needs are in this area.

This amendment is vitally important to Nebraska. I realize, however, that the Government and Public Works Committee is operating under the same fiscal constraints felt by the rest of the U.S. Senate. The House of Representatives has seen fit to authorize this important program. However, the language used in the House version requires improvement in several areas. This version incorporates changes suggested by the State of Nebraska. In the interest of keeping S. 1567 moving along, we would be willing to withdraw this amendment if we could be assured by the managers of the bill that they will give every consideration in conference to the overall program in the House-passed bill and to the changes contemplated in our amendment.

Mr. STAFFORD. Mr. President, I hope the very able Senator will withdraw the amendment that he has offered today. The bill that is pending before us here in the Senate already contains a streambank erosion provision which was offered by the distinguished Senators from North and South Dakota, Senator BURDICK and Senator ABDNOR.

It would be our belief in the committee that the Senator's concern, which I can understand because we have erosion problems even in Vermont, needs to be considered in the national program and obviously when we go to conference with the House, we will consider the proposal in the House bill as well as our own.

Mr. EXON. I thank my friend from Vermont.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from Nebraska is recognized.

Mr. ZORINSKY. Mr. President, my colleague from Nebraska, Mr. EXON and I are offering an amendment to S. 1567 to address major flooding problems that have existed in our State for some time now. The amendment is part and parcel of the substance of a bill we offered on February 28 of last year, S. 539. That bill seeks to establish a series of demonstration projects providing flood control and streambank erosion control structures. In recent years, large spring snowmelt flows originating on the eastern slopes of the Rockies have caused substantial damage along the Nebraska streams overburdened by the seasonal surges in flow volume. The purpose of our bill, S. 539, was to set up a program within the Army Corps of Engineers. In concert with State and local authorities, to deal with the perennial problem with low-cost streambank stabilization projects throughout the State. The program would allow the implementation of a wide range of measures to reduce flooding and the intense erosion that occurs as a result.

The program we envisoned would take into account environmental impacts caused by erosion control measures. The impact of normally occuring erosion, and impact on wildlife. The program would be carried out over a period of 5 years at a cost of $25 million, at full Federal cost. Again, the emphasis would be on low-cost flood

control and bank stabilization efforts so as to demonstrate efficient protection of erosion-prone streambanks.

Unfortunately, S. 539 has not been placed on the Senate calendar for consideration on the floor. The conditions that make many rivers in Nebraska subject to extensive erosion damage still exist, so we are offering the substance of S. 539 as an amendment to S. 1567 at this time. S. 1567 contains no language addressing the flooding problems Senator EXON and I are concerned with.

I would note that the House of Representatives has addressed these issues in H.R. 6, which passed the House on November 13 of last year. The language in section 530 of that bill uses much of the same language that is in our amendment, but there are differences. For example, our amendment would provide for a statewide program rather than a localized one, and we do not provide for recreational facilities to be a part of the program, in addition to other variances in terms. However, I view the house language as a very positive step toward resolving the difficult and pervasive problems of streambank erosion in Nebraska.

Of course, I would prefer to pursue our amendment on the Senate floor to include our language in S. 1567, for I feel that our amendment provides the most comprehensive solution to Nebraska flooding. However, I know that the managers of the bill would prefer that we not bring the matter to a vote at this time, and that they are prepared to give this matter appropriate consideration when it is revisited in consultation with the House in coming weeks. Given these circumstances, and knowing that the issue of a streambank erosion control program will remain an active issue, I agree to withdraw our amendment.

Mr. MOYNIHAN. Mr. President, I wish to thank the two distinguished Senators from Nebraska, for their consideration of the constraints under which the committee is operating with respect to substantive amendments. I say to them that the House provisions on the Nebraska Stream Bank Erosion Program will be given every consideration with the changes suggested by the Senators from Nebraska when we got to conference.

We thank them both for their consideration and proposal which commend themselves to this Senate I am sure.

Mr. ABDNOR. Mr. President, I am a member of the subcommittee. I wish to say I am well aware of what erosion does. We certainly have enough of it up my way and it goes on in North Dakota.

I worked with people in Nebraska, and this is something that I agreed with.

Mr. EXON. Mr. President, I thank our friends from Vermont, New York, and South Dakota for their understanding of this matter. It is extremely important.

We hope that the bill will be passed under the funding mechanism suggested by the House bill but, if that happens and we hope and expect that it will, there is general consensus that the language submitted here should be inserted therein.

We thank all for their cooperation and understanding.

Mr. EXON. Under those circumstances I withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment and it is withdrawn.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, first, I ask unanimous consent that the pending amendment be temporarily laid aside.

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

Mr. WARNER. Mr. President, I express my appreciation to the majority leader and minority leader for making the procedural avenue by which I can offer this amendment.

Mr. President, I also thank at this time the entire Committee on Environment and Public Works under the able leadership of Chairman STAFFORD and the ranking minority member, Mr. BENTSEN of Texas.

Throughout my 7 years in the Senate I have had a great many dealings with this committee, and I think few people realize how hard they work. This is a historic threshold on which we are now resting. I am so hopeful that this pending matter can go forth and reflect a great measure of credit well deserved by this committee.

AMENDMENT NO. 1695

(Purpose: To modify the Lynnhaven Inlet, Virginia, project)

Mr. WARNER. At this time, Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 1695.

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

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

The amendment is as follows:

Insert on page 65, after line 5, the following and number appropriately:

"SEC. . The navigation project for Lynnhaven Inlet, Bay and connecting waters, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173, 1174) is hereby modified to provide that the United States shall pay for the remedial work to Long Creek Canal which the City of Virginia Beach, Virginia, was required to carry out as a result of such navigation project, at a cost not to exceed $1,660,000".

Mr. WARNER. Mr. President, I rise today to offer an amendment to S. 1567, the Omnibus Water Resources Development Act, which I hope will be accepted by the bill's managers on both sides of the aisle.

The purpose of my amendment, which my colleague Senator TRIBLE is cosponsoring, is to authorize the Secretary of the Army to reimburse the city of Virginia Beach, VA $1.66 million for remedial work done on the Long Creek Canal project.

The city was required to carry out the work as a result of a Federal navigation project performed by the U.S. Army Corps of Engineers in 1965.

The Corps of Engineers acknowledges its responsibility in creating the need for this remedial work, but insists they cannot perform the work without authorizing legislation. This injustice was brought to my attention soon after being elected to the Senate, and I have introduced legislation and worked to reimburse the city since that time.

In a letter to Chairman STAFFORD of September 17, 1985, Assistant Secretary of the Army for Civil Works Robert Dawson, indicated that

following completion of the existing Federal navigation project in 1966, erosion and deepening of the canal channel below project depth occurred in the vicinity of the bridge . . . . . Because the actions of the City were appropriate, reasonable, and apparently, effective, we would have no objection to a provision authorizing reimbursement.

Mr. President, I ask unanimous consent that the complete comments of Secretary Dawson concerning the reimbursement of the remedial work on Long Creek Canal be printed in full in the RECORD.

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

(See exhibit 1.)

Mr. WARNER. Mr. President, I am pleased that the managers of this critically important legislation have agreed to this amendment, and I thank them for their timely consideration of this problem.

I thank particularly the Senator from South Dakota and the Senator from New York for this and many other courtesies extended to this Senator.

EXHIBIT 1

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, September 17, 1985.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your recent letter requesting my views on various requests and suggestions for amendments to S. 1567 received by the Committee. I am also providing views on an additional item forwarded for comment by Mr. Harold Brayman of the Committee staff.

My views on each of the items are as follows:

CADY MARSH DITCH (LITTLE CALUMET RIVER), INDIANA

The feasibility report on the Little Calumet River Basin, Indiana, which also addresses the flooding problems in the Cady Marsh Ditch watershed, is currently under review at the Office of the Chief of Engineers. As you know, this office does not support authorization of any proposed project until the feasibility report has been reviewed and endorsed by this office and the Office of Management and Budget.

In regard to the specific issue involving Cady Marsh Ditch, this office has not had the opportunity to review the project report, and, therefore, we are not in a position to comment whether or not an exception to our long-standing policy establishing minimum flood discharge criterion is warranted in this case. It should be mentioned, however, that the discharge criterion, which was established to provide a uniform standard to differentiate between local drainage problems and flood problems eligible for Federal assistance, was adopted after lengthy and careful deliberation.

LONG CREEK CANAL, VIRGINIA

The City of Virginia Beach is seeking reimbursement for work undertaken by the City in 1977 to correct a scouring problem in the vicinity of Virginia Route 615 Bridge caused by the Federal navigation project at Long Creek Canal.

Following completion of the existing Federal navigation project in 1966, erosion and deepening of the canal channel below project depth occurred in the vicinity of the bridge. Subsequently, the City of Virginia Beach advised the Corps of Engineers of the problem, and eventually, after requesting Federal assistance and before corps investigations could be completed, was found by jury trial to be responsible for correction of the problem. The City then initiated remedial construction work at its own expense. Corps studies under Section 111 of the River and Harbor Act of 1968 were terminated after work was started by the City. However, investigations had progressed to the point they were able to determine that the erosion problem was caused by the navigation project and Congressional interests were so notified. Because the actions of the city were appropriate, reasonable and, apparently, effective, we would have no objection to a provision authorizing reimbursement. We would recommend, however, that any such provision provide for a determination that the work has been acceptably completed, that reimbursement be limited to necessary and actual costs, and that acceptance of funds by the city forecloses future claims.

SANTA ANA RIVER (PRADO DAM), CALIFORNIA

We have no objection to review further the feasibility of including conservation storage at the Prado Dam and Reservoir project although storage for this purpose has previously been found to be infeasible.

OUACHITA-BLACK RIVER NAVIGATION (ROAD DAMAGES), ARKANSAS

Union County cites that two county roads handled 95 percent of the equipment and materials for the construction of the Calion and Felsenthal Locks and Dams (part of the Ouachita and Black Rivers Nine-Foot Navigation project) resulting in extensive road damage and requiring repair estimated to cost $700,000. The County wants the Federal Government to repair these roads.

Besides the fact that Union County furnished the corps assurances in 1962 that the County would hold and save harmless the United States Government from damages resulting from Ouachita-Black River Navigation project, our policy on such issues is that it is the local jurisdiction's responsibility to ensure that contractor's vehicles are not overloaded.

PHILLIPS COUNTY (HELENA HARBOR), ARKANSAS

Although the proposed project at Helena Harbor, Arkansas, is currently included in Title VII of S. 1567, we continue to oppose Federal implementation of this project. By letter dated July 6, 1984, this office informed Congress that creation of flood-free landfill through the use of material dredged from an adjacent channel was feasible, but that this development was most appropriate for implementation by local interests in response to market conditions. Their costs should be recoverable through the sale or lease of the landfill. Therefore, no further planning or development activities by the corps are warranted at this time.

JACKSONVILLE HARBOR (MILL COVE), FLORIDA

S. 1567 would authorize the Mill Cove project in accordance with the report of the Chief of Engineers. The Chief recommended modification of the existing Federal project for Jacksonville Harbor to provide for flow and circulation improvements and small-boat navigation improvements for Mill Cove at full Federal costs.

Based on subsequent review of the report by this office and the Office of Management and Budget, this office advised Congress by letter dated June 1, 1984, that the flow and circulation component of the project should be authorized for construction, as a Federally-funded activity, but that the small-boat navigation improvement should not be authorized since that feature is not a necessary component for mitigation of the shoaling. Provided the authorizing language in the bill is revised to reflect the preceding, this office has no objections to authorizing the flow and circulation improvements at full Federal cost.

Sincerely,

ROBERT K. DAWSON,
Acting Assistant Secretary of the Army (Civil Works).

Mr. TRIBLE. Mr. President, I would like to join my colleague from Virginia and commend him for introducing this amendment.

Since 1977, the city of Virginia Beach has been seeking reimbursement for work undertaken by the city. This work was done to correct a scouring problem in the vicinity of Virginia Route 615 bridge caused by the Federal navigation project at Long Creek Canal.

The erosion caused by the Federal navigation project was reported to the corps by the city of Virginia Beach, and the city asked for assistance. Before corps investigations could be completed, the city was forced to begin remedial construction work at a cost of $1.66 million.

The corps has approved that the city should be reimbursed because their actions were "appropriate, reasonable, and effective."

Mr. President, I hope that my colleagues will see that this amendment passes so that the city of Virginia Beach is finally reimbursed for their appropriate actions.

Mr. ABDNOR. Mr. President, it is always a pleasure to work with the Senator from Virginia.

I am familiar with the amendment, and according to the Corps of Engineers the federally constructed Long Creek Canal project was responsible for the need to provide protective measure for the bridge on Virginia Route 615. In fact, it is my understanding that the Corps of Engineers was studying how to protect this bridge at full Federal cost when the city of Virginia Beach undertook those repairs on their own.

Furthermore, the Corps of Engineers has informed us that the work performed by the city was appropriate and effective. I, therefore, believe it is appropriate that the city of Virginia Beach be reimbursed for the work they performed to mitigate damages caused by the Federal navigation channel.

I support the amendment of my friend from Virginia.

Mr. WARNER. I thank the Senator.

Mr. MOYNIHAN. Mr. President, the facts as set forth by the distinguished Senator from Virginia are precisely those which we in the committee understand to be the case, as the chairman has just said.

The corps has acknowledged this was work made necessary by its previous actions in which it was about to undertake and would have had to have done. The city did it, and the work was done in a timely fashion which reduced the long-term costs, and it should be reimbursed. No one in the Federal authority doubts that, and we are happy to accept the amendment on this side.

Mr. WARNER. I thank the Senator from New York.

Mr. MOYNIHAN. I thank the Senator from Virginia for his courteous remarks and agree with him.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1695) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1690

Mr. KASTEN. Mr. President, first of all, I ask unanimous consent that the Finance Committee amendment be laid aside for the purpose of considering the Kasten amendment No. 1690 which had been temporarily laid aside.

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

Mr. KASTEN. Mr. President, this amendment would simply deauthorize the Federal dredging project at Racine Harbor. It would release the responsi-

bility of the Federal Government to dredge the harbor and enable local interests to undertake the project on their own. As I said earlier, I would prefer that the Senate adopt the House authorization of the project. But given the limitations we have on the Senate bill, I want to make sure that we at least give local officials, the ability to start the dredging. This project is critical to economic revitalization of the Racine area, and I intend to see that it gets off the ground. I urge my colleagues to support this amendment.

I would also like to thank the Senator from South Dakota, the distinguished manager of the bill, for his offer to give very serious consideration to the House authorization of the Racine project during conference. I will continue to work with him on this matter and look forward to his continued support on this matter.

Mr. President, I have had an opportunity to review this amendment with the senior Senator from Wisconsin, [Mr. PROXMIRE] and he supports this amendment. I would like to add his name as a cosponsor of the amendment.

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

Mr. MOYNIHAN. Mr. President, with the expeditious and felicitous outcome of this matter that, obviously, in the judgment of the two Senators from Wisconsin, this is heading for—and it is almost the invarying practice of the committee to yield to such a joint judgment—there is no objection on this side.

Mr. ABDNOR. I certainly wish to commend the Senator from Wisconsin. This demonstrates once again his concern and interest in his State and cities and what ends he goes through to make sure it is expedited as quickly as possible. I am pleased we were able to run down the senior Senator from Wisconsin on a late Friday afternoon. I congratulate the Senator from Wisconsin on the job he has done.

Mr. KASTEN. Mr. President, I thank, first of all, the chairman of the committee, and also the Senator from New York, for their cooperation. I ask that we now consider the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1690) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I rise in support of the pending legislation, S. 1567, the Harbor Maintenance Revenue Act of 1985. I especially urge the adoption of the Finance Committee amendments, which among other provisions relate to the tax treatment of Hawaii and the insular possessions of the United States.

Mr. President, the underlying legislation imposes a .04 percent ad valorem charge on cargo loaded onto, or unloaded from, commercial vessels in waterports of the United States. The Finance Committee considered at length and in depth the unique circumstances pertaining to Hawaii and the insular possessions of the United States, which are almost competely dependent on waterborne commerce. Under an amendment approved by the Finance Committee, the proposed port use charge would not apply to either the loading or subsequent unloading of cargo that is loaded in Hawaii or in any U.S. possession and shipped to the U.S. mainland or Alaska for ultimate use or consumption in the U.S. mainland or Alaska. Similarly, the port use charge would not apply to either the loading or subsequent unloading of cargo that is loaded at any port in the U.S. mainland or Alaska for transportation to Hawaii or a U.S. possession for ultimate use or consumption in Hawaii or a U.S. possession, however, the exemption would not apply to the loading or unloading in Hawaii or in the U.S. possessions of cargo shipped to or from a foreign country.

Mr. President, in my view these provisions which were drafted with the understanding cooperation and able assistance of the distinguished chairman of the Finance Committee, Mr. PACKWOOD, are an adequate and appropriate response to the concerns which I raised last September during the Finance Committee hearing on the pending legislation.

Mr. President, I wish to take this opportunity to thank Senator PACKWOOD, along with the ranking Democrat of the Finance Committee, Senator LONG, without whose assistance the economies of Hawaii and the U.S. possessions would have been subjected to undue burden. Mr. President, in urging the adoption of the Finance Committee amendments and the Harbor Maintenance Revenue Act of 1985, as amended, I wish to add my congratulations and commendations to those extended by my colleagues to the chairman and ranking member of the subcommittee for their successful effort in reporting the bill to the floor.

Mr. MOYNIHAN. Mr. President, as frequently is the case with the Senator from Hawaii, but perhaps less so with the Members generally of the Senate, he has been too modest in his account of this amendment, which is an important one. The case for Hawaii and the insular possessions of the United States was made before the Finance Committee by the Senator from Hawaii. I am a member of that committee and sit along side of him in that body. It was made with clarity and with conviction and with equity—and it was accepted, as is so frequently the case with matters he brings forward.

This would be an inadequate bill without this provision. It would be a flawed bill, without it. He may be assured that we will not come back from conference without it.

Mr. MATSUNAGA. I thank the Senator from New York [Mr. MOYNIHAN] for his kind comments. I wish to thank him not only as the ranking member of the subcommittee, but as a member of the Finance Committee, who plays a major part in devising the Finance Committee amendments. I thank the Senator.

COST SHARING

Mr. BUMPERS. Mr. President, I would like to ask the Senator from New York and the Senator from South Dakota just a couple of questions based on my concern about some of the cost-sharing arrangements provided for in this bill.

Let me say first, I have absolutely no objection to the mandate for more cost sharing by the local entities. But I want to say that in my State, for example, there are a few projects there that cannot possibly meet the cost-sharing requirements. Some of these desperately needed projects have been carefully planned and are finally about ready to go to construction, but these cost-sharing provisions obviously will shoot them down.

Of course, I have been told repeatedly that any amendments to change the cost sharing in the Senate bill would cause the bill to either be vetoed if an amended version were to be passed, or that there was even a possibility the bill would be pulled down if the cost-sharing arrangements were changed.

But there have to be exceptions to every rule. And obviously there are many places in this country that, maybe not now, but in the future, are going to be desperate for flood control, navigation projects, and so on, and the national interest would be best served by providing for flood control and navigation in those instances. But, at the same time, the local entities would find it absolutely economically impossible to come up with their cost-sharing arrangement.

Is there any provision in here so that where the national good or the national interest would be so overwhelming, and where the local cost sharing simply could not be met, there would be an exception made which would allow those projects to be developed?

Mr. STAFFORD. Will the able Senator yield?

Mr. BUMPERS. I am happy to yield. I am sorry, I referred to the Senator from South Dakota. I thought he was still on the floor. It is the Senator from Vermont.

Mr. STAFFORD. The Senator from Vermont is pinch hitting for him because he had to leave.

I might invite the Senator's attention to page 105 of the bill before the Senate. I will read the short paragraph that might apply to the Senator's question.

Mr. BUMPERS. What line is that?

Mr. STAFFORD. It starts on line 8, I say to the able Senator.

> Any cost-sharing agreement under the terms of this title for flood control, rural drainage, or agricultural water supply shall be subject to the ability of a non-Federal sponsor to pay. The ability of any non-Federal sponsor to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

Other than that, I would have to say to my friend that it was a very long, difficult, and laborious process that we went through, as members of the committee, with the administration representatives in working out the bill which we were able to bring to the floor of the Senate.

It would be the opinion of the Senator from Vermont, reluctantly, that any change in the cost-sharing formulas that are in the bill would almost surely invite the veto of the bill at the White House.

Mr. MOYNIHAN. Mr. President, as an extension to the comments of our distinguished chairman, the Senator from Vermont, let me quote to the Senator from Arkansas a passage from the report language, which simply says:

> Beneficial projects should not, however, be rejected simply because non-Federal interests lack the resources to finance the share of the developing costs.

We understand the situation. Allow me to clarify our purpose. We do not have any flood control projects in America today. We do not have any major water programs in development. I am referring to projects on the Ohio, like the Gallipolis Locks and Dam, and to major projects on the Monongahela and the Mississippi.

In the last 10 years—and I have been 9½ years on this subcommittee and was chairman of it—the Corps of Engineers has commenced three projects—three. There are 181 in this bill.

The reason we have not accomplished our objective results from a conjunction of forces. First of all, these projects—dams in the early days, or this century—were sort of free goods. And the committee chairman got two, the ranking member got one, and then every other year other members of the committee got one. Like any free goods, they were abused.

First of all, the best projects are used up after a while, and then less effective and useful projects come in. Dams are not of necessity a good idea, as the Egyptians found out and as many American communities have discovered, too.

That gave rise to objections on cost grounds, and environmental considerations. And then there came a time when other parts of the country said these projects are too much associated with the Ohio, Mississippi, and Missouri Basins, and not with the Bureau of Reclamation, which by definition includes only Western States.

Additionally, we had problems such as the Senator from Vermont described. We need coal ports. The Senator from West Virginia I know cares about coal ports. We have spent 5 or 6 years working on this matter of deep water, 55-foot ports for export of coal. There are three major coal exporters in the world: Australia, South Africa, and the United States. Europe and Japan—major importers—have built 60-foot harbors for super colliers. Australia and South Africa have done the same.

Surprisingly enough, I discovered that we built one in Seward, Alaska. This Alaskan port is being used by super colliers designed to go back and forth from Japan under 30-year contracts. Under the system we had in place—here I am going to revise an estimate of the Senator from Vermont, and I have given long and serious attention to this—I think by the year 2020 we would have had 15 60-foot ports. But that would be too late. That is 35 years from now. What we need is three in the 1980's, and maybe one in the 1990's. We have gotten one in Alaska now. We can only build projects of this magnitude if we have projects that meet market tests.

If we want nothing, nothing is what we are getting now. If we want nothing we should plod along as in past years. We found we can get nothing very readily. For example, take the case of Lock and Dam 26. There was no problem not to get that done. We need to expand it, obviously. The cost of expanding it in 10 years will be twice what we can do today with time-discounted money. So we have put in cost sharing along with a market test to determine if these projects should go forward.

As I noted earlier in this debate, last year, in 1985, the Corps of Engineers did more construction work in Saudi Arabia than it did in the United States.

So we put in the cost-sharing provision, but with respect to flood control. There are very few big harbors that cannot afford to pay the cost-sharing on port projects. If they cannot pay, then they can do without a 60-foot harbor. But floods can rush down the tiny hollows in my part of New York State, which is part of Appalachia and geographically part of the Appalachian Regional Commission. This is where I live, and have lived for a quarter of a century. We know what the floods are like in those hollows. They can hit and devastate communities just like they can in Vermont. The Senator does not have quite the rivers we have. But still that can happen, and devastate communities which are small, and could not possibly themselves take care of the cost sharing that is provided under the basic schedule.

That is why the Secretary of the Army is authorized to renegotiate or to waive such provisions. We do not do it as a formality, as a gesture toward a need. We do it as a recognition of need. It says that beneficial projects should not be rejected simply because non-Federal interests lack the resources to finance the share of the development costs.

I cannot say more. As a matter of fact, I will not say more. But I hope the Senator has heard me, and I hope it helps to clarify this provision.

Mr. BUMPERS. The Senator's description of how this came to be is edifying and I appreciate it very much.

One thing that has troubled me greatly about this provision is the criteria which the corps will use in determining which projects are going to receive priority consideration. I know they are going to have criteria that at least is ostensibly going to be fair. But I come from a State that is not wealthy by any standard except in human resources and natural resources.

My fear is that we will have many projects that are of equal need and importance. Those projects where the local sponsor has been able to come up with the highest percentage of cost sharing are going to receive priority over others which are equally needed. Those projects would be just as critical to the people involved, but if they are relatively poor and cannot come up with their share, they will have no recourse.

Is there anything in the bill or in the committee report that addresses that, other than just the fact that the corps will make the determination?

Mr. MOYNIHAN. The actual statutory language is fairly strong.

> Any cost-sharing agreement under the terms of this title for flood control, rural drainage, or agricultural water supply shall be subject to the ability of a non-Federal sponsor to pay.

I would take that to be strong language.

Mr. BUMPERS. The next sentence is what troubles me. It says:

> The ability of any non-Federal sponsor to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

Will the committee oversee, and put its final approval on those procedures?

Mr. MOYNIHAN. Surely.

Mr. STAFFORD. If the Senator is inquiring are we going to have oversight over this program in the future, very obviously the committee will. We

expect it to be fairly administered by whoever may be the Secretary.

Mr. BUMPERS. I understand. If the Senate version of this bill stands—and there are parts of it I hope will not—I hope the House will prevail in some instances, but in this particular case, if this portion of the bill stands, the Secretary is going to have a mandate to establish procedures.

My question is, Will the committee put its stamp of approval on those procedures before they are finalized, or will they simply exercise their oversight responsibility once they are finalized and put into practice, and will the committee determine whether they are working out well or not?

Mr. STAFFORD. It would be my judgment that we would be exercising oversight responsibilities as far as the Secretary's rules and regulations and procedures might be concerned.

Mr. BUMPERS. I thank the Senator. I hope that the Secretary will stay in close communication at least with the chairman and ranking member of the committee in the drafting of these procedures to make sure that the basic fairness problem that I have addressed here is fairly addressed in those procedures.

I thank the Senators for their time.

Mr. MOYNIHAN. Can I say that I agree with the Senator, my chairman, that of course we will exercise oversight. But I would like to put this Senate on notice this afternoon that I have been on this committee for almost 10 years now and there has been no water bill. There have been virtually no flood control projects. They are not easily approved. We have shown that.

Mr. President, I thank the Chair and I yield the floor.

Mr. LUGAR. Mr. President, I would like to commend the distinguished Senator from South Dakota for the many years of hard work and diligent attention which he has given to this legislation. At my request and that of Senator QUAYLE, S. 1567 includes two key projects in Indiana, the Little Calumet River Basin project and the Indiana shoreline erosion project. The Little Calumet River Basin project will bring important flood control, recreational, and economic benefits to the Calumet region at a very favorable benefit-to-cost ratio of 2.5 to 1. The Indiana shoreline erosion project will help to preserve the Indiana Dunes National Lakeshore from the erosive effects of a Federal structure. It would also help to mitigate erosion in the town of Beverly Shores, IN. I also appreciate the Senator's consideration of the Cady Marsh Ditch project in Griffith, IN, and I regret that the committee found that this project would not meet its criteria for inclusion in the bill.

I would like to take this occasion to indicate my strong support for the Lake George project in the House-passed bill. The city of Hobart is centered around Lake George. This lake has deteriorated because of sediment brought to it from sources outside Lake George. The demonstration project would provide for the removal of silt, aquatic growth, and other material in Lake George and in that part of Deep River upstream of the lake through Lake Station. It would also provide remedial measures to prevent future problems. I would urge the managers of the bill to support this project in conference with the House.

Mr. ABDNOR. I recognize the importance of this project and I can assure the Senator that it will be reviewed in conference with the House.

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

Mr. BUMPERS. Will the Senator withhold?

Mr. STAFFORD. Yes.

Mr. BUMPERS. We are still on this bill.

Mr. STAFFORD. Will the Senator put in a quorum call to see if the leaders have some further thought about the rest of the afternoon?

Mr. BUMPERS. Mr. President, I was wondering if we might go into morning business at any time prior to adjournment?

Mr. STAFFORD. I am unable to respond. The majority leader is expected shortly.

Mr. BYRD. Mr. President, I am sure the Senate will go into morning business to accommodate the distinguished Senator from Arkansas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I may be permitted to proceed for 10 minutes as though in morning business.

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

HEPTACHLOR AFFECTING THE DAIRY INDUSTRY

Mr. BUMPERS. Mr. President, I want to make the Senate aware of a situation that has just developed principally in Arkansas but also in Missouri, Kansas, Tennessee, Texas, Oklahoma and, I believe, Mississippi. I am referring to a devastating situation, namely, the contamination of milk supplies with heptachlor, a chemical that was banned by the Environmental Protection Administration in 1983. I might say, Mr. President, that if EPA had not only banned heptachlor as a carcinogen in 1983, but had destroyed all the inventoried remaining stocks of that chemical, I would not be on my feet right now. But, unhappily when EPA banned heptachlor, they also ruled that existing inventories could continue to be used.

Heptachlor has been used since that time on feedgrains to prevent mildew, mold, and so on.

Valley Feeds is an ethanol plant in Van Buren, AR, just across the river from Fort Smith. This ethanol plant, of course, produces ethanol, mostly from corn and some milo. It was just discovered, about 3 to 4 weeks ago, that Valley Feeds has been buying grain from a brokerage firm—I am not sure exactly where that grain came from—and processing it into ethanol and selling the mash that resulted. This is a corn mash, a feedgrain mash that is the residue from the ethanol processing procedure. They have been feeding that mash to dairy farms all over these States, but principally in Arkansas.

Once it was discovered that one dairy farmer had heptachlor in his milk at a level of 60 to 80 times above permissible levels, then the Arkansas State Health Department, and presumably the Federal health authorities, began to test every dairy herd that they suspected had received any of the feed from this mill.

Now, 3 weeks later, the plot thickens and the damage increases.

In my State alone, out of 1,350 dairy farmers, 90 herds have been quarantined. I am not sure how many herds have been quarantined in Missouri, Kansas, Texas, Oklahoma, and Mississippi. Several.

But in any event, to give you some idea of the damage, 2 days ago we had 68 dairy herds quarantined and it is now up to considerably more than that. The Department of Agriculture made a temporary finding that involved about 5,900 producing dairy cows, and 900 breed heifers. The figure now probably involves over 15,000 dairy cows.

There is also the possibility that this feed has gone into at least some beef cattle herds, some hogs, and at least one flock of sheep.

The dairies, and I am talking about the commercial dairies in the affected States, have been pulling milk off the shelves as fast as they could if they suspected it of being contaminated. Most health authorities say that the danger to the public is not serious.

The same thing happened in Hawaii in 1983, and under a cattle indemnity program, the U.S. Government paid the dairy farmers of Hawaii for their lost production of milk until the heptachlor could be washed out of the cattle.

Heptachlor deposits itself in fatty tissue and to get rid of it takes anywhere from 6 months to 2 years.

Unfortunately, Mr. President, the Cattle Indemnity Program has $94,000 in it. So there is no money at the discretion of the Secretary to start paying these farmers immediately for lost production.

I met with about 30 dairy farmers last Saturday in north Arkansas. I have never seen a more frustrated, desperate group of men in my life. They cannot sell the milk and they cannot sell their cattle. Yet there is no money coming from this program to them. They have to keep milking the cattle and they have to keep feeding them and, yet, there is no income coming in to them.

Mr. President, this is a disaster of great magnitude. My guess is that we are talking about damages that will well exceed $10 million.

One of the interesting things about this is there is no really good way to dispose of the milk. One of the problems these farmers have is they have to keep milking these cows morning and night and they have to dispose of the milk. They are scared to death that if they dispose of it on top of the ground, it will pollute their underground water and their wells. There is just no good solution to this yet.

I say to all of my colleagues, Secretary Lyng has been very courteous and kind to me. I have talked to him on the phone and in person a number of times. He has today appointed Mike Masterson, his special assistant, to head up a task force to go and do an economic damage assessment and report back to him on what action the Department or Congress, or all of us, should take.

That task force will start out in Fayetteville, Arkansas, which is the center of most of the Arkansas problem. It is going to start out there on Tuesday morning and possibly Tuesday afternoon, go to Missouri; then, on Tuesday and Wednesday, go on over to Kansas and, hopefully, report back to the Secretary next weekend as to the extent of the damage, the amount and what we should do about it.

If this were a flood or a tornado or Mount St. Helens exploding and you say it on the evening news, everybody in this body would be saying, "Let us get some relief to those people immediately." But simply because all you see is farmers pouring out milk, that does not look very serious unless you happen to be one of those farmers pouring the milk out.

So, Mr. President, this has been going on now for 3 weeks. We are hoping that all these dairy herds will be tested by this weekend. But, you know, Mr. President, this feed may not have just been fed through the valley feed mills in Van Buren where they make ethanol. There is a possibility that this feed also went to other commercial feeders in the country who also sold it either to beef cattle herds or dairy herds.

Let me tell my colleagues one of the problems involved in this. You can test the milk of a dairy cow and you can determine whether or not that cow is contaminated. Indeed, they do not even test these dairy cows because it costs about $125 a cow to test them. What they do is test the milk. If the milk is above permissible levels for safety and health, they quarantine the whole herd.

In beef cattle, you cannot test the milk because there is nothing to test. You have to test each individual cow or steer or whatever, at $125 each. So you can see, just the testing of beef cattle is prohibitively expensive.

My point, Mr. President, is that I want to put the Senate on notice that we have one of the greatest tragedies and disasters in my State we have ever had. So far as the appearance of the problem is concerned, it does not look like a tornado or a flood or any of those other things we consider to be disasters, but it is just as much a disaster as any of those things. We have a law on the books, and we have asked the Secretary—the whole congressional delegation from my State is involved, and we are hoping delegations from all the affected States will join us—to reprogram money from some disaster or contingency fund if at all possible into this cattle indemnity fund so we start paying these farmers now. He says he does not know of any such fund.

He did say the Commodity Credit Corporation charter is very broad and that there is a possibility that that could be used as a source of funds to start paying these farmers now. If it is not, it will require a supplemental appropriation.

That presents a problem for all of us, because any appropriation, particularly one for $10 million, would be subject to a point of order under Gramm-Rudman and would require 60 votes. I am hoping that the Secretary will be able to find a solution or make a very strong recommendation to us very soon, because otherwise, we shall have effectively allowed all of these dairy farmers to go down the tube through no fault of their own.

Incidentally, Mr. President, the Government inspectors apparently visited this plant back in January and found aflatoxin and told them. The interesting thing about it is feed grain which has been treated with heptachlor has also been sprayed with some kind of color—pink or red—to say that this grain has been treated with heptachlor. It seems to me that there is a possibility that Government inspectors who visited that plant in January may have seen something that said unequivocally to them that the stockpiles of grain they were using to make ethanol was clearly contaminated. They could have simply asked "Are you selling any of the byproduct of this that goes into dairy herds or beef cattle or hogs or sheep or anything else that can get into the food chain?" But apparently, the question was not raised.

All I am saying is that our caring, generous, magnanimous Government ought to move and move quickly on this.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONGRESSIONAL REPORTS ELIMINATION ACT

Mr. STAFFORD. Mr. President, if it is agreeable to the minority leader and he is able to consent to it, I am prepared to go ahead with Calendar No. 454, S. 992, and an amendment to be offered on behalf of Senator COHEN.

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar 454, S. 992.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 992) to discontinue or amend certain requirements for agency reports to Congress.

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

That this Act may be cited as the "Congressional Reports Elimination Act of 1985".

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 218(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(a)) is repealed.

(b) Section 3104 of title 5, United States Code, is amended by—

(1) striking out subsection (b);

(2) redesignating paragraphs (1), (2), and (3) of subsection (a) as subsections (a), (b), and (c), respectively; and

(3) striking out "paragraph (1) of this subsection" each place it appears in subsections (b) and (c) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subsection (a) of this section".

(c) Section 26(e)(2) of the Toxic Substances Control Act (15 U.S.C. 2625(e)(2)) is amended to read as follows:

"(2) The Administrator and the Secretary shall—

"(A) define the term 'known financial interests' for purposes of paragraph (1), and

"(B) establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for review by the Administrator and the Secretary of such statements.".

(d) Section 1114(b) of title 31, United States Code, is repealed.

(e) Section 1113(e)(3) of title 31, United States Code, is repealed.

(f) Section 311(c) of title 37, United States Code, is repealed.

(g) Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended by striking out ", and the head of each executive agency disposing of real property under subsection (k) of this section," in the first sentence.

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 102. (a) Section 1105(a)(12) of title 31, United States Code, is repealed.

(b) Section 3524(b) of title 31, United States Code, is repealed.

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 103. (a) Section 7(b) of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006(b)) is repealed.

(b) Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)) is repealed.

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 104. (a) Section 6(b) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 note) is repealed.

(b) Section 259 of the Revised Statutes (15 U.S.C. 183) is repealed.

(c)(1) Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out "and shall report from time to time, not less frequently than annually, his findings (including an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress".

(2) Section 202(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(c)) is amended by inserting "and section 201" after "this section" in the first sentence.

(d) Section 5(e) of the Fair Packaging and Labeling Act (15 U.S.C. 1454(e)) is repealed.

(e) Section 2(d)(2) of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act) (15 U.S.C. 713c-3(d)(2)) is repealed.

(f) Section 3 of Public Law 96-339 (16 U.S.C. 971i) is repealed.

(g) Section 5 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-2) is repealed.

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 105. (a) Section 2672a of title 10, United States Code, is amended by striking out the last sentence.

(b)(1) Section 2662 of title 10, United States Code, is repealed.

(2) The table of sections for chapter 159 of such title is amended by striking out the item relating to section 2662.

(c) Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(d) Section 2675 of title 10, United States Code, is amended by striking out the subsection designation "(a)" and by striking out subsection (b).

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 106. (a) Section 117(d) of the Higher Education Act of 1965 (20 U.S.C. 1017(d)) is repealed.

(b) Section 553(c) of the Higher Education Act of 1965 (20 U.S.C. 1119(c-2)(c)) is repealed.

(c) Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b)) is repealed.

(d) Section 403(a)(2) of the Department of Education Organization Act (20 U.S.C. 3463(a)(2)) is repealed.

(e) Section 441(e)(3) of the Carl D. Perkins Vocational Education Act of 1984 (Public Law 98-524) is amended by striking out the last sentence.

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 107. (a) Section 7(b)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906(b)(7)) is amended by—

(1) striking out subparagraph (A); and

(2) striking out "(B)" before "No".

(b) Title II of Public Law 96-126 is amended by striking out the last paragraph under the heading "Department of Energy-Alternative Fuels Production" (42 U.S.C. 5915 note).

(c) The Powerplant and Industrial Fuel Use Act of 1978 is amended by—

(1) striking out section 801 (42 U.S.C. 8481); and

(2) striking the item relating to section 801 in the table of contents.

(d) Section 11 of the Wind Energy Systems Act of 1980 (42 U.S.C. 9210) is amended by—

(1) striking out paragraph (5);

(2) inserting "and" after the semicolon at the end of paragraph (4); and

(3) redesignating paragraph (6) as paragraph (5).

(e) The Public Utility Regulatory Policies Act of 1978 is amended by—

(1) striking out section 116 (16 U.S.C. 2626);

(2) striking out section 309 (15 U.S.C. 3209); and

(3) striking out the items relating to sections 116 and 309 in the table of contents.

(f) Section 218(b) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(b)) is repealed.

(g) Section 8 of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707) is amended by striking out subsections (b) and (c) and by striking out "(a)" before "The Secretary".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 108. (a) Section 27(c) of the Toxic Substances Control Act (15 U.S.C. 2626(c)) is repealed.

(b) Section 308(a) of the Public Health Service Act (42 U.S.C. 242m(a)) is amended—

(1) by striking out paragraph (1);

(2) by striking out "or (2)" in paragraph (3); and

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) Section 317(h) of the Public Health Service Act (42 U.S.C. 247b(h)) is repealed.

(d) Section 336A of the Public Health Service Act (42 U.S.C. 254i) is repealed.

(e) Section 338A(i) of the Public Health Service Act (42 U.S.C. 254l(i)) is repealed.

(f) Section 357 of the Public Health Service Act (42 U.S.C. 263e) is repealed.

(g) Section 360D of the Public Health Service Act (42 U.S.C. 263l) is repealed.

(h)(1) Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-10) is repealed.

(2) The first sentence of section 383(b) of such Act (42 U.S.C. 277(b)) is amended by striking out ", and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof".

(i) Section 771(b)(2)(C) of the Public Health Service Act (42 U.S.C. 295f-1(b)(2)(C)) is amended by striking out "and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate" in the last sentence.

(j) Section 1009 of the Public Health Service Act (42 U.S.C. 300a-6a) is repealed.

(k) Section 1122 of the Public Health Service Act (42 U.S.C. 300c-12) is amended to read as follows:

"SUDDEN INFANT DEATH SYNDROME RESEARCH

"SEC. 1122. From the sums appropriated to the National Institute of Child Health and Human Development under section 441, the Secretary shall assure that there are applied to research which relates specifically to sudden infant death syndrome, and to research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risk of sudden infant death syndrome and prevention of sudden death syndrome.".

(l) Section 1315 of the Public Health Service Act (42 U.S.C. 300e-14) is repealed.

(m) Section 1318(e) of the Public Health Service Act (42 U.S.C. 300e-17(e)) is repealed.

(n) Section 1705 of the Public Health Service Act (42 U.S.C. 300u-4) is repealed.

(o) Section 1881(c)(6) of the Social Security Act (42 U.S.C. 1395rr(c)(6)) is amended by striking out the last sentence.

(p)(1) Title IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) is repealed.

(2) The table of contents for such Act is amended by striking out the items relating to section 1200 and title IV.

(q) Section 315 of the Runaway Homeless Youth Act (42 U.S.C. 5715) is repealed.

(r) Section 640(d) of the Head Start Act (42 U.S.C. 9835) is amended by striking out the second sentence.

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 109. (a) Section 904 of the Housing and Community Development Act of 1977 (42 U.S.C. 3540) is repealed.

(b) Section 311 of the Energy Conservation Standards for New Buildings Act of 1976 (42 U.S.C. 6840) is repealed.

(c) Section 505(f) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-4(f)) is repealed.

(d) Section 506(c) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-5(c)) is repealed.

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 110. (a) Section 522(b) of the Energy Policy and Conservation Act (42 U.S.C. 6392(b)) is amended to read as follows:

"(b) The Secretary and the Secretary of the Interior shall each act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

"(1) to define the term 'known financial interest' for purposes of subsection (a); and

"(2) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and

enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary or the Secretary of the Interior, as the case may be, of such statements.".

(b) Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking out paragraphs (8) and (9).

(c) Section 2 of Public Law 87-283 (25 U.S.C. 165) is repealed.

(d) Public Law 87-279 (25 U.S.C. 15) is amended by striking out the last sentence.

(e) Section 31(e) of the Act of February 25, 1920 (41 Stat. 450, chapter 85; 30 U.S.C. 188(e)) is amended by striking out the second sentence.

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 111. Section 2101(d) of title 18, United States Code, is amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF LABOR

SEC. 112. Section 4(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 204(e)) is repealed.

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 113. (a) Section 13 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1746) is repealed.

(b) Section 163 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by—

(1) striking out subsection (o); and

(2) redesignating subsections (p) and (q) as subsections (o) and (p), respectively.

(c) Section 203(e) of the Highway Safety Act of 1973 (23 U.S.C. 130 note) is amended by striking out the third, fourth, and fifth sentences.

(d) Section 152(g) of title 23, United States Code, is amended by striking out the third, fourth, and fifth sentences.

(e) Section 308(a) of title 49, United States Code, is repealed.

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 114. (a) Section 331 of title 31, United States Code, is amended by striking out subsection (b).

(b) Section 1302(c)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3712(c)(2)) is amended by striking the last sentence.

(c)(1) Section 1121(b) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3421(b)) is repealed.

(2) Section 1121 of such Act is further amended by striking out "(a)" before "In April".

REPORTS BY THE CONSUMER PRODUCT SAFETY COMMISSION

SEC. 115. Section 35(e) of the Consumer Product Safety Act (15 U.S.C. 2082) is repealed.

REPORTS BY THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 116. (a) Section 33(a)(7) of the Solid Waste Disposal Act Amendments of 1980 (42 U.S.C. 6981 note) is repealed.

(b) Section 2001(b)(3) of the Solid Waste Disposal Act (42 U.S.C. 6911(b)(3)) is repealed.

(c) Section 7007(c) of the Solid Waste Disposal Act (42 U.S.C. 6977(c)) is repealed.

(d) Section 127 of the Clean Air Act Amendments of 1977 is amended by—

(1) striking out subsection (b) (42 U.S.C. 7479 note);

(2) striking out subsection (d) (42 U.S.C. 7470 note); and

(3) redesignating subsection (c) as subsection (b).

(e) Section 102(d) of the Federal Water Pollution Control Act (33 U.S.C. 1252(d)) is repealed.

(f) Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(g) Section 516(a) of the Federal Water Pollution Control Act (33 U.S.C. 1375(a)) is repealed.

(h) Section 9 of the Used Oil Recycling Act of 1980 (42 U.S.C. 6932 note) is repealed.

(i)(1) Section 1442(a)(3)(A) of the Public Health Service Act (42 U.S.C. 300j-l(a)(3)(A)) is repealed.

(2) Section 1442(a)(3)(B) of the Public Health Service Act (42 U.S.C. 300j-l(a)(3)(B)) is repealed.

(3) Section 1442 of the Public Health Service Act (42 U.S.C. 300j-l(c)) is amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(j) Section 1412(e)(2) of the Public Health Service Act (42 U.S.C. 300g-l(e)(2)) is repealed.

(k) Section 1450(h) of the Public Health Service Act (42 U.S.C. 300j-9(h)) is repealed.

(l) Section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is repealed.

REPORTS BY THE FEDERAL COMMUNICATIONS COMMISSION

SEC. 117. Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is repealed.

REPORTS BY THE FEDERAL LABOR RELATIONS AUTHORITY

SEC. 118. Section 7104(e) of title 5, United States Code, is repealed.

REPORTS BY THE GENERAL SERVICES ADMINISTRATION

SEC. 119. Section 10 of Public Law 94-519 (40 U.S.C. 493) is amended to read as follows:

"SEC. 10. Not later than thirty months after the effective date of this Act, and biennially thereafter, the Comptroller General of the United States shall transmit to the Congress a report which covers the two-year period from such date and contains: (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, and (5) such recommendations as the Comptroller General determines to be necessary or desirable.".

REPORTS BY THE INTERSTATE COMMERCE COMMISSION

SEC. 120. Section 10732(b) of title 49, United States Code, is amended by striking out the second and third sentences.

REPORTS BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 121. Section 21(f) of the Small Business Act (15 U.S.C. 648(f)) is repealed.

REPORTS BY THE NATIONAL SCIENCE FOUNDATION

SEC. 122. Section 8 of the National Science Foundation Authorization Act, 1977 (42 U.S.C. 1883) is amended by—

(1) inserting "and" after the semicolon at the end of paragraph (3);

(2) striking out the semicolon and "and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) striking out paragraph (5).

REPORTS BY THE NUCLEAR REGULATORY COMMISSION

SEC. 123. Section 201(h) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(h)) is repealed.

REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 124. (a) Section 5114 of title 5, United States Code, is repealed.

(b) The table of sections for chapter 51 of such title is amended by striking out the item relating to section 5114.

REPORTS BY THE SMALL BUSINESS ADMINISTRATION

SEC. 125. Section 10 of the Small Business Act (15 U.S.C. 639) is amended by striking out subsection (g).

TITLE II—MODIFICATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 201. (a) The first sentence of section 2(d) of Public Law 96-135 (25 U.S.C. 472a(d)) is amended by—

(1) striking out "report following the close of each fiscal year" and inserting in lieu thereof "biennial report"; and

(2) striking out "which they took in such fiscal year" and inserting in lieu thereof "which they have taken".

(b) Section 2(e)(2) of Public Law 96-135 (25 U.S.C. 472a(e)(2)) is amended by—

(1) striking out "following the close of each fiscal year";

(2) striking out "which they took in such fiscal year" and inserting in lieu thereof "which they have taken"; and

(3) inserting "biennial" before "report".

(c) Section 26 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 675) is amended by striking out "Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall each" and inserting in lieu thereof "The Secretary and the Secretary of Health and Human Services shall each biennially".

(d) The first paragraph of section 11 of Public Law 92-195 (16 U.S.C. 1340) is amended to read as follows:

"The Secretary of Agriculture shall include in each report required under sections 528 and 529 of the Revised Statutes, and the Secretary of the Interior shall include in the annual report of the Department of the Interior, a joint statement of such Secretaries on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as such Secretaries may deem appropriate.".

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 202. Section 9503(a) of title 31, United States Code, is amended by—

(1) striking out "annual report" in paragraph (1) and inserting in lieu thereof "report shall be submitted every five years, and"; and

(2) inserting "fifth" before "plan year involved" in paragraph (1)(B).

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 203. The last sentence of the paragraph under the heading "GENERAL SALES MANAGER—(ALLOTMENT FROM THE COMMODITY CREDIT CORPORATION) in title IV of Public Law 97-370 (15 U.S.C. 713a-10; 96 Stat. 1808) is amended by striking out "quarterly" and inserting in lieu thereof "annual".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 204. (a) Section 7(a) of the Marine Resources and Engineering Development Act of

1966 (33 U.S.C. 1106(a)) is amended by striking "in January of each year" and inserting in lieu thereof "biennially in January".

(b) Section 16 of the Act of June 18, 1934 (48 Stat. 1002, chapter 590; 19 U.S.C. 81p) is amended by—

(1) striking out "containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require" in subsection (b) and inserting in lieu thereof "on zone operations"; and

(2) striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Board shall make a report to Congress annually containing a summary of zone operations.".

(c) Section 5(d)(9) of the National Climate Program Act (15 U.S.C. 2904(d)(9)) is amended by striking out "that shall be revised and extended biennially" and inserting in lieu thereof "that shall be reviewed every year and revised as appropriate".

(d) Section 202(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(c)) is amended to read as follows:

"(c) In March of every other year, the Secretary of Commerce shall report to the Congress on the results of activities undertaken pursuant to this section during the previous two fiscal years.".

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 205. (a)(1) Section 12(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress; 20 U.S.C. 642(c)) is amended by striking out "annual report" and inserting in lieu thereof "biennial report".

(2) Section 401(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 242(c)) is amended by striking out "annual report" and inserting in lieu thereof "biennial report".

(b) Section 618(f)(2)(E) of the Education of the Handicapped Act (20 U.S.C. 1418(f)(2)(E)) is amended to read as follows:

"(E) an analysis and evaluation of the effectiveness of procedures undertaken by State educational agencies, local educational agencies, and intermediate educational units to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities;".

(c) Section 653(c) of the Education of the Handicapped Act (20 U.S.C. 1453(c)) is amended by striking out "The Secretary shall make an annual" and inserting in lieu thereof "Every three years, the Secretary shall make a".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 206. (a) Section 5(h) of the International Health Research Act of 1960 (22 U.S.C. 2103(h)) is amended by striking out "to the Congress at the beginning of each regular session" and inserting in lieu thereof "biennially to the Congress".

(b) Section 22(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671(f)) is amended by striking out "an annual" and inserting in lieu thereof "a biennial".

(c) Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by—

(1) striking out "an annual" in the matter preceding subparagraph (A) and inserting in lieu thereof "a biennial"; and

(2) striking out "year" in subparagraph (D) and inserting in lieu thereof "previous two-year period".

(d) Section 404(a)(9) of the Public Health Service Act (42 U.S.C. 285(a)(9)) is amended by striking out ", not later than November 30 of each year,".

(e) Section 434(e) of the Public Health Service Act (42 U.S.C. 289c-1(e)) is amended by—

(1) striking out ", as soon as practicable, but not later than sixty days, after the end of each fiscal year," in the first sentence;

(2) striking out "an annual" in the first sentence and inserting in lieu thereof "a biennial"; and

(3) striking out "annual" in the second sentence and inserting in lieu thereof "biennial".

(f) Section 435(b) of the Public Health Service Act (42 U.S.C. 289c-2(b)) is amended by—

(1) striking out "an annual" and inserting in lieu thereof "a biennial"; and

(2) striking out "(on or before November 30 of each year)".

(g) Section 439(e) of the Public Health Service Act (42 U.S.C. 289c-6(e)) is amended by—

(1) striking out "an annual" and inserting in lieu thereof "a biennial"; and

(2) striking out "on or before November 30 of each year".

(h)(1) Section 308(a) of the Age Discrimination Act of 1975 (42 U.S.C. 6106a(a)) is amended by—

(A) striking out "Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health and Human Services a report" and inserting in lieu thereof "Not later than December 31 of each year after calendar year 1984 in which the Secretary of Health and Human Services requires a report under this section, the head of each Federal department or agency shall submit to the Secretary of Health and Human Services such report, which shall";

(B) striking out "describing" in clause (1) and inserting in lieu thereof "describe"; and

(C) striking out "containing" in clause (2) and inserting in lieu thereof "contain".

(2) Section 308(b) of such Act (42 U.S.C. 6106a(b)) is amended by striking out "Not later than March 31 of each year (beginning in 1980), the Secretary of Health and Human Services" and inserting in lieu thereof "Not later than March 31 of each year following a year in which the Secretary of Health and Human Services requires reports under subsection (a), the Secretary".

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 207. (a) Section 207(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 488(c)) is amended by—

(1) striking out "aggregate amount of the original acquisition cost of such property to the Government and all capital expenditures made by the Government with respect thereto is less than $1,000,000" and inserting in lieu thereof "estimated appraised fair market value of such property is less than $3,000,000" in paragraph (1); and

(2) striking out "acquisition cost" and inserting in lieu thereof "estimated appraised fair market value" in paragraph (2).

(b) Section 252(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(i)) is amended—

(1) by striking out "each"; and

(2) by striking out "6 months," and inserting in lieu thereof "other year, on an alternating basis,".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 208. (a) Section 107 of the Federal Aviation Act of 1958 (49 U.S.C. 1307) is amended by—

(1) striking out "each January 31 thereafter" in subsection (b) and inserting in lieu thereof "each June 30 thereafter"; and

(2) striking out "each January 31 thereafter" in subsection (c) and inserting in lieu thereof "each June 30 thereafter".

(b) Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1356(a)) is amended by striking out "semiannual reports" in the last sentence and inserting in lieu thereof "annual reports".

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 209. (a) Section 201(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(f)) is amended by—

(1) striking out "Secretary of the Treasury, in cooperation with the"; and

(2) striking out the comma after "the Secretary of State".

(b) Section 6103(p)(5) of the Internal Revenue Code of 1954 is amended by striking out "quarter" and inserting in lieu thereof "year".

REPORTS BY THE GENERAL SERVICES ADMINISTRATION

SEC. 210. (a) Section 7(a) of Public Law 90-480 (commonly referred to as the Architectural Barriers Act of 1968) (42 U.S.C. 4157(a)) is amended by—

(1) striking out "during the first week of January of each year" and inserting in lieu thereof "by January 1, 1986, and biennially thereafter,";

(2) striking out "preceding fiscal year" and inserting in lieu thereof "two preceding fiscal years"; and

(3) striking out "such year" and inserting in lieu thereof "such years".

(b) Section 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(4)(E)) is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

REPORTS BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD

SEC. 211. Section 7701(i)(2) of title 5, United States Code, is amended by striking out "calendar" and inserting in lieu thereof "fiscal".

AMENDMENT NO. 1697

(Purpose: To provide for the continuation of certain agency reports)

Mr. STAFFORD. Mr. President, I send an amendment to the desk in behalf of Senator COHEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD] for Mr. COHEN, proposes an amendment numbered 1697.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 48, strike out lines 24 and 25.

On page 49, line 1, strike out "(b)" and insert in lieu thereof "Sec. 108. (a)".

On page 49, line 7, strike out "(c)" and insert in lieu thereof "(b)".

On page 49, line 9, strike out "(d)" and insert in lieu thereof "(c)".

On page 49, line 11, strike out "(e)" and insert in lieu thereof "(d)".

On page 49, line 13, strike out "(f)" and insert in lieu thereof "(e)".
On page 49, line 15, strike out "(g)" and insert in lieu thereof "(f)".
On page 49, line 17, strike out "(h)" and insert in lieu thereof "(g)".
On page 49, line 24, strike out "(i)" and insert in lieu thereof "(h)".
On page 50, line 5, strike out "(j)" and insert in lieu thereof "(i)".
On page 50, line 7, strike out "(k)" and insert in lieu thereof "(j)".
On page 50, line 23, strike out "(l)" and insert in lieu thereof "(k)".
On page 50, line 25, strike out "(m)" and insert in lieu thereof "(l)".
On page 51, strike out lines 1 and 2 and insert in lieu thereof the following:
(m) Section 1705 of the Public Health Service Act (42 U.S.C. 300u-4) is amended—
(1) by striking out subsection (b); and
(2) by striking out "(a)" before "The".
On page 51, line 3, strike out "(o)" and insert in lieu thereof "(n)".
On page 51, line 6, strike out "(p)" and insert in lieu thereof "(o)".
On page 51, line 11, strike out "(q)" and insert in lieu thereof "(p)".
On page 51, line 13, strike out "(r)" and insert in lieu thereof "(q)".
On page 58, beginning with line 22, strike out through line 4 on page 59.
On page 59, line 5, strike out "(d)" and insert in lieu thereof "(c)".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1697) was agreed to.

Mr. STAFFORD. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

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

Mr. STAFFORD. I move to reconsider the vote by which the committee substitute as amended was agreed to.

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

The motion to lay on the table was agreed to.

THE CONGRESSIONAL REPORTS ELIMINATION ACT OF 1985

● Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 992, the Congressional Reports Elimination Act of 1985. The purpose of this legislation is to eliminate or modify statutory reporting requirements which no longer serve their original purpose or for which the information is available to Congress from other sources.

At the present time, there are 3,300 congressionally mandated reporting requirements. By statute, these reports are made to Congress at specified intervals by various executive departments and agencies at a cost of approximately $240 million a year. Periodically, the Office of Management and Budget [OMB] reviews these requirements to determine whether or not they are still necessary. Repeal or modification of the statutory reporting requirement is recommended if:

A report no longer serves its original purpose;

No congressional use is evident;

The information is available to Congress from other sources; or

The cost and time involved in preparing the report outweigh the benefit of the report to the public.

This year, the OMB recommended the repeal of 190 reporting requirements and the modification of 50 others. At the request of the administration, I introduced S. 992, the Congressional Reports Elimination Act of 1985, with Senator ROTH, Senator CHILES, and Senator LEVIN as cosponsors.

Mr. President, we were well aware that not everyone in the Senate would agree with the OMB's assessment of which reports are necessary and which are not. Therefore, the Governmental Affairs Subcommittee on Oversight of Government Management distributed copies of the bill to each of the affected committee chairman and ranking minority members, highlighting the reports under each committee's jurisdiction and soliciting their comments. If a chairman or a ranking minority member indicated to the subcommittee that a report was still necessary, the provision deleting the report was stricken from the bill, thus allowing the report to continue. The affected committees agreed with the repeal of 97 reporting requirements and the modification of 30 others. The committees' views are incorporated in the bill, as reported by the Committee on Governmental Affairs, that the Senate is considering today.

This bill, modeled after the Congressional Reports Elimination Act of 1982, attempts to improve the efficiency of agency operations by eliminating or modifying those recurring reports to Congress which are no longer necessary. This legislative proposal should be viewed not only as one directed at reducing the burdens placed on Federal agencies by the proliferation of reports, but also as an attempt to streamline the information that flows from these agencies to the Congress.

Provisions of this bill affect 127 reports by elimination or modification for an estimated savings of $5 million for the Government each year. I believe that the bill carefully balances the need for fiscal restraint with the need of Congress for timely information on Government programs; therefore, I urge my colleagues to lend their support to this legislation.●

Mr. STAFFORD. Mr. President, I move that S. 992 be advanced to third reading.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Reports Elimination Act of 1985".

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 218(a) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(a)) is repealed.

(b) Section 3104 of title 5, United States Code, is amended by—

(1) striking out subsection (b);

(2) redesignating paragraphs (1), (2), and (3) of subsection (a) as subsections (a), (b), and (c), respectively; and

(3) striking out "paragraph (1) of this subsection" each place it appears in subsections (b) and (c) (as redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subsection (a) of this section".

(c) Section 26(e)(2) of the Toxic Substances Control Act (15 U.S.C. 2625(e)(2)) is amended to read as follows:

"(2) The Administrator and the Secretary shall—

"(A) define the term 'known financial interests' for purposes of paragraph (1), and

"(B) establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for review by the Administrator and the Secretary of such statements.".

(d) Section 1114(b) of title 31, United States Code, is repealed.

(e) Section 1113(e)(3) of title 31, United States Code, is repealed.

(f) Section 311(c) of title 37, United States Code, is repealed.

(g) Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended by striking out ", and the head of each executive agency disposing of real property under subsection (k) of this section," in the first sentence.

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 102. (a) Section 1105(a)(12) of title 31, United States Code, is repealed.

(b) Section 3524(b) of title 31, United States Code, is repealed.

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 103. (a) Section 7(b) of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006(b)) is repealed.

(b) Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)) is repealed.

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 104. (a) Section 6(b) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 note) is repealed.

(b) Section 259 of the Revised Statutes (15 U.S.C. 183) is repealed.

(c)(1) Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out "and shall report from time to time, not less frequently than annually, his findings (in-

cluding an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress".

(2) Section 202(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(c)) is amended by inserting "and section 201" after "this section" in the first sentence.

(d) Section 5(e) of the Fair Packaging and Labeling Act (15 U.S.C. 1454(e)) is repealed.

(e) Section 2(d)(2) of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act) (15 U.S.C. 713c-3(d)(2)) is repealed.

(f) Section 3 of Public Law 96-339 (16 U.S.C. 971i) is repealed.

(g) Section 5 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-2) is repealed.

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 105. (a) Section 2672a of title 10, United States Code, is amended by striking out the last sentence.

(b)(1) Section 2662 of title 10, United States Code, is repealed.

(2) The table of sections for chapter 159 of such title is amended by striking out the item relating to section 2662.

(c) Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(d) Section 2675 of title 10, United States Code, is amended by striking out the subsection designation "(a)" and by striking out subsection (b).

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 106. (a) Section 117(d) of the Higher Education Act of 1965 (20 U.S.C. 1017(d)) is repealed.

(b) Section 553(c) of the Higher Education Act of 1965 (20 U.S.C. 1119(c-2)(c)) is repealed.

(c) Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b)) is repealed.

(d) Section 403(a)(2) of the Department of Education Organization Act (20 U.S.C. 3463(a)(2)) is repealed.

(e) Section 441(e)(3) of the Carl D. Perkins Vocational Education Act of 1984 (Public Law 98-524) is amended by striking out the last sentence.

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 107. (a) Section 7(b)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906(b)(7)) is amended by—

(1) striking out subparagraph (A); and

(2) striking out "(B)" before "No".

(b) Title II of Public Law 96-126 is amended by striking out the last paragraph under the heading "Department of Energy-Alternative Fuels Production" (42 U.S.C. 5915 note).

(c) The Powerplant and Industrial Fuel Use Act of 1978 is amended by—

(1) striking out section 801 (42 U.S.C. 8481); and

(2) striking the item relating to section 801 in the table of contents.

(d) Section 11 of the Wind Energy Systems Act of 1980 (42 U.S.C. 9210) is amended by—

(1) striking out paragraph (5);

(2) inserting "and" after the semicolon at the end of paragraph (4); and

(3) redesignating paragraph (6) as paragraph (5).

(e) The Public Utility Regulatory Policies Act of 1978 is amended by—

(1) striking out section 116 (16 U.S.C. 2626);

(2) striking out section 309 (15 U.S.C. 3209); and

(3) striking out the items relating to sections 116 and 309 in the table of contents.

(f) Section 218(b) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8818(b)) is repealed.

(g) Section 8 of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707) is amended by striking out subsections (b) and (c) and by striking out "(a)" before "The Secretary".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 108. (a) Section 308(a) of the Public Health Service Act (42 U.S.C. 242m(a)) is amended—

(1) by striking out paragraph (1);

(2) by striking out "or (2)" in paragraph (3); and

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) Section 317(h) of the Public Health Service Act (42 U.S.C. 247b(h)) is repealed.

(c) Section 336A of the Public Health Service Act (42 U.S.C. 254i) is repealed.

(d) Section 338A(i) of the Public Health Service Act (42 U.S.C. 254l(i)) is repealed.

(e) Section 357 of the Public Health Service Act (42 U.S.C. 263e) is repealed.

(f) Section 360D of the Public Health Service Act (42 U.S.C. 263l) is repealed.

(g)(1) Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-10) is repealed.

(2) The first sentence of section 383(b) of such Act (42 U.S.C. 277(b)) is amended by striking out ", and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof".

(h) Section 771(b)(2)(C) of the Public Health Service Act (42 U.S.C. 295f-1(b)(2)(C)) is amended by striking out "and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate" in the last sentence.

(i) Section 1009 of the Public Health Service Act (42 U.S.C. 300a-6a) is repealed.

(j) Section 1122 of the Public Health Service Act (42 U.S.C. 300c-12) is amended to read as follows:

"SUDDEN INFANT DEATH SYNDROME RESEARCH

"SEC. 1122. From the sums appropriated to the National Institute of Child Health and Human Development under section 441, the Secretary shall assure that there are applied to research which relates specifically to sudden infant death syndrome, and to research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risk of sudden infant death syndrome and prevention of sudden death syndrome.".

(k) Section 1315 of the Public Health Service Act (42 U.S.C. 300e-14) is repealed.

(l) Section 1318(e) of the Public Health Service Act (42 U.S.C. 300e-17(e)) is repealed.

(m) Section 1705 of the Public Health Service Act (42 U.S.C. 300u-4) is amended—

(1) by striking out subsection (b); and

(2) by striking out "(a)" before "The".

(n) Section 1881(c)(6) of the Social Security Act (42 U.S.C. 1395rr(c)(6)) is amended by striking out the last sentence.

(o)(1) Title IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) is repealed.

(2) The table of contents for such Act is amended by striking out the items relating to section 1200 and title IV.

(p) Section 315 of the Runaway Homeless Youth Act (42 U.S.C. 5715) is repealed.

(q) Section 640(d) of the Head Start Act (42 U.S.C. 9835) is amended by striking out the second sentence.

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 109. (a) Section 904 of the Housing and Community Development Act of 1977 (42 U.S.C. 3540) is repealed.

(b) Section 311 of the Energy Conservation Standards for New Buildings Act of 1976 (42 U.S.C. 6840) is repealed.

(c) Section 505(f) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-4(f)) is repealed.

(d) Section 506(c) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-5(c)) is repealed.

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 110. (a) Section 522(b) of the Energy Policy and Conservation Act (42 U.S.C. 6392(b)) is amended to read as follows:

"(b) The Secretary and the Secretary of the Interior shall each act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

"(1) to define the term 'known financial interest' for purposes of subsection (a); and

"(2) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary or the Secretary of the Interior, as the case may be, of such statements.".

(b) Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking out paragraphs (8) and (9).

(c) Section 2 of Public Law 87-283 (25 U.S.C. 165) is repealed.

(d) Public Law 87-279 (25 U.S.C. 15) is amended by striking out the last sentence.

(e) Section 31(e) of the Act of February 25, 1920 (41 Stat. 450, chapter 85; 30 U.S.C. 188(e)) is amended by striking out the second sentence.

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 111. Section 2101(d) of title 18, United States Code, is amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF LABOR

SEC. 112. Section 4(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 204(e)) is repealed.

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 113. (a) Section 13 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1746) is repealed.

(b) Section 163 of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by—

(1) striking out subsection (o); and

(2) redesignating subsections (p) and (q) as subsections (o) and (p), respectively.

(c) Section 203(e) of the Highway Safety Act of 1973 (23 U.S.C. 130 note) is amended by striking out the third, fourth, and fifth sentences.

(d) Section 152(g) of title 23, United States Code, is amended by striking out the third, fourth, and fifth sentences.

(e) Section 308(a) of title 49, United States Code, is repealed.

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 114. (a) Section 331 of title 31, United States Code, is amended by striking out subsection (b).

(b) Section 1302(c)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3712(c)(2)) is amended by striking the last sentence.

(c)(1) Section 1121(b) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3421(b)) is repealed.

(2) Section 1121 of such Act is further amended by striking out "(a)" before "In April".

REPORTS BY THE CONSUMER PRODUCT SAFETY COMMISSION

SEC. 115. Section 35(e) of the Consumer Product Safety Act (15 U.S.C. 2082) is repealed.

REPORTS BY THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 116. (a) Section 33(a)(7) of the Solid Waste Disposal Act Amendments of 1980 (42 U.S.C. 6981 note) is repealed.

(b) Section 2001(b)(3) of the Solid Waste Disposal Act (42 U.S.C. 6911(b)(3)) is repealed.

(c) Section 7007(c) of the Solid Waste Disposal Act (42 U.S.C. 6977(c)) is repealed.

(d) Section 127 of the Clean Air Act Amendments of 1977 is amended by—

(1) striking out subsection (b) (42 U.S.C. 7479 note);

(2) striking out subsection (d) (42 U.S.C. 7470 note); and

(3) redesignating subsection (c) as subsection (b).

(e) Section 102(d) of the Federal Water Pollution Control Act (33 U.S.C. 1252(d)) is repealed.

(f) Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(g) Section 516(a) of the Federal Water Pollution Control Act (33 U.S.C. 1375(a)) is repealed.

(h) Section 9 of the Used Oil Recycling Act of 1980 (42 U.S.C. 6932 note) is repealed.

(i)(1) Section 1442(a)(3)(A) of the Public Health Service Act (42 U.S.C. 300j-l(a)(3)(A)) is repealed.

(2) Section 1442(a)(3)(B) of the Public Health Service Act (42 U.S.C. 300j-l(a)(3)(B)) is repealed.

(3) Section 1442 of the Public Health Service Act (42 U.S.C. 300j-l(c)) is amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(j) Section 1412(e)(2) of the Public Health Service Act (42 U.S.C. 300g-l(e)(2)) is repealed.

(k) Section 1450(h) of the Public Health Service Act (42 U.S.C. 300j-9(h)) is repealed.

(l) Section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is repealed.

REPORTS BY THE FEDERAL COMMUNICATIONS COMMISSION

SEC. 117. Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is repealed.

REPORTS BY THE FEDERAL LABOR RELATIONS AUTHORITY

SEC. 118. Section 7104(e) of title 5, United States Code, is repealed.

REPORTS BY THE GENERAL SERVICES ADMINISTRATION

SEC. 119. Section 10 of Public Law 94-519 (40 U.S.C. 493) is amended to read as follows:

"SEC. 10. Not later than thirty months after the effective date of this Act, and biennially thereafter, the Comptroller General of the United States shall transmit to the Congress a report which covers the two-year period from such date and contains: (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, and (5) such recommendations as the Comptroller General determines to be necessary or desirable.".

REPORTS BY THE INTERSTATE COMMERCE COMMISSION

SEC. 120. Section 10732(b) of title 49, United States Code, is amended by striking out the second and third sentences.

REPORTS BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 121. Section 21(f) of the Small Business Act (15 U.S.C. 648(f)) is repealed.

REPORTS BY THE NATIONAL SCIENCE FOUNDATION

SEC. 122. Section 8 of the National Science Foundation Authorization Act, 1977 (42 U.S.C. 1883) is amended by—

(1) inserting "and" after the semicolon at the end of paragraph (3);

(2) striking out the semicolon and "and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) striking out paragraph (5).

REPORTS BY THE NUCLEAR REGULATORY COMMISSION

SEC. 123. Section 201(h) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(h)) is repealed.

REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 124. (a) Section 5114 of title 5, United States Code, is repealed.

(b) The table of sections for chapter 51 of such title is amended by striking out the item relating to section 5114.

REPORTS BY THE SMALL BUSINESS ADMINISTRATION

SEC. 125. Section 10 of the Small Business Act (15 U.S.C. 639) is amended by striking out subsection (g).

TITLE II—MODIFICATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 201. (a) The first sentence of section 2(d) of Public Law 96-135 (25 U.S.C. 472a(d)) is amended by—

(1) striking out "report following the close of each fiscal year" and inserting in lieu thereof "biennial report"; and

(2) striking out "which they took in such fiscal year" and inserting in lieu thereof "which they have taken".

(b) Section 2(e)(2) of Public Law 96-135 (25 U.S.C. 472a(e)(2)) is amended by—

(1) striking out "following the close of each fiscal year";

(2) striking out "which they took in such fiscal year" and inserting in lieu thereof "which they have taken"; and

(3) inserting "biennial" before "report".

(c) The first paragraph of section 11 of Public Law 92-195 (16 U.S.C. 1340) is amended to read as follows:

"The Secretary of Agriculture shall include in each report required under sections 528 and 529 of the Revised Statutes, and the Secretary of the Interior shall include in the annual report of the Department of the Interior, a joint statement of such Secretaries on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as such Secretaries may deem appropriate.".

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 202. Section 9503(a) of title 31, United States Code, is amended by—

(1) striking out "annual report" in paragraph (1) and inserting in lieu thereof "report shall be submitted every five years, and"; and

(2) inserting "fifth" before "plan year involved" in paragraph (1)(B).

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 203. The last sentence of the paragraph under the heading "GENERAL SALES MANAGER—(ALLOTMENT FROM THE COMMODITY CREDIT CORPORATION) in title IV of Public Law 97-370 (15 U.S.C. 713a-10; 96 Stat. 1808) is amended by striking out "quarterly" and inserting in lieu thereof "annual".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 204. (a) Section 7(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1106(a)) is amended by striking "in January of each year" and inserting in lieu thereof "biennially in January".

(b) Section 16 of the Act of June 18, 1934 (48 Stat. 1002, chapter 590; 19 U.S.C. 81p) is amended by—

(1) striking out "containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require" in subsection (b) and inserting in lieu thereof "on zone operations"; and

(2) striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Board shall make a report to Congress annually containing a summary of zone operations.".

(c) Section 5(d)(9) of the National Climate Program Act (15 U.S.C. 2904(d)(9)) is amended by striking out "that shall be revised and extended biennially" and inserting in lieu thereof "that shall be reviewed every year and revised as appropriate".

(d) Section 202(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(c)) is amended to read as follows:

"(c) In March of every other year, the Secretary of Commerce shall report to the Congress on the results of activities undertaken pursuant to this section during the previous two fiscal years.".

REPORTS BY THE DEPARTMENT OF EDUCATION

SEC. 205. (a)(1) Section 12(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress; 20 U.S.C. 642(c)) is amended by striking out "annual report" and inserting in lieu thereof "biennial report".

(2) Section 401(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 242(c)) is amended by striking out "annual report" and inserting in lieu thereof "biennial report".

(b) Section 618(f)(2)(E) of the Education of the Handicapped Act (20 U.S.C. 1418(f)(2)(E)) is amended to read as follows:

"(E) an analysis and evaluation of the effectiveness of procedures undertaken by State educational agencies, local educational agencies, and intermediate educational units to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities;".

(c) Section 653(c) of the Education of the Handicapped Act (20 U.S.C. 1453(c)) is amended by striking out "The Secretary shall make an annual" and inserting in lieu thereof "Every three years, the Secretary shall make a".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 206. (a) Section 5(h) of the International Health Research Act of 1960 (22 U.S.C. 2103(h)) is amended by striking out "to the Congress at the beginning of each regular session" and inserting in lieu thereof "biennially to the Congress".

(b) Section 22(f) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671(f)) is amended by striking out "an annual" and inserting in lieu thereof "a biennial".

(c) Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by—

(1) striking out "an annual" in the matter preceding subparagraph (A) and inserting in lieu thereof "a biennial"; and

(2) striking out "year" in subparagraph (D) and inserting in lieu thereof "previous two-year period".

(d) Section 404(a)(9) of the Public Health Service Act (42 U.S.C. 285(a)(9)) is amended by striking out ", not later than November 30 of each year,".

(e) Section 434(e) of the Public Health Service Act (42 U.S.C. 289c-1(e)) is amended by—

(1) striking out ", as soon as practicable, but not later than sixty days, after the end of each fiscal year," in the first sentence;

(2) striking out "an annual" in the first sentence and inserting in lieu thereof "a biennial"; and

(3) striking out "annual" in the second sentence and inserting in lieu thereof "biennial".

(f) Section 435(b) of the Public Health Service Act (42 U.S.C. 289c-2(b)) is amended by—

(1) striking out "an annual" and inserting in lieu thereof "a biennial"; and

(2) striking out "(on or before November 30 of each year)".

(g) Section 439(e) of the Public Health Service Act (42 U.S.C. 289c-6(e)) is amended by—

(1) striking out "an annual" and inserting in lieu thereof "a biennial"; and

(2) striking out "on or before November 30 of each year".

(h)(1) Section 308(a) of the Age Discrimination Act of 1975 (42 U.S.C. 6106a(a)) is amended by—

(A) striking out "Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health and Human Services a report" and inserting in lieu thereof "Not later than December 31 of each year after calendar year 1984 in which the Secretary of Health and Human Services requires a report under this section, the head of each Federal department or agency shall submit to the Secretary of Health and Human Services such report, which shall";

(B) striking out "describing" in clause (1) and inserting in lieu thereof "describe"; and

(C) striking out "containing" in clause (2) and inserting in lieu thereof "contain".

(2) Section 308(b) of such Act (42 U.S.C. 6106a(b)) is amended by striking out "Not later than March 31 of each year (beginning in 1980), the Secretary of Health and Human Services" and inserting in lieu thereof "Not later than March 31 of each year following a year in which the Secretary of Health and Human Services requires reports under subsection (a), the Secretary".

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 207. (a) Section 207(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 488(c)) is amended by—

(1) striking out "aggregate amount of the original acquisition cost of such property to the Government and all capital expenditures made by the Government with respect thereto is less than $1,000,000" and inserting in lieu thereof "estimated appraised fair market value of such property is less than $3,000,000" in paragraph (1); and

(2) striking out "acquisition cost" and inserting in lieu thereof "estimated appraised fair market value" in paragraph (2).

(b) Section 252(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(i)) is amended—

(1) by striking out "each"; and

(2) by striking out "6 months," and inserting in lieu thereof "other year, on an alternating basis,".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 208. (a) Section 107 of the Federal Aviation Act of 1958 (49 U.S.C. 1307) is amended by—

(1) striking out "each January 31 thereafter" in subsection (b) and inserting in lieu thereof "each June 30 thereafter"; and

(2) striking out "each January 31 thereafter" in subsection (c) and inserting in lieu thereof "each June 30 thereafter".

(b) Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1356(a)) is amended by striking out "semiannual reports" in the last sentence and inserting in lieu thereof "annual reports".

REPORTS BY THE DEPARTMENT OF THE TREASURY

SEC. 209. (a) Section 201(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(f)) is amended by—

(1) striking out "Secretary of the Treasury, in cooperation with the"; and

(2) striking out the comma after "the Secretary of State".

(b) Section 6103(p)(5) of the Internal Revenue Code of 1954 is amended by striking out "quarter" and inserting in lieu thereof "year".

REPORTS BY THE GENERAL SERVICES ADMINISTRATION

SEC. 210. (a) Section 7(a) of Public Law 90-480 (commonly referred to as the Architectural Barriers Act of 1968) (42 U.S.C. 4157(a)) is amended by—

(1) striking out "during the first week of January of each year" and inserting in lieu thereof "by January 1, 1986, and biennially thereafter,";

(2) striking out "preceding fiscal year" and inserting in lieu thereof "two preceding fiscal years"; and

(3) striking out "such year" and inserting in lieu thereof "such years".

(b) Section 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(4)(E)) is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

REPORTS BY THE UNITED STATES MERIT SYSTEMS PROTECTION BOARD

SEC. 211. Section 7701(i)(2) of title 5, United States Code, is amended by striking out "calendar" and inserting in lieu thereof "fiscal".

Mr. STAFFORD. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. STAFFORD. Mr. President, I now inquire of the minority leader if he is in a position to pass any of the following calendar items. I shall name them, and then if there is some that are objectionable, that can be stated.

Calendar No. 553, S. 98; Calendar No. 534——

Mr. BYRD. Mr. President, will the distinguished Senator allow me to interrupt? I believe he means Calendar 533?

Mr. STAFFORD. The Senator is correct. I did mean 533, S. 98; Calendar 534, S. 129; Calendar 535, S. 197; Calendar 536, S. 257; Calendar 537, S. 290; Calendar 538, S. 331; Calendar 539, S. 332; Calendar 540, S. 343; Calendar 541, S. 345; Calendar 542, S. 381; Calendar 543, S. 462; Calendar 544, S. 832; and Calendar 545, S. 1046.

Mr. BYRD. Mr. President, all of the calendar items identified by the distinguished Senator have been cleared on this side, and I am perfectly agreeable to moving forward en bloc if the distinguished Senator so wishes.

Mr. STAFFORD. Mr. President, in that event, I ask unanimous consent that the calendar items just identified be considered en bloc and passed en bloc and that all committee-reported amendments be considered agreed to en bloc.

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

RELIEF OF CIRILO RAAGAS COSTA AND WILMA RAAGAS COSTA

The bill (S. 98) for the relief of Cirilo Raagas Costa and Wilma Raagas Costa, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 98

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Cirilo Raagas Costa shall be held and considered to be a child, and Wilma Raagas Costa shall be held and considered to be a child, within the meaning of

section 101(b)(1)(E) of such Act upon approval of petitions filed on their behalf by Richard G. Costa and Evangeline M. Costa, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister of Cirilo Raagas Costa or Wilma Raagas Costa shall, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

RELIEF OF THERESE NYUWIR POUPELE KPODA

The Senate proceeded to consider the bill (S. 129) for the relief of Therese Nyuwir Poupele Kpoda, which had been reported from the Committee on the Judiciary, with an amendment:

On page 1, line 4, strike "Therese Nyuwir Poupele Kpoda", and insert "Therese Nyuwirpoulele Kpoda"

So as to make the bill read:

S. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Therese Nyuwirpoupele Kpoda shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

The amendment was agreed to.

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

The title was amended so as to read "A bill for the relief of Therese Nyuwirpoupele Kpoda".

RELIEF OF ELGA BOUILLIANT-LINET

The bill (S. 197) for the relief of Elga Bouilliant-Linet, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Elga Bouilliant-Linet shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residences of such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or, if applicable, from the total number of immigrant visas and entries which are made available to natives under section 202(e) of such Act.

RELIEF OF RANKOVIC FAMILY

The Senate proceeded to consider the bill (S. 257) for the relief of William Vojislav Rankovic, Stanislava Rankovic, husband and wife; and William Rankovic, Jr., and Natalie Rankovic, their children, which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause, and insert the following:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(14) of the Immigration and Nationality Act, for the purposes of such Act, William Vojislav Rankovic, Stanislava Rankovic, husband and wife; and William Rankovic, Junior, and Natalie Rankovic, their children, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa **[**fee.**]** *fees.* Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' births under **[**paragraph (1) through (8) of**]** section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' births under section 202 of the Act.

The amendments were agreed to.

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

RELIEF OF CATHERINE AND ROBERT FOSSEZ

The bill (S. 290) for the relief of Catherine and Robert Fossez, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Catherine and Robert Fossez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens, as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the countries of the aliens' birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas which are made available to natives of the countries of the aliens' birth under section 202(e) of such Act.

SEC. 2. No financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine of $1,000.

RELIEF OF PANIVONG NORINDR AND PANISOUK NORINDR

The bill (S. 331) for the relief of Panivong Norindr and Panisouk Norindr, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Panivong Norindr and Panisouk Norindr shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

RELIEF OF RAMZI SALLOMY AND MARIE SALLOMY

The bill (S. 332) for the relief of Ramzi Sallomy and Marie Sallomy was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ramzi Sallomy and Marie Sallomy shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and

conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

RELIEF OF HYONG CHA KIM KAY

The Senate proceeded to consider the bill (S. 343) for the relief of Hyong Cha Kim Kay, which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause, and insert the following with an amendment:

On page 1, line 56, after "States", insert "for permanent residence".

So as to make the bill read:

S. 343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Hyong Cha Kim Kay may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act.

SEC. 2. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of the enactment of this Act.

The amendment was agreed to.

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

RELIEF OF NABIL YALDO

The Senate proceeded to consider the bill (S. 345) for the relief of Nabil Yaldo, which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause, and insert the following:

That, in the administration of the Immigration and Nationality Act, the provisions of section 204(c) of that Act shall be inapplicable in the case of Nabil Yaldo.

The amendment was agreed to.

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

RELIEF OF MISHLEEN EARLE

The bill (S. 381) for the relief of Mishleen Earle, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mishleen Earle shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF BARBARA CRISP, SEAN ANTHONY CRISP, AND ANDREA LEECH

The bill (S. 462) for the relief of Barbara Crisp, Sean Anthony Crisp, and Andrea Leech, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Barbara Crisp, Sean Anthony Crisp, and Andrea Leech shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202 of such Act.

RELIEF OF BASSAM S. BELMANY

The bill (S. 832) for the relief of Bassam S. Belmany was considered, order to be engrossed for a third reading, read the third time, and passed; as follows:

S. 832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(14) of the Immigration and Nationality Act, for purposes of such Act, Bassam S. Belmany shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF KOK DJEN SU AND GRACE SU

The bill (S. 1046) for the relief of Kok Djen Su and Grace Su, husband and wife, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(14) of the Immigration and Nationality Act, for purposes of such Act, Kok Djen Su and Grace Su, husband and wife, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to these aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the items were agreed to en bloc.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. STAFFORD. Mr. President, I now ask the distinguished minority leader if we might turn to some executive calendar nominations.

I will specify the nominations. I ask unanimous consent that the Senate go into executive session to consider the following nominations on the Executive Calendar:

Calendar No. 683, Raymond J. Dearie; Calendar No. 684, Con. G. Cholakis; Calendar No. 693, Andrew John Strenio; Calendar No. 694, Paul H. Lamboley; Calendar No. 695, J.J. Simmons, III; Calendar No. 696, Janet Hale; Calendar No. 697, Alfred C. Sikes; Calendar No. 698, Under the Coast Guard; and Calendar No. 699, Philip D. Winn and all nominations placed on the Secretary's desk with the exception of the Foreign Service nomination of Edwin G. Corr.

If the minority leader is agreeable, I move the Senate handle these in executive session.

Mr. BYRD. Mr. President, as I understand it, the distinguished Sena-

tor's list does not include the senior foreign service nomination of Edwin G. Corr. Am I correct?

Mr. STAFFORD. That is correct.

Mr. BYRD. That has been cleared on this side, but as I understand the distinguished Senator is not including that in the list of nominees to be agreed upon. I have cleared these nominations on this side and, as far as we are concerned, we can move forward en bloc again.

Mr. STAFFORD. In that event, I ask unanimous consent the nominations just identified be considered en bloc and confirmed en bloc.

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

The nominees considered and confirmed en bloc are as follows:

THE JUDICIARY

Raymond J. Dearie, of New York, to be U.S. District Judge for the Eastern District of New York.

Con. G. Cholakis of New York, to be U.S. District Judge for the Northern District of New York.

FEDERAL TRADE COMMISSION

Andrew John Strenio, Jr., of Maryland, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1982.

INTERSTATE COMMERCE COMMISSION

Paul H. Lamboley, of Nevada, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1989.

J.J. Simmons III, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1990.

DEPARTMENT OF TRANSPORTATION

Janet Hale, of Massachusetts, to be an Assistant Secretary of Transportation.

DEPARTMENT OF COMMERCE

Alfred C. Sikes, of Missouri, to be Assistant Secretary of Commerce for Communications and Information.

COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral: Edward Nelson, Jr.; Clyde E. Robbins; Theodore J. Wojnar; Arnold M. Danielsen; Howard B. Thorsen.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Philip D. Winn, of Colorado, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1986.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning Mark A. Revett, and ending Douglas W. Elston, which nominations were received by the Senate on February 11, 1986, and appeared in the Congressional Record of February 18, 1986.

Coast Guard nominations beginning Robert G. Cozzolino, and ending Kenneth J. Reynolds, which nominations were received by the Senate on February 12, 1986, and appeared in the Congressional Record of February 18, 1986.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the nominees were considered and approved en bloc.

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

The motion to lay on the table was agreed to.

NOMINATION OF ALFRED C. SIKES

Mr. DANFORTH. Mr. President, it is with great enthusiasm that I recommend Al Sikes to serve as Assistant Secretary of Commerce for Communications and Information at the Department of Commerce. I have known Al Sikes, and known him very well, for over 18 years. He is a person who has demonstrated leadership ability, and demonstrated ability in public service. Al Sikes will be an asset to the administration, as he performs his role as the principal executive branch adviser to the President on domestic and international telecommunications policy.

When I first knew Al Sikes, he was the president of the Missouri Jaycees. When I was first elected as attorney general of Missouri and took office in January 1969, Al Sikes was one of four people who went into that office with me as an assistant attorney general.

In 1970, when I made the mistake of challenging Stuart Symington for the U.S. Senate, Al Sikes was the manager of my campaign. He returned after that campaign to the attorney general's office. In 1973 he joined the Governor's administration in our State as a member of the Governor's cabinet, and as director of the State department of consumer affairs, somewhat analogous to our FTC.

He left public service in the mid-1970's and went into the radio business in Springfield, MO, where he had lived before he moved to Jefferson City.

I know Al Sikes very well. I have been in his home, he has been in my home. We have gone fishing together, which is a great test of character. I baptized one of his children. And I can, without qualification, vouch for his character, his integrity, and his ability.

NOMINATION OF J.J. SIMMONS

Mr. BOREN. I enthusiastically support the nomination of J.J. Simmons III, of my home State of Oklahoma for another term on the Interstate Commerce Commission. Mr. Simmons, who first served on the Commission in 1982 and 1983, is now serving as Vice Chairman. His appointment to the Commission was interrupted in 1983 when President Reagan nominated him as Under Secretary of the Interior, a position he filled for 2 years. He returned to the ICC in 1984 to fill the remainder of the term expiring December 31, 1985. He has now been nominated for another term on the Commission and I urge his confirmation.

He has previously served as Administrator of the Oil Import Administration, and as Deputy Director of the Office of Oil and Gas of the Department of the Interior. In addition to his Government service, he has served in the private sector and rose to the position of vice president of the Amerada Hess Corp.

The friendship between Jake Simmons' family and mine spans three generations. His late father was an outstanding Oklahoman. He was State president of the NAACP for a quarter of a century. Both Jake and his father were pioneer leaders for civil rights in our State. His brother, Don, is a respected business leader in our State and served on my judicial nominating commission while I was Governor.

By ability, temperament and personal character, I believe that J.J. Simmons III, is well qualified to continue to serve on the ICC. His service there merits another term. He has a deep and sincere desire to render public service to his country. We are very fortunate to have a person like J.J. Simmons demonstrate the willingness to make the personal sacrifices necessary to serve in this way.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Senate resume legislative session.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, 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 sundry nominations which were referred to the appropriate committees.

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

FREEDOM, REGIONAL SECURITY, AND GLOBAL PEACE MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

FREEDOM, REGIONAL SECURITY, AND GLOBAL PEACE

I. AMERICA'S STAKE IN REGIONAL SECURITY

For more than two generations the United States has pursued a global foreign policy. Both the causes and consequences of World War II made clear to all Americans that our participation in world affairs, for the rest of the century and beyond, would have to go beyond just the protection of our national territory against direct invasion. We had learned the painful lessons of the 1930's, that there could be no safety in isolation from the rest of the world. Our Nation has responsibilities and security interests beyond our borders—in the rest of this hemisphere, in Europe, in the Pacific, in the Middle East and in other regions—that require strong, confident, and consistent American leadership.

In the past several weeks, we have met these responsibilities—in difficult circumstances—in Haiti and in the Philippines. We have made important proposals for peace in Central America and southern Africa. There and elsewhere, we have acted in the belief that our peaceful and prosperous future can best be assured in a world in which other peoples too can determine their own destiny, free of coercion or tyranny from either at home or abroad.

The prospects for such a future—to which America has contributed in innumerable ways—seem brighter than they have been in many years. Yet we cannot ignore the obstacles that stand in its path. We cannot meet our responsibilities and protect our interests without an active diplomacy backed by American economic and military power. We should not expect to solve problems that are insoluble, but we must not be half-hearted when there is a prospect of success. Wishful thinking and stop-and-go commitments will not protect America's interests.

Our foreign policy in the postwar era has sought to enhance our Nation's security by pursuit of four fundamental goals:

—We have sought to defend and advance the cause of democracy, freedom, and human rights throughout the world.

—We have sought to promote prosperity and social progress through a free, open, and expanding market-oriented global economy.

—We have worked diplomatically to help resolve dangerous regional conflicts.

—We have worked to reduce and eventually eliminate the danger of nuclear war.

Sustained by a strong bipartisan consensus, these basic principles have weathered contentious domestic debates through eight administrations, both Democratic and Republican. They have survived the great and rapid changes of an ever-evolving world.

There are good reasons for this continuity. These broad goals are linked together, and they in turn match both our ideals and our interests. No other policy could command the broad support of the American people.

A foreign policy that ignored the fate of millions around the world who seek freedom would be a betrayal of our national heritage. Our own freedom, and that of our allies, could never be secure in a world where freedom was threatened everywhere else. Our stake in the global economy gives us a stake in the well-being of others.

A foreign policy that overlooked the dangers posed by international conflicts, that did not work to bring them to a peaceful resolution, would be irresponsible—especially in an age of nuclear weapons. These conflicts, and the tensions that they generate, are in fact a major spur to the continued build-up of nuclear arsenals. For this reason, my Administration has made plain that continuing Soviet adventurism in the developing world is inimical to global security and an obstacle to fundamental improvement of Soviet-American relations.

Our stake in resolving regional conflicts can be simply stated: greater freedom for others means greater peace and security for ourselves. These goals threaten no one, but none of them can be achieved without a strong, active, and engaged America.

II. REGIONAL SECURITY IN THE 80'S

Our efforts to promote freedom, prosperity, and security must take account of the diversity of regional conflicts and of the conditions in which they arise. Most of the world's turbulence has indigenous causes, and not every regional conflict should be viewed as part of the East-West conflict. And we should be alert to historic changes in the international environment, for these create both new problems and new opportunities. Three such realities must define American policies in the 80's.

Soviet Exploitation of Regional Conflicts. The first involves the nature of the threat we face. The fact is, in the 1970's the challenge to regional security became—to a greater degree than before—the challenge of Soviet expansionism. Around the world we saw a new thrust by our adversaries to spread Communist dictatorships and to put our own security (and that of friends and allies) at risk. The Soviet Union—and clients like Cuba, Vietnam, and Libya—supplied enormous quantities of money, arms, and training in efforts to destabilize and overthrow vulnerable governments on nearly every continent. By the 1970's the long-proclaimed Soviet doctrine of "wars of national liberation" was for the first time backed by a global capability to project military power. The Soviets appeared to conclude that the global "correlation of forces" was shifting inexorably in their favor.

The world now knows the results, above all the staggering human toll. Murderous policies in Vietnam and Cambodia produced victims on a scale unknown since the genocides of Hitler and Stalin. In Afghanistan, the Soviet invasion led to the terrified flight of millions from their homes. In Ethiopia, we have witnessed death by famine and more recently by forced resettlement; and in South Yemen this year, factional killing that consumed thousands of lives in a span of a few days.

These have been only the most horrifying consequences. Other outgrowths of Soviet policies have been the colonial presence of tens of thousands of Cuban troops in Africa; the activities of terrorists trained in facilities in the Soviet bloc; and the effort to use Communist Nicaragua as a base from which to extinguish democracy in El Salvador and beyond.

These are not isolated events. They make up the disturbing pattern of Soviet conduct in the past fifteen years. The problems it creates are no less acute because the Soviet Union has had its share of disagreements with some of its clients, or because many of these involvements have proved very costly. That the Soviet leadership persists in such policies despite the growing burden they impose only testifies to the strength of Soviet commitment. Unless we build barriers to Soviet ambitions, and create incentives for Soviet restraint, Soviet policies will remain a source of danger—and the most important obstacle to the future spread of freedom.

In my meetings and other communications with Soviet General Secretary Gorbachev, and in my address before the UN General Assembly last October, I have made clear the importance the United States attaches to the resolution of regional conflicts that threaten world peace and the yearning of millions for freedom and independence—whether in Afghanistan or in southern Africa.

For the United States, these conflicts cannot be regarded as peripheral to other issues on the global agenda. They raise fundamental issues and are a fundamental part of the overall U.S.-Soviet relationship. Their resolution would represent a crucial step toward the kind of world that all Americans seek and have been seeking for over forty years.

Joining Others' Strength to Ours. The second reality that shapes America's approach to regional security is the need to join our own strength to the efforts of others in working toward our common goals.

Throughout the postwar period, our country has played an enormous role

in helping other nations, in many parts of the world, to protect their freedom. Through NATO we committed ourselves to the defense of Europe against Soviet attack. Through the Marshall Plan we helped Western Euorpe to rebuild its economy and strengthen democratic institutions. We sent American troops to Korea to repel a Communist invasion. America was an ardent champion of decolonization. We provided security assistance to help friends and allies around the world defend themselves. We extended our hand to those governments that sought to free themselves from dependence on the Soviet Union; success in such efforts—whether by Yugoslavia, Egypt, China or others—has contributed significantly to international security.

Despite our economic and military strength and our leading political role, the pursuit of American goals has always required cooperation with like-minded partners. The problems we face today, however, make cooperation with others even more important. This is in part a result of the limits on our own resources, of the steady growth in the power of our adversaries, and of the American people's understandable reluctance to shoulder alone burdens that are properly shared with others. But most important, we want to cooperate with others because of the nature of our goals. Stable regional solutions depend over the long term on what those most directly affected can contribute. If interference by outsiders can be ended, regional security is best protected by the free and independent countries of each region.

The Democratic Revolution. If American policy can succeed only in cooperation with others, then the third critical development of the past decade offers special hope: it is the democratic revolution, a trend that has significantly increased the ranks of those around the world who share America's commitment to national independence and popular rule.

The democracies that survived or emerged from the ruins of the Second World War—Western Europe, Japan, and a handful of others—have now been joined by many others across the globe. Here in the Western Hemisphere, the 1980's have been a decade of transition to democracy. Today, over 90 percent of the population of Latin America and the Caribbean live under governments that are democratic—in contrast to only one-third a decade ago. In less than 6 years, popularly elected democrats have replaced dictators in Argentina, Bolivia, El Salvador, Guatemala, Honduras, Peru, Brazil, Uruguay, and Grenada.

In other parts of the world, we see friends and allies moving in the same direction. Earlier in this decade, the people of Turkey fought back a violent assault on democracy from both left and right. Similarly, since the fall of Vietnam, the non-Communist nations of Southeast Asia have rallied together; with prosperous economies, and effective, increasingly democratic national governments, they play an increasingly important role on the world stage.

These trends are far from accidental. Ours is a time of enormous social and technological change everywhere, and one country after another is discovering that only free peoples can make the most of this change. Countries that want progress without pluralism, without freedom, are finding that it cannot be done.

In this global revolution, there can be no doubt where America stands. The American people believe in human rights and oppose tyranny in whatever form, whether of the left or the right. We use our influence to encourage democratic change, in careful ways that respect other countries' traditions and political realities as well as the security threats that many of them face from external or internal forces of totalitarianism.

The people of the Philippines are now revitalizing their democratic traditions. The people of Haiti have their first chance in three decades to direct their own affairs. Advocates of peaceful political change in South Africa are seeking an alternative to violence as well as to apartheid. All these efforts evoke the deepest American sympathy. American support will be ready, in these countries and elsewhere, to help democracy succeed.

But the democratic revolution does not stop here. There is another, newer phenomenon as well. In recent years, Soviet ambitions in the developing world have run head-on into a new form of resistance. Peoples on every continent are insisting on their right to national independence and their right to choose their government free of coercion. The Soviets overreached in the 1970's, at a time when America weakened itself by its internal divisions. In the 1980's the Soviets and their clients are finding it difficult to consolidate these gains—in part because of the revival of American and Western self-confidence, but mainly because of the courageous forces of indigenous resistance. Growing resistance movements now challenge Communist regimes installed or maintained by the military power of the Soviet Union and its colonial agents—in Afghanistan, Angola, Cambodia, Ethiopia, and Nicaragua.

We did not create this historical phenomenon, but we must not fail to respond to it.

In Afghanistan, Moscow's invasion to preserve the puppet government it installed has met stiff and growing resistance by Afghans who are fighting and dying for their country's independence. Democratic forces in Cambodia, once all but annihilated by the Khmer Rouge, are now waging a similar battle against occupation and a puppet regime imposed by Communist Vietnam.

In Angola, Jonas Savimbi and his UNITA forces have waged an armed struggle against the Soviet- and Cuban-backed Marxist regime, and in recent years UNITA has steadily expanded the territory under its control.

In Nicaragua, the democratic resistance forces fighting against another Soviet- and Cuban-backed regime have been holding their own—despite their lack of significant outside help, and despite the massive influx of the most sophisticated Soviet weaponry and thousands of Soviet, Cuban, and Soviet-bloc advisers.

The failure of these Soviet client regimes to consolidate themselves only confirms the moral and political bankruptcy of the Leninist model. No one can be surprised by this. But it also reflects the dangerous and destabilizing international impact that even unpopular Leninist regimes can have. None of these struggles is a purely internal one. As I told the United Nations General Assembly last year, the assault of such regimes on their own people inevitably becomes a menace to their neighbors. Hence the threats to Pakistan and Thailand by the powerful occupying armies in Afghanistan and Cambodia. Hence the insecurity of El Salvador, Costa Rica, and Honduras in the face of the Nicaraguan military build-up.

Soviet-style dictatorships, in short, are an almost unique threat to peace, both before and after they consolidate their rule. *Before,* because the war they wage against their own people does not always stay within their own borders. And *after,* because the elimination of opposition at home frees their hand for subversion abroad. Cuba's foreign adventures of the past decade are a warning to the neighbors of Communist regimes everywhere.

The drive for national freedom and popular rule takes different forms in different countries, for each nation is the authentic product of a unique history and culture. In one case, a people's resistance may spring from deep religious belief; in another, from the bonds of ethnic or tribal solidarity; in yet another, from the grievances of colonial rule, or from the failure of an alien ideology to contribute to national progress. Our traditions and the traditions of those whom we help can hardly be identical. And their programs will not always match our own experience and preferences. This is to be expected. The real question is: can our policy—of active American support—increase the likelihood of democratic outcomes? I believe it can.

III. THE TOOLS OF AMERICAN POLICY.

These three realities of the 80's—the new thrust of Soviet interventionism, the need for free nations to join together, the democratic revolution—are inseparable. Soviet power and policy cannot be checked without the active commitment of the United States. And we cannot achieve lasting results without giving support to—and receiving support from—those whose goals coincide with ours.

These realities call for new ways of thinking about how to cope with the challenge of Soviet power. Since Harry Truman's day, through administrations of both parties, American policy toward the Soviet Union has consistently set itself the goal of containing Soviet expansionism. Today that goal is more relevant and more important than ever. But how do we achieve it in today's new conditions?

First of all, we must face up to the arrogant Soviet pretension known as the Brezhnev Doctrine: the claim that Soviet gains are irreversible; that once a Soviet client begins to oppress its people and threaten its neighbors it must be allowed to oppress and threaten them forever. This claim has no moral or political validity whatsoever. Regimes that cannot live in peace with either their own people or their neighbors forfeit their legitimacy in world affairs.

Second, we must take full account of the striking trend that I have mentioned: the growing ranks of those who share our interests and values. In 1945 so much of the burden of defending freedom rested on our shoulders alone. In the 1970's some Americans were pessimistic about whether our values of democracy and freedom were relevant to the new developing nations. Now we know the answer. The growing appeal to democracy, the desire of *all* nations for true independence, are the hopeful basis for a new world of peace and security into the next century. A world of diversity, a world in which other nations choose their own course freely, is fully consistent with our values—because we know free peoples never choose tyranny.

To promote these goals, America has a range of foreign policy tools. Our involvement should always be prudent and realistic, but we should remember that our tools work best when joined together in a coherent strategy consistently applied. Diplomacy unsupported by power is mere talk. Power that is not guided by our political purposes can create nothing of permanent value.

The two tools of U.S. policy without which few American interests will be secure are our own military strength and the vitality of our economy. The defense forces of the United States are crucial to maintaining the stable environment in which diplomacy can be effective, in which our friends and allies can be confident of our protection, and in which our adversaries can be deterred. And our economic dynamism not only provides the resources essential to sustain our policies, but conveys a deeper message that is being better understood all the time, even by our adversaries: free, pluralist societies *work*.

The failure to maintain our military capabilities and our economic strength in the 1970's was as important as any other single factor in encouraging Soviet expansionism. By reviving both of them in the 1980's we deny our adversaries opportunities and deter aggression. We make it easier for other countries to launch sustained economic growth, to build popular institutions, and to contribute on their own to the cause of peace.

Security Assistance and Arms Transfers. When Soviet policy succeeds in establishing a regional foothold—whether through invasion as in Afghanistan or Cambodia, or sponsorship of local Leninists as in Nicaragua—our first priority must be to bolster the security of friends most directly threatened. This has been the reason for increasing our security assistance for Pakistan, Thailand, and the friendly democratic states of Central America. U.S. aid to Pakistan has been indispensable in demonstrating that we will not permit the Soviet Union to gain hegemony over all within reach of its growing power. By raising and sustaining aid to El Salvador after the Communist guerrillas' failed "final offensive" of 1981, we showed that controversy here at home could not stop us from backing a friendly and democratic government under threat.

Similarly, by providing needed equipment to friends in the Middle East—whether to democratic Israel, or to longstanding friends in the Arab world who face clear and present radical threats—we contribute to stability and peace in a vital region of the world.

By supporting the efforts of others to strengthen their own defense, we frequently do as much for our own security as through our own defense budget. Security assistance to others is a security bargain for us. We must, however, remember that states hostile to us seek the same sort of bargains at our expense. For this reason, we must be sure that the resources we commit are adequate to the job. In the first half of this decade, Libyan and Iranian aid to Communist Nicaragua, for example, totaled more than three times as much as U.S. aid to the democratic opposition. Soviet assistance to Vietnam, at nearly $2 billion annually, far outstrips U.S. support for any country save those that signed the Camp David peace accords. Soviet support for Cuba is larger still.

Economic Assistance. In speaking of Central America in 1982, I said that "economic disaster [had] provided a fresh opening to the enemies of freedom, national independence, and peaceful development." We cannot indulge the hope that economic responses alone are enough to prevent this political exploitation, but an effective American policy must address both the short-term and long-term dimensions of economic distress. In the short term our goal is stabilization; in the long term, sustained growth and progress by encouraging market-oriented reform.

In Central America, for example, the dollar value of our economic aid has consistently been three, four, or five times as much as our security assistance. In 1985 the former totaled $975 million, the latter, only $227 million.

Over the long term, America's most effective contribution to self-sustaining growth is not through direct aid but through helping these economies to earn their own way. The vigorous expansion of our own economy has already spurred growth throughout the Western Hemisphere, as well as elsewhere. But this healthy expansion of the global economy—which benefits us as well as others—depends crucially on maintaining a fair and open trading system. Protectionism is both dangerous and expensive. Its costs include not only the waste of resources and higher prices in our own economy, but also the blow to poorer nations around the world that are struggling for democracy but vulnerable to anti-democratic subversion.

Diplomatic Initiatives. Some have argued that the regional wars in which the Soviet Union is embroiled provide an opportunity to "bleed" the Soviets. This is not our policy. We consider these wars dangerous to U.S.-Soviet relations and tragic for the suffering peoples directly involved.

For those reasons, military solutions are not the goal of American policy. International peace and security require both sides in these struggles to be prepared to lay down their arms and negotiate political solutions. The forms of such negotiations may vary, but in all of these conflicts political efforts (and the improvement of internal political conditions) are essential to ending the violence, promoting freedom and national self-determination, and bringing real hope for regional security.

With these goals in mind, in my address to the UN General Assembly last fall, I put forward a plan for beginning to resolve a series of regional conflicts in which Leninist regimes have made war against their own peoples. My initiative was meant to complement diplomatic efforts already underway. To all of these efforts the United States has given the strongest possible sup-

port. We have done so despite the fact that the Soviet Union and its clients have usually resisted negotiations, or have approached the table primarily for tactical purposes. We intend, in fact, to redouble our effort through a series of bilateral discussions with the Soviets.

In Afghanistan, we strongly support the diplomatic efforts conducted under UN auspices. We see no clear sign that the Soviet Union has faced up to the necessity of withdrawing its troops, which remains the central issue of the negotiations. But we will persist.

In southern Africa, the recent announcement by the South African government of a date for the creation of an independent Namibia provides a new test of its own and of the Angolan regime's interest in a settlement that truly begins to reduce the threats to security in this region.

In Central America, President Duarte of El Salvador has offered a bold initiative that would produce three sets of simultaneous peace talks—his own with Salvador's Communist guerrillas; U.S.-Nicaragua bilateral discussions; and an internal dialogue between the Communist regime in Nicaragua and the democratic opposition—if the Sandinistas will agree to the latter. My new envoy for Central America, Ambassador Philip Habib, will pursue the Duarte initiative as his first responsibility.

In Cambodia, we support ASEAN—the Association of Southeast Asian Nations—in its intensive diplomatic efforts to promote Cambodia self-determination and an end to Vietnam's brutal occupation.

Support for Freedom Fighters. In all these regions, the Soviet Union and its clients would of course prefer victory to compromise. That is why in Afghanistan, in Southeast Asisa, in southern Africa, and in Central America, diplomatic hopes depend on whether the Soviets see that victory is excluded. In each case, resistance forces fighting against Communist tyranny deserve our support.

The form and extent of support we provide must be carefully weighed in each case. Because a popularly supported insurgency enjoys some natural military advantages, our help need not always be massive to make a difference. But it must be more than simply symbolic: our help should give freedom fighters the chance to rally the people to their side. As John Kennedy observed of another nation striving to protect its freedom, it is ultimately their struggle; winning inevitably depends more on them than on any outsiders. America cannot fight everyone's battle for freedom. But we must not deny others the chance to fight their battle themselves.

In some instances, American interests will be served best if we can keep the details of our help—in particular, how it is provided—out of view. The Soviets will bring enormous pressure to bear to stop outside help to resistance forces; while we can well withstand the pressure, small friends and allies may be much more vulnerable. That is why publicity for such details sometimes only exposes those whom we are trying to help, or those who are helping us, to greater danger. When this is the case, a President must be able to work with the Congress to extend needed support without publicity. Those who make it hard to extend support in this way when necessary are taking from our hands an important tool to protect American interests. Other governments that find they cannot work with us on a confidential basis will often be forced not to work with us at all. To hobble ourselves in this way makes it harder to shape events while problems are still manageable. It means we are certain to face starker choices down the road.

Nowhere is this clearer than in Central America. The Nicaraguan Communists have actively sought to subvert their neighbors since the very moment they took power. There can be no regional peace in Central America—or wherever Soviet client regimes have taken power—so long as such aggressive policies face no resistance. Support for resistance forces shows those who threaten the peace that they have no military option, and that negotiations represent the only realistic course.

Communist rulers do not voluntarily or in a single step relinquish control and open their nations to popular rule. But there is no historical basis for thinking that Leninist regimes are the only ones that can indefinitely ignore armed insurgencies and the disintegration of their own political base. The conditions that a growing insurgency can create—high military desertion rates, general strikes, economic shortages, infrastructural breakdowns, to name just a few—can in turn create policy fissures even within a leadership that has had no change of heart.

This is the opportunity that the freedom fighters of the 80's hope to seize, but it will not exist forever, either in Central America or elsewhere. When the mechanisms of repression are fully in place and consolidated, the task of countering such a regime's policies—both internal and external—becomes incomparably harder. That is why the Nicaraguan regime is so bent on extinguishing the vestiges of pluralism in Nicaraguan society. It is why our own decisions can no longer be deferred.

IV. REGIONAL SECURITY AND U.S.-SOVIET RELATIONS

My administration has insisted that the issue of regional security must have a prominent place on the agenda of U.S-Soviet relations.

We have heard it said, however, that while talking about these issues is a good idea, the United States should not be involved in other ways. Some people see risks of confrontation with the Soviet Union; others, no chance that the Soviets would ever reduce their commitment to their clients.

I challenge both of these views.

A policy whose only goal was to pour fuel on existing fires would obviously be irresponsible but America's approach is completely different. Our policy is designed to keep regional conflicts from spreading, and thereby to reduce the risk of superpower confrontations. Our aim is not to increase the dangers to which regional states friendly to us are exposed, but to reduce them. We do so by making clear to the Soviet Union and its clients that we will stand behind our friends. Talk alone will not accomplish this. That is why our security assistance package for Pakistan—and for Thailand and Zaire—is so important, and why we have increased our help to democratic states of Central America. We have made clear that there would be no gain from widening these conflicts. We have done so without embroiling American forces in struggles that others are ready to fight on their own.

Our goal, in short—indeed our necessity—is to convince the Soviet Union that the policies on which it embarked in the 70's cannot work. We cannot be completely sure how the Soviet leadership calculates the benefits of relationships with clients. No one should underestimate the tenacity of such a powerful and resilient opponent.

Yet there are reasons to think that the present time is especially propitious for raising doubts on the Soviet side about the wisdom of its client ties. The same facts about the democratic revolution that we can see are visible in Moscow. The harmful impact that Moscow's conduct in the developing world had on Western readings of its intentions in the last decade is also well known. There is no time in which Soviet policy reviews and reassessments are more likely than in a succession period, especially when many problems have been accumulating for some time. General Secretary Gorbachev himself made this point last year when he asked American interviewers whether it wasn't clear that the Soviet Union required international calm to deal with its internal problems.

Our answer to this question can be very simple. We desire calm, too, and—even more to the point—so do the nations now embroiled in conflict with regimes enjoying massive Soviet support. Let the Soviet Union begin to contribute to the peaceful resolution of these conflicts.

V. CONCLUSION

I have often said that the tide of the future is a freedom tide. If so, it is also a peace tide, for the surest guarantee we have of peace is national freedom and democratic government.

In the long struggle to reach these goals, we are at a crossroads. A great deal hangs on America's staying power and steadfast commitment.

If America stays committed, we are more likely to have diplomatic solutions than military ones.

If America stays committed, we are more likely to have democratic outcomes than totalitarian ones.

If American stays committed, we will find that those who share our goals can do their part, and ease burdens that we might otherwise bear alone.

If America stays committed, we can solve problems while they are still manageable and avoid harder choices later.

And if America stays committed, we are more likely to convince the Soviet Union that its competition with us must be peaceful.

The American people remain committed to a world of peace and freedom. They want an effective foreign policy, which shapes events in accordance with our ideals and does not just react, passively and timidly, to the actions of others. Backing away from this challenge will not bring peace. It will only mean that others who are hostile to everything we believe in will have a freer hand to work their will in the world.

Important choices now rest with the Congress: Whether to undercut the President at a moment when regional negotiations are underway and U.S.-Soviet diplomacy is entering a new phase; to betray those struggling against tyranny in different regions of the world, including our own neighborhood; or to join in a bipartisan national endeavor to strengthen both freedom and peace.

I have no doubt which course the American people want.

RONALD REAGAN.

THE WHITE HOUSE, *March 14, 1986.*

MESSAGES FROM THE HOUSE

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 205. Joint resolution to designate March 21, 1986, as "National Energy Education Day"; and

S.J. Res. 254. Joint resolution to designate the year of 1987 as the "National Year of Thankgiving."

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 545. Joint resolution recognizing Bobby Fisher as the Official World Chess Champion.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 281. A concurrent resolution recognizing the achievements of the Ireland Fund and its founder Dr. Anthony J.F. O'Brien.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 545. Joint resolution recognizing Bobby Fisher as the Official World Chess Champion; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 281. A concurrent resolution recognizing the achievements of the Ireland Fund and its founder Dr. Anthony J.F. O'Brien; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The Committee on Foreign Relations was discharged from the further consideration of the following joint resolution; which was placed on the calendar:

S.J. Res. 283. Joint resolution relating to Central America pursuant to the International Security and Development Cooperation Act of 1985.

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-2686. A communication from the Deputy Assistant Secretary of Defense (Military Manpower and Personnel Policy), transmitting, pursuant to law, a report on special pay for duty subject to hostile fire or imminent danger for calendar year 1985; to the Committee on Armed Services.

EC-2687. A communication from the Deputy Assistant Secretary of Defense (Military Manpower and Personnel Policy), transmitting, pursuant to law, the annual report concerning officer responsibility pay for calendar year 1985; to the Committee on Armed Services.

EC-2688. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Land and Water Conservation Fund Act of 1965, as amended, to permit the use of park entrance, admission, and recreation use fees for the operation of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

EC-2689. A communication from the Secretary of Agriculture and the Secretary of the Interior, transmitting jointly, pursuant to law, the grazing fee review and evaluation report and the experimental stewardship report; to the Committee on Energy and Natural Resources.

EC-2690. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2691. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report on activities concerning enforcement of the Controlled Substances Registrant Protection Act covering the period from date of enactment to the end of fiscal year 1985; to the Committee on the Judiciary.

EC-2692. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's third special message for fiscal year 1986; pursuant to the order of January 30, 1986, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Foreign Relations.

EC-2693. A communication from the General Counsel of the Department of Energy, transmitting a draft of proposed legislation to authorize appropriations for the Department of Energy for national security programs for fiscal year 1987 and fiscal year 1988, and for other purposes; to the Committee on Armed Services.

EC-2694. A communication from the general counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1987 for the Armed Forces for procurement, for research, development, test, and evaluation, for operation and maintenance, and for working capital funds, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; to the Committee on Armed Services.

EC-2695. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title II of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for fiscal years 1987 and 1988; to the Committee on Commerce, Science, and Transportation.

EC-2696. A communication from the Associate Director of the Resources, Community and Economic Development Division. General Accounting Office transmitting pursuant to law, a report entitled "Synthetic Fuels-Status of the Great Plains Coal Gasification Project"; to the Committee on Energy and Natural Resources.

EC-2697. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Ocean Pollution Planning Act of 1978, as amended, to authorize appropriations to carry out the provisions of the act for fiscal years 1987 and 1988; to the Committee on Environment and Public Works.

EC-2698. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the increases in the level of assets a recipient of supplemental security income benefits can own and still remain eligible; to the Committee on Finance.

EC-2699. A communication from the Administrator of General Services, transmitting, pursuant to law, the annual report of the General Accounting Office on competi-

tion advocacy for fiscal year 1986; to the Committee on Governmental Affairs.

EC-2700. A communication from the Assistant Secretary of Commerce (Administration) transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2701. A communication from the Director of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2702. A communication from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase the rates of compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes; to the Committee on Veterans' Affairs.

EC-2703. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated March 1, 1986; pursuant to the order of Janury 30, 1975, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC-2704. A communication from the Secretary of Education, transmitting, pursuant to law, the eighth annual report on the progress being made toward the provisions of a free appropriate public education to all handicapped children; to the Committee on Labor and Human Resources.

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. LAXALT (for himself and Mr. HECHT):

S. 2194. A bill to authorize the conveyance of 40 acres in Nevada to the Catholic Diocese of Reno/Las Vegas; to the Committee on Energy and Natural Resources.

By Mr. GORTON:

S. 2195. A bill to amend the Internal Revenue Code of 1954 to provide tax-exempt status for organizations which assist in introducing into public use technology developed by operating research organizations; to the Committee on Finance.

By Mr. QUAYLE:

S. 2196. A bill to amend title 10, United States Code, to improve procedures for the acquisition of spare and repair parts, and for other purposes; to the Committee on Armed Services.

By Mr. ROTH (for himself and Mr. STEVENS):

S. 2197. A bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON:

S. 2195. A bill to amend the Internal Revenue Code of 1954 to provide tax-exempt status for organizations which assist in introducing into public use technology developed by operating research organizations; to the Committee on Finance.

TAX-EXEMPT STATUS FOR CERTAIN ORGANIZATIONS INTRODUCING FOR PUBLIC USE TECHNOLOGY DEVELOPED BY OPERATING RESEARCH ORGANIZATIONS

● Mr. GORTON. Mr. President, today I am introducing legislation that will clarify the tax status of nonprofit organizations that assist in taking technology out of our Nation's laboratories and transferring it to industry and commerce. Clarifying the tax status of those organizations will encourage and stimulate the transfer of technology so that the economy and the public will have the benefit to be derived from new products.

The need for practical transfer of research results to the marketplace appears to be greater than ever. The President's Commission on Industrial Competitiveness has warned that the United States is losing its ability to compete in world markets. The Commission's 1985 report notes that the United States has lost world market share in 7 out of 10 high-technology sectors.

Although foreign trade barriers have contributed to this decline, the Commission stated that a basic problem is the failure of American high-technology companies to translate new technology consistently into competitive products. The Commission also noted that the United States has failed to provide its own technologies to manufacturing. Robotics, automation, and statistical quality control were all first developed in the United States, but in recent years they have been more effectively applied in other countries.

The Subcommittee on Science, Technology, and Space held hearings on technology transfer last year. During the course of those hearings, we learned of the development of new institutions aimed at bringing technology out of the laboratory. Cooperative service organizations represent one such promising new institution. These privately funded nonprofit organizations form a necessary link in the process of effectively bringing technology out of our Nation's laboratories by identifying and commercializing new technology. They license new technologies, help form startup companies, and assist in establishing research and development partnerships.

A recent Tax Court decision, however, threatens to cut-off this innovative mechanism for promoting technology transfer. The bill I am introducing today takes a step toward improving our Nation's ability to transfer technology by clarifying the status of privately funded nonprofit organizations. This clarification will promote the development of cooperative organizations and help ensure that our Nation remains on the cutting edge of technological change. I urge my colleagues to support this legislation.

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

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

S. 2195

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

SECTION 1. TAX-EXEMPT STATUS FOR ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY OPERATING RESEARCH ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(1) by redesignating subsection (m) as subsection (n), and

(2) by inserting after subsection (l) the following new subsection:

"(m) ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY OPERATING RESEARCH ORGANIZATIONS.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

"(1) is organized and operated exclusively—

"(A) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

"(i) reviewing technology disclosures from operating research organizations,

"(ii) obtaining protection for such technology through patents, copyrights, or other means, and

"(iii) licensing, sale, or other exploitation of such technology,

"(B) to distribute the income therefrom, after payment of expenses and other amounts agreed upon with originating research organizations, to such research organizations, and

"(C) to make research grants to such research organizations,

"(2) regularly provides the services and research grants described in paragraph (1) exclusively to 1 or more operating research organizations each of which—

"(A) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(B) is an organization—

"(i) described in clause (ii), (iii), (iv), or (v) of section 170(b)(1)(A), or

"(ii) described in clause (viii) of section 170(b)(1)(A), whose primary activity is the conduct of research,

except that research grants may be made to such operating research organizations through an organization described in paragraph (3), and

"(3) is controlled by 1 or more organizations, each of which—

"(A) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(B) may be a recipient of the services or research grants described in paragraph (1).

For the purposes of this title, any organization which, by reason of the preceding sentence, is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), shall be treated as an

organization described in section 170(b)(1)(A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.●

By Mr. QUAYLE:

S. 2196. A bill to amend title 10, United States Code, to improve procedures for the acquisition of spare and repair parts, and for other purposes; to the Committee on Armed Services.

DEFENSE ACQUISITION IMPROVEMENTS ACT

● Mr. QUAYLE. Mr. President, I am today introducing the Defense Acquisition Improvements Act of 1986 to address some of the issues raised during hearings by the Defense Acquisition Policy Subcommittee last fall. The subcommittee held four oversight hearings on the implementation of the 1984 defense procurement legislation, including the Competition in Contracting Act, the Defense Procurement Reform Act, and the Small Business and Federal Procurement Competition Enhancement Act, all of which were enacted in 1984.

Because of the fundamental changes that were put in place with the 1984 defense acquisition legislation, many people in the defense community have expressed grave concerns about the impact of some of the changes on the acquisition process. By exercising its oversight role, our subcommittee provided a public forum for airing of specific concerns. We also solicited specific proposals for modifications to existing defense acquisition statutes from all the witnesses.

We conducted four hearings beginning on October 17 and continuing through November 13, during which we heard from Dr. James Wade, Assistant Secretary of Defense for Acquisition and Logistics, the joint logistics commanders, and representatives from industry and outside associations. We have spent the last several months carefully reviewing the comments and recommendations.

Mr. President, in our attempts to promote greater efficiency in defense acquisition we have placed the highest priority on responsible reform. All the legislation that was passed through the Armed Services Committee addressing improvement of the acquisition process has had the benefit of careful review and deliberation. Nonetheless, there are inevitable problems when newly enacted legislation is applied to such a complex area as the defense acquisition process. With an undertaking as critical to national security as the procurement and support of military equipment, it is incumbent on us to review continually the implementation of legislation changing the process and to make prudent changes in the law if necessary.

Frankly, we have not seen fit to proceed with most of the suggested changes at this time. In many cases, the laws have simply not been in effect long enough to provide clear evidence that a given problem really exists. In other cases, there simply is no clear cut path to legislate corrections to some of the serious trends which many of our witnesses presented to us. Finally, many of the specific proposals appear to be addressed more effectively through administrative action within the Department of Defense, than through a change in the law.

Nonetheless, we are still reviewing the many issues brought to the subcommittee's attention. I intend to work with the Department of Defense to help ensure that the implementation of new legislation reflects the intent of Congress. When it becomes clear that a change in the law is desirable, I will propose such changes.

The Defense Acquisition Improvements Act of 1986 is a preliminary step in this direction. This legislation includes three changes to existing law that clearly need to be considered at this time. Two of the sections modify the provisions in the Defense Procurement Reform Act of 1984 and the other repeals a provision in the Department of Defense Authorization Act of fiscal 1986.

The first section of the legislation clarifies what I believe was the intent of Congress with respect to commercial pricing certification of spare or repair parts sold to the Government. This provision was intended to ensure the Government would pay no more than the lowest commercially available price for spare or repair parts that are available to commercial buyers. Under the current law, contractors are required to certify that the price being charged to the Government for an item of supply is no more than the lowest commercial price or a justification for the difference must be provided. In the attempts to formulate the final implementing regulations of this requirement, questions have arisen concerning the definition of "items of supply" and the term "lowest commercial price."

The new language I am proposing would clarify that this requirement is intended to apply to spare and repair parts and that the term "lowest commercial price" refers to the lowest, most recent price paid by a commercial customer in the general public. A further change has been added which clarifies that the commercial pricing certification requirement applies only where contracts are awarded using other than competitive procedures.

The second provision in my bill clarifies section 1245 of the Defense Procurement Reform Act of 1984. This section requires the Secretary of Defense to prescribe by regulations the manner in which the Department of Defense negotiates prices for supplies procured through noncompetitive contract awards. The specific target of this provision was the outrageous overhead being charged by contractors for items such as hammers, which the contractor did not manufacture and to which the contractor added little or no value before passing them along to the Government.

The regulations required by section 1245 are to specify the incurred overhead a contractor may appropriately allocate to supplies and to require a contractor to identify supplies not manufactured by him and to which he has not contributed significant value.

The changes in this section exempt two classes of contractors from this requirement. The first are the actual manufacturers of the item being sold to the Government and the second are so-called regular dealers who are defined as those individuals who, according to the Federal acquisition regulation:

> Own, operate, or maintain a store, warehouse or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.

The first group was not intended to be covered in the regulations. In the case of the second, the free market has already worked to control the price and the additional accounting burden is superfluous.

The final section of my legislation is a repeal of section 917 of the Defense Procurement Improvement Act of 1985 dealing with cost and price management requirements. It is my understanding that this provision was intended to require contractors to record categories of proposed and negotiated cost and pricing data in several categories and relate them to some form of industrial work measurement technique.

It is unclear what benefits would accrue by requiring contractors to record information in this form and make it available to the Department of Defense. The Department of Defense is currently developing a plan that will require the use of tailored industrial work measurement standards in production contracts. Until we are in a better position to gauge the effectiveness of this DOD policy, we should remove the cost and burden of the parallel section 917 accounting requirements from the law.●

By Mr. ROTH (for himself and Mr. STEVENS):

S. 2197. A bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES' OPTIONAL EARLY RETIREMENT ACT

● Mr. ROTH. Mr. President, today I rise, together with Senator STEVENS,

chairman of the Subcommittee on Civil Service, to introduce a bill that gives over 400,000 Federal civilian employees the opportunity to voluntarily retire in 1986, thus saving the taxpayers several hundred million dollars.

This bill will enable many Federal employees to retire immediately if they desire. A number of older Federal employees, although they now lack the age and service needed to retire under current law, are ready, willing and able to retire as soon as they get a reasonable opportunity. Some of these older employees are able to take attractive jobs outside the Government, while others are financially able to live on the pensions they have earned to date, perhaps by coordinating their retirement with their spouse's retirement. These people no longer have to wait.

At the same time, this bill offers new opportunities to younger Federal employees—especially women and members of minority groups—who may be concerned about the shortage of career opportunities in the Government. By providing older workers with the opportunity to retire, younger employees may now look forward to brighter and more secure Federal careers.

Given the current period of budgetary uncertainty, the early retirement option provides a positive way to reduce the Federal payroll. It is no secret that during the next few years Federal outlays must be reduced sharply. Private companies that need to cut costs commonly open up an early retirement window, to give their employees a temporary option to retire. That is exactly what this bill does. Retirement benefits are costly, but keeping too many employees on the payroll can be far more costly. That cost is reflected in two ways. People who wish to, but cannot retire, are less apt to be enthusiastic about their work. Younger workers who would like more responsibility, but are unable to move upward may leave, consequently depriving the Federal Government of talented young employees.

Preliminary cost studies indicate that this bill will save taxpayers millions of dollars each year. If this bill were enacted soon, savings could begin in July of this year, and grow through attrition.

Employees may qualify for retirement under any of the following four standards:

Any age with 25 years of service.

Age 50 with 20 years of service.

Age 55 with 15 years of service.

Age 57 with 5 years of service.

Specifically, the new option covers any employees who expect to reach the regular retirement age during the next 5 years and any employees who would qualify for special "early out" under current law. The legislation also covers employees of the executive and legislative branches and the U.S. Postal Service.

Excluded from coverage are Members of Congress, employees of the judicial branch, and physicians and nurses. Nonsupervisory law enforcement agents, air traffic controllers, and firefighters, who currently have their own special early retirement rules, are also excluded from the early retirement plan.

Under the early retirement provisions, employee benefits are allocated according to two categories. Those employees who retire at age 55 or over get full benefits. Employees who retire below age 55 take a benefit reduction of 2 percent for each year they retire before age 55.

The retirement window will be in effect from July 1, 1986 to December 31, 1986. During this window period, certain restrictions on new hiring will be in effect. No agency may hire a replacement for a worker who retires during the 6-month window period until October 1, 1991, but agencies may shift employees within the agency to the open positions. Agencies wishing to hire from the outside or from other Federal agencies could do so only by agreement from OPM. The legislation also allows OPM to waive hiring restrictions for essential employees and those whose services are financed through user fees.

The special authority which we expect the Office of Personnel Management to use in making exceptions to the rehiring freeze will enable the Government to perform essential services in an orderly way.

The early retirement option will accomplish several purposes. It will reduce civilian payrolls on a voluntary basis, and accommodate employees who are ready to retire but fall short of current age and service requirements. It will provide job security and career opportunities for women, minorities, and younger workers. And, it will save taxpayers millions of dollars and aid in reducing Federal spending.

Mr. President, while this optional early retirement window is brand-new for the Government, it follows a trail blazed over the past decade by many of America's leading employers. In times of financial stress, this bill provides an efficient, yet compassionate way of reducing costs.

I welcome the comments of my colleagues, administration officials, employee groups and others with an interest in this idea, and I intend to call upon them to express their views in hearings on this legislation.

Mr. President, this legislation has a great deal to offer, both to Federal employees and the the Government. I hope that it will be given timely consideration by the Senate.●

ADDITIONAL COSPONSORS

S. 1756

At the request of Mr. SIMON, the names of the Senator from Tennessee [Mr. SASSER] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 1756, a bill to authorize the President to present to Sargent Shriver, on behalf of the Congress, a specially struck medal.

S. 1853

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1853, a bill to amend the Court Interpreters Act of 1978.

S. 2115

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2115, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 2129

At the request of Mr. KASTEN, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2129, a bill to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes.

SENATE JOINT RESOLUTION 256

At the request of Mr. TRIBLE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 256, a bill designating August 12, 1986, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 263

At the request of Mr. BOSCHWITZ, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate the week of September 7-13, 1986, as "National Independent Retail Grocer Week."

SENATE JOINT RESOLUTION 287

At the request of Mr. BOREN, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of Senate Joint Resolution 287, a joint resolution designating September 29, 1986, as "National Teachers Day."

SENATE JOINT RESOLUTION 289

At the request of Mr. ROTH, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 289, a joint resolution to designate 1988 as the "Year of New Sweden" and to recognize the New Sweden 1988 American Committee.

SENATE CONCURRENT RESOLUTION 115

At the request of Mr. TRIBLE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor

of Senate Concurrent Resolution 115, a concurrent resolution expressing the opposition of the United States to the forcible resettlement and systematic oppression of the Ethiopian people.

AMENDMENTS SUBMITTED

DEFICIT REDUCTION AND PROGRAM IMPROVEMENT

JOHNSTON AMENDMENT NO. 1674

Mr. JOHNSTON proposed an amendment, which was subsequently modified, to amendment No. 1673 (proposed by Mr. DOMENICI and others) to the amendment of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process; as follows:

At the appropriate place in the Bill add the following:

"Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under Subtitle A of Title VIII (Outer Continental Shelf and Related Programs) of this Act shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986 except that the $572 million set forth in section 8004(b)(1((A) shall only receive interest from April 15, 1986 to October 1, 1986 at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana."

WILSON (AND CRANSTON) AMENDMENT NO. 1675

Mr. WILSON (for himself, Mr. CRANSTON and Mr. KERRY) proposed an amendment to amendment No. 1673 proposed by Mr. DOMENICI (and others) to the amendment of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128), supra; as follows:

On page 3F, on the third line, strike the "s" on the end of the word "subtitles" and strike "B and".

WATER RESOURCES DEVELOPMENT ACT

ABDNOR (AND OTHERS) AMENDMENT NO. 1676

Mr. ABDNOR (for himself, Mr. STAFFORD, Mr. BENTSEN, and Mr. MOYNIHAN) proposed an amendment to the bill (S. 1567) to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

(Amendment 1) On page 3, strike lines 5 through 16, and insert in lieu thereof the following:

"SEC. 201. (a) Prior to the initiation of construction of any water resources project authorized prior to this Act, in this Act, or subsequent to this Act, which is under the jurisdiction of the Secretary and which can be anticipated to provide flood control benefits, more than 10 per centum of which can be attributed to an increase in anticipated land values to a land owner, the non-federal sponsor shall agree to pay, for deposit into the Treasury, during the period of construction, 50 per centum of that portion of the project's costs allocated to such land owner's benefit. Such payment is in addition to any other requirements on the non-Federal sponsor for the sharing of project costs."

(Amendment 2) Beginning on page 9, line 3, section 211 is amended by redesignating subsections "(a)" through "(c)" as subsections "(b)" through "(d)", respectively, and, on page 9, line 3, after "Sec. 211.", inserting a new subsection as follows:

"(a) Section 221(a) of the Flood Control Act of 1970 (Public Law 91-611) is amended by inserting the words ', or an acceptable separable element thereof' immediately after 'water resources project' and the words 'or the appropriate element of the project, as the case may be' immediately after 'for the project'."

On page 9, line 14, before "The" insert "(1)" and, after line 18, insert the following:

"(2) The interest rate to be charged on any such delinquent payment shall be at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3-month period if the period of delinquency exceeds 3 months."

(Amendment 3) On page 10, after the figure "212." on line 4, insert "(a)". On page 10, after line 9, insert the following:

"(b) No work on any project, or portion thereof, authorized by this Act shall be initiated by the Secretary unless development of the project complies with the terms of the National Environmental Policy Act (42 U.S.C. 4341), as amended."

(Amendment 4) On page 10, beginning on line 10, delete all through line 19 and insert in lieu thereof the following:

"SEC. 213. Subject to the provisions and requirements of Titles V, VI, and VII of this Act, the sums to be obligated for any project authorized by this Act shall not exceed the sum listed in this Act for the specific project, as of the month and year listed for such project (or, if no date is listed, the cost shall be considered to be as of the date of enactment of this Act), plus such amounts, if any, as may be justified solely by reason of increases in construction costs, as determined by engineering cost indices applicable to the type of construction involved, and by reason of increases in land costs; plus no more than 10 per centum of the base figure if attributable solely to cost increases resulting from modifications due to engineering, economic, and environmental considerations which the Secretary determines are advisable and which do not violate any of the parameters established in Section 218 of this Act."

(Amendment 5) On page 11, strike lines 18 to 24, then on line 1 of page 12, delete "(c)" and insert in lieu thereof "(b)".

(Amendment 6) On page 13, delete line 11 and insert in lieu thereof: "(2) capacity;" and on page 13, delete all of line 13, and renumber subsequent parameters accordingly.

(Amendment 7) On page 24, line 24, delete the period and insert in lieu thereof the following: ": *Provided*, That any physical construction required for the purposes of mitigation may be undertaken concurrently with the physical construction of such project."

(Amendment 8) On page 25, line 10, change the second comma to a period and delete all that follows through the period on line 12. On page 25, beginning on line 24 through line 1 on page 26, delete "are anticipated to cost more than $7,500,000 per project or costs less than $7,500,000 per project and".

(Amendment 9) On page 26, line 5, after the word "Costs", insert the following: "of implementation and operation, maintenance, and rehabilitation".

(Amendment 10) On page 26, line 21, after the word "wildlife.", insert the following: "Specific mitigation plans shall ensure that impacts to bottomland hardwood forests are mitigated in-kind, to the extent possible."

(Amendment 11) On page 27, line 11, before the word "when", strike the period and insert in lieu thereof the following: ", or when such activities are located on lands managed as a national wildlife refuge."

(Amendment 12) On page 27, line 17, after the word "costs.", insert the following: "Operation, maintenance, and rehabilitation costs shall be shared in accordance with the cost sharing applicable to implementation."

(Amendment 13) On page 27, after line 21, insert the following:

"(g) The project for the Mouth of the Colorado River, Texas, authorized pursuant to section 101 of the River and Harbor Act of 1968 (82 Stat. 732), is hereby modified to provide that the diversion features of the authorized project, to divert Colorado River flows into Matagorda Bay, shall be constructed in accordance with the cost sharing described in subsection (e) of this section for activities providing enhancement benefits to species identified as having national economic importance by the National Marine Fisheries Service, with operation and maintenance cost sharing at the same percentage as construction cost sharing. The Secretary is directed to construct the remaining navigation features and diversion features concurrently."

(Amendment 14) On page 28, beginning on line 18, delete all through line 4 on page 29 and insert in lieu thereof:

"SEC. 226. In the interest of efficient and cost effective operations by the Secretary, the Comptroller General of the United States shall conduct a study of the Secretary's contracting procedures for civil works projects. Such study shall examine whether potential bidders or offerors, regardless of their size, are allowed to compete fairly in the interest of lowering cost on contracts for construction. Within two years of the date of enactment of this Act, the Comptroller General shall report his findings to Congress together with an assessment of whether contract procedures are applied uniformly among the various field offices under the Secretary's jurisdiction. The report shall also provide recommendations on improving contracting procedures, including (1) how the Secretary can prepare proposals for construction that assure, to the greatest extent reasonable, that no potential bidder or offeror is precluded from competing fairly for contracts, (2) whether

recordkeeping requirements imposed by the Secretary on contractors are appropriate in the interest of competition, and (3) the extent to which the private sector can be used more efficiently by the Secretary in contracting for construction, architecture, engineering, surveying, and mapping."

(Amendment 15) On page 30, strike lines 16 through 25, and renumber subsequent sections accordingly.

(Amendment 16) On page 31, strike lines 1 through 16, and insert in lieu thereof the following:

"SEC. 230(a). In the event of a declaration of war or a declaration by the President of a national emergency in accordance with the National Emergencies Act (90 Stat. 1255; 50 U.S.C. 1601) that requires or may require use of the armed forces, the Secretary, without regard to any other provision of law, may (1) terminate or defer the construction, operation, maintenance or repair of any Department of the Army civil works project that he deems not essential to the national defense, and (2) apply the resources of the Department of the Army's civil works program, including funds, personnel, and equipment, to construct or assist in the construction, operation, maintenance, and repair of authorized civil works, military construction, and civil defense projects that are essential to the national defense.

"(b) The Secretary shall immediately notify the appropriate committees of Congress of any actions taken pursuant to the authorities provided by this section, and cease to exercise such authorities not later than one hundred eighty calendar days after the termination of the state of war or national emergency, whichever occurs later."

(Amendment 17) On page 31, line 19, delete "$50,000" and insert in lieu thereof "$5,000", and on line 22, delete "$25,000" and insert in lieu thereof "$2,500".

(Amendment 18) On page 34, after the word "activities" on line 22, delete the period and insert in lieu thereof ": *Provided*, That the General Services Administration shall make one such dredge available to the State of Utah, and that such dredge may be utilized by such State for purposes of dredging within the State of Utah: *and provided further*, That if such dredge is used for dredging outside the State of Utah, ownership of the dredge shall revert to the United States."

(Amendment 19) On page 35, strike lines 4 through 11 and renumber subsequent sections accordingly.

(Amendment 20) On page 35, after line 16, insert and number appropriately the following:

"SEC. . Section 8 of Public Law 78-534, approved December 22, 1944 (58 Stat. 891; 43 U.S.C. 390), is hereby amended by adding the following at the end thereof: 'In the case of any reservoir project constructed and operated by the Corps of Engineers, the Secretary of the Army is authorized to contract with water districts, irrigation districts, conservancy districts, and any other such entities, with individuals, and with appropriate state agencies, at such prices and on such terms and for such periods as he may deem reasonable, for the interim use for irrigation purposes of storage provided in the project for municipal and industrial water supply purposes until such storage is required for municipal and industrial water supply. No contracts for the interim use of such storage shall be entered into which would significantly affect then-existing uses of such storages.'

"SEC. . Section 5 of the Act of March 4, 1915 (38 Stat. 1049; 33 U.S.C. 562), is amended by inserting the words 'and after the project becomes operational' after the word 'Acts' and before the comma.

"SEC. . (a) Section 301(b) of the Water Supply Act of 1958 (72 Stat. 319), as amended (43 U.S.C. 390b.(b)), is amended further as follows:

"(1) In the third proviso, after the word "demands" appears the first time delete the remainder of that proviso.

"(2) Strike the fourth proviso and insert in lieu thereof: *'And provided further*, That the Secretary of the Army may permit the full non-Federal contribution to be made, without interest, during construction of the project, or, with interest, over a period of not more than thirty years from the date of project completion. Repayment contracts shall provide for recalculation of the interest rate at five-year intervals.'.

"(3) After the first sentence insert the following: 'All annual operation, maintenance, and replacement costs for municipal and industrial water supply storage under the provisions of this section shall be reimbursed from State or local interests on an annual basis.'.

"(4) Strike the second sentence and insert in lieu thereof: 'Any repayment by a State or local interest shall be at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which costs for the construction of the project are first incurred (or, in the case of recalculation, the fiscal year in which the recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs.'.

"(b) Nothing in this section shall be deemed to amend or require amendment of any valid contract entered into pursuant to the Water Supply Act of 1958 and approved by the Secretary of the Army or the Secretary of the Interior prior to the date of enactment of this Act.

"SEC. . In the case of any water resources project which is authorized to be constructed by the Secretary before, on, or after the date of enactment of this Act, construction of which was not commenced prior to the date of enactment of this Act, and which involves the acquisition of lands or interests in lands for recreation purposes, such lands or interests shall be acquired concurrent with the acquisition of lands and interests in lands for other project purposes.

"SEC. . Upon the request of the governor of a State, or the appropriate official of local government, the Secretary is authorized to provide designs, plans, and specifications, and such other technical assistance as he deems advisable, to such State or local government for its use in carrying out projects for renovating navigable streams and tributaries thereof by means of predominantly nonstructural methods judged by the Secretary to be cost-effective, for the purpose of improved drainage, water quality, and habitat diversity: *Provided*, That non-Federal interests contribute half the cost of the designs or other assistance."

(Amendment 21) On page 39, beginning with line 1, delete all through line 24.

(Amendment 22) Beginning on page 43, line 12, delete all through line 5 on page 48, and insert in lieu thereof the following:

"SEC. 315. The section pertaining to Transfer of Federal Townsites, the Supplemental Appropriation Act, 1985, Title I, Chapter IV (Public Law 99-88; 99 Stat. 293) is amended as follows:

"(a) Subsection (a)(1)(A) is amended by—

"(1) inserting '(i)' immediately after the letter '(A)', and

"(2) adding the following new subsections (ii) and (iii) at the end of the subsection:

"(ii) The land utilized as a sanitary landfill by Riverdale, North Dakota, consisting of approxiately 96 acres.

"(iii) The peripheral utility improvements at Riverdale, North Dakota, developed for, or being utilized as, sewage lagoons; the sewer pipeline extending from the townsite boundary to said lagoons; any outfall facilities or control structures in conjunction therewith; the water pipeline extending from the exterior boundaries of the power plant to the townsite; and appropriate easements of right-of-way of the access to, and operation and maintenance of said improvements."

"(b) Subsection (a)(1)(B) is amended by—

"(1) inserting '(i)' immediately after the letter '(B)', and

"(2) adding the following new subsections (ii) and (iii):

"(ii) The land utilized as a sanitary landfill by Pickstown, South Dakota, consisting of approximately 23 acres.

"(iii) The peripheral utility improvements at Pickstown, South Dakota, developed for, or being utilized as, sewage lagoons; water treatment plant; water intake structure; the sewer pipeline extending from the townsite boundary to the sewer lagoons; any outfall facilities or control structures in conjunction therewith; the water pipeline extending from the water intake to the water treatment plant and to the townsite boundary; and appropriate easements of right-of-way for access to, and operation and maintenance of, said improvements."

"(c) Subsection (a)(1)(C) is amended by—

"(1) inserting '(i)' immediately after the letter '(C)', and

"(2) adding the following new subsection (ii):

"(ii) The peripheral utility improvements at Fort Peck, Montana, developed and being utilized as a water storage reservoir; the water pipelines extending from the exterior boundaries of the power plant to the townsite boundary; the water pipeline extending from the townsite boundary to the water reservoir; and appropriate easements of right-of-way to the municipal corporation for access to, and operation and maintenance of, said improvements.

"(d) Subsection (c) is amended by adding at the end thereof: 'Nothing in this provision prohibits the Secretary from placing reasonable covenants in those deeds transferring improvements having significant historical, cultural, or social value in Fort Peck, Montana.'

"(e) The Administrator of the Western Area Power Administration is authorized to allocate power from the Pick-Sloan Missouri Basin Program (P-SMBP) to the municipal corporations of Riverdale, North Dakota, Pickstown, South Dakota, and Fort Peck, Montana, or to such other preference entity as the Administrator may designate to provide electrical serivce to said municipal corporations. Such allocations shall be in the amount required to meet the annual loads established prior to the date of enactment of this Act, and under terms and conditions for marketing firm power from the P-SMBP: Except, That upon request of a municipal corporation specified in this subsection, the Secretary shall continue to operate

municipal or community owned facilities for a period not to exceed three years from the date of incorporation of such municipal corporation."

(Amendment 23) On page 53, on lines 15 and 16, delete "Senate Report 98-340 for section 326" and insert in lieu thereof the following: "the Congressional Record as of the date of the submission of this amendment."

(Amendment 24) On page 58, beginning with line 7, delete all through line 24, and renumber subsequent sections accordingly.

(Amendment 25) On page 59, delete lines 5 through 9 and insert in lieu thereof the following:

"SEC. 334. (a)(1) On behalf of the United States, the Secretary, in consultation with the Secretary of State, is authorized to cooperate with governments in Canada to study and to construct reservoir projects for storage in the Souris River Basin in Canada to provide flood control benefits in the United States.

"(2) The Secretary is authorized further to participate in financing the storage referred to in paragraph (1) of this subsection to a maximum contribution of $26,700,000, in the event that only one reservoir, known as the Rafferty project, is constructed in Canada, or to a maximum of $41,100,000, in the event two reservoirs, known as the Rafferty and Alameda projects, are constructed in Canada. The amount of any such contribution shall be determined by an allocation of costs, based on the proportionate use of these projects for flood control in the United States and water supply in Canada.

"(b) Upon completion of the structure or structures in Canada, as agreed upon between the United States and governments in Canada, the construction of Burlington Dam, North Dakota, as authorized by Public Law 91-611, and modifications at Lake Darling, North Dakota, to raise the level of the dam structure, as authorized by section 111 of Public Law 97-88 (95 Stat. 1138), shall no longer be authorized. Should the Secretary determine that an agreement between the United States and governments in Canada cannot be consummated, he shall proceed with the work authorized by section 111 of Public Law 97-88, including raising the dam structure and including storage capacity for flood control purposes, with such work to be considered a nonseparable element of the flood control project for Minot, North Dakota, authorized under section 201 of the Flood Control Act of 1965.

"(c) The Secretary is authorized further to make such modifications as necessary to the existing Lake Darling, exclusive of the modifications authorized by Section 111 of Public Law 97-88, for the purpose of effective operation of the project for flood control, with such work to be considered to be nonseparable element of the flood control project for Minot, North Dakota, authorized under section 201 of the Flood Control Act of 1965, and to operate and maintain the project with such modifications in a manner compatible with the migratory waterfowl refuge purpose of the project.

"(d) The non-Federal share of the cost of contributions to governments in Canada, as authorized by this section, shall be in accordance with Title VII of this Act for the amount over $23,600,000. The total federal cost of work authorized by this section and by section 111 of Public Law 97-88, as modified herein, and including related dam safety measures, is $69,100,000 (October 1985): *Provided*, That this cost is subject to Section 213 of this Act."

(Amendment 26) On page 59, beginning on line 10, strike all through line 20 on page 64, and insert in lieu thereof the following:

"SEC. 335. (a)(1) For the multiple purposes of preserving, enhancing, interpreting, and managing the water and related land resources of an area containing unique cultural, fish and wildlife, scenic, and recreational values and for the benefit and enjoyment of present and future generations and the development of outdoor recreation, there is hereby established the Cross Florida National Conservation Area (hereinafter in this section referred to as the "Conservation Area").

"(2) The Conservation Area shall consist of all lands and interests in lands held by the Secretary within that portion of the high-level lock barge canal project from the Saint Johns River across the State of Florida to the Gulf of Mexico, authorized by the Act of July 23, 1942 (56 Stat. 703) (which shall in this section be referred to as the "barge canal project") that is located between the Eureka Lock and Dam and the Inglis Lock (exclusive of such structures), plus all lands and interests in lands held by the Canal Authority of the State of Florida between such structures.

"(b) Those portions of the barge canal project located between the Gulf of Mexico and the Inglis project structure and located between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, shall be operated and maintained by the Secretary for the purposes of navigation, recreation, and fish and wildlife enhancement.

"(c) In order to further the purposes set forth in paragraph (a)(1) of this section, that portion of such barge canal project located between the Eureka Lock and Dam and the Inglis Lock (exclusive of such structures) is not authorized for the purposes described in 56 Stat. 703 after the date this subsection becomes effective.

"(d) The State of Florida shall retain jurisdiction and responsibility over water resources planning, development, and control of the surface and ground waters pertaining to lands cited in subsections (b) and (c) of this section, except to the extent that any uses of such water resources would be inconsistent with the purposes of this section.

"(e)(1) Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the United States Forest Service, the United States Fish and Wildlife Service, and the State of Florida, shall develop and transmit to Congress a comprehensive management plan for lands (including water areas) located within the Conservation Area.

"(2) Such plan shall, at a minimum, provide for—

"(A) enhancement of the environment;

"(B) conservation and development of natural resources;

"(C) conservation and preservation of fish and wildlife;

"(D) preservation of scenic and enhancing recreational values;

"(E) a procedure for the prompt consideration of applications for easements across Conservation Area lands, when such easements are requested by local or State governmental jurisdictions or by a regulated public utility for a public purpose; and

"(F) preservation and enhancement of water resources and water quality, including ground water.

"(3) Such plan shall establish, among the Secretary, the Forest Service, the Fish and Wildlife Service, and the State of Florida, the responsibilities for implementation of such plan.

"(4) Until transmittal of such plan to Congress, the Secretary shall operate, maintain, and manage the lands and facilities held by the Secretary under the terms of subsection (c).

"(5) Upon submission of such plan to Congress, the Secretary and other agencies, pursuant to the agreement under paragraph (3) of this subsection, are authorized to implement such plan.

"(f) The Secretary shall operate the Rodman Dam, authorized by the Act of July 23, 1942 (56 Stat. 7030), in a manner which will assure the continuation of the reservoir known as Lake Ocklawaha. The Secretary shall not operate the Eureka Lock and Dam in a manner which would create a reservoir on lands not flooded on January 1, 1984.

"(g)(1) As soon as possible, the Secretary shall acquire, for the sum of $32,000,000, all lands and interests in lands held on the date of the enactment of this Act by the Canal Authority of the State of Florida for the purposes of the barge canal project. In the event the sums available to the Secretary in any fiscal year are insufficient to purchase all such lands and interests, the State of Florida shall transfer to the Secretary that percentage of the total number of acres to be transferred that is proportionate to the sums received by the State compared with $32,000,000.

"(2) From amounts received under paragraph (1) of this subsection, the Canal Authority shall as soon as possible make payments to the Florida counties of Duval, Clay, Putnam, Marion, Levy, and Citrus. Such payments shall, in the aggregate, be equal to $32,000,000. The amount of payment under this paragraph to each such county shall be determined by multiplying such aggregate amount by the amount of ad valorem taxes paid to the Cross Florida Canal Navigation District by such county and dividing such product by the amount of such taxes paid by all such counties.

"(h) Subsection (c) shall become effective—

"(1) ninety days after the Governor of Florida has certified to the Secretary that the State has met the conditions set out in subsection (i) of this section: *Provided*, That the Secretary does not determine within such period that the State has failed to comply; or

"(2) on the date of the final order in a declaratory judgment action, brought by the State of Florida in a Federal District Court within Florida, finding that the State has met the conditions.

"(i) Subsection (c) shall not become effective until the State of Florida enacts a law or laws which assures that—

"(1) On and after the date on which construction of the portion of the barge canal project referred to in subsection (c) is no longer authorized, all lands and interests in lands held for the project by the State of Florida or the Canal Authority of such state, including those acquired pursuant to the River and Harbor Act of 1960 (Public Law 86-645), and including any state lands contained in the area proposed to be added to the Ocala National Forest by the boundary change shown on the map dated July 1978, on file with the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia, will continue to be owned by such state or canal authority pending transfer to the Secretary, for consideration, as provided in this section; and

"(2) The State of Florida has fee simple title to lands acquired from the Federal government pursuant to Public Law 86-645, and

will transfer such title to the Secretary, for consideration, as provided in this section."

(Amendment 27) On page 65, after line 5, insert the following and number accordingly:

"SEC. . That portion of the project for navigation, Tampa Harbor and Hillsborough Bay, Florida, authorized by the Act of August 8, 1917, which portion consists of the turning basin at the junction of Garrison Channel, Seddon Channel, and Hillsborough River, is deauthorized upon enactment of this Act.

"SEC. . Bloomington Lake located on the North Branch of the Potomac River near Bloomington, Maryland, and Keyser, West Virginia, is named and designated as the 'Jennings Randolph Lake'. Any reference in a law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be reference to the 'Jennings Randolph Lake'.

"SEC. . Calion Lock and Dam located on the Ouachita River near Calion, Arkansas, is named and designated as the 'H.K. Thatcher Lock and Dam'. Any reference in a law, map, regulation, document, record, or other paper of the United States to such lock and dam shall be held to be a reference to the 'H.K. Thatcher Lock and Dam'.

"SEC. . The project for Denison Dam (Lake Texoma), Red River, Texas and Oklahoma, authorized by the Flood Control Act approved June 28, 1938 (52 Stat. 1219), as amended, is hereby modified to provide that the Secretary is authorized to reallocate from hydropower storage to water supply storage, in increments as needed, up to an additional 150,000 acre-feet for municipal, industrial, and agricultural water users in the State of Texas and up to 150,000 acre-feet for municipal, industrial, and agricultural water users in the State of Oklahoma. For that portion of the water storage reserved for users in the State of Oklahoma, the Secretary may contract, in increments as needed, with qualified individuals, entities, or water utility systems for use within the Red River Basin; except that for any portion of that water to be utilized outside the Red River Basin, the Secretary shall contract with the RedArk Development Authority. For that portion of the water storage reserved for users in the State of Texas, the Secretary shall contract, in increments as needed, for 50,000 acre-feet with the Greater Texoma Utility Authority and 100,000 acre-feet with other qualified individuals, entities, or water utility systems. Nothing in the preceding sentence shall supersede any requirement of State law with respect to the use of any water subject to a contract. All contracts entered into by the Secretary under this section shall be under terms in accordance with section 301(b) of the Water Supply Act of 1958 (Public Law 85-500), as amended. No payment shall be required from and no interest shall be charged to users in the States of Oklahoma or Texas for the reallocation authorized by this section until such time as the water supply storage reserved under such reallocation is actually first used. Any contract entered into for the use of the water received under this section shall require the contracting entity to begin principal and interest payments on that portion of the water allocated under the contract at the time the entity begins the use of such water. Until such time, storage for which reallocation is authorized in this section may be used for hydropower production. With respect to any water supply contract entered into by the Secretary under this section after June 1, 1985, the Secretary shall determine (1) the amount of hydropower lost, if any, as a result of the implementation of such contract, and (2) the replacement cost of the hydropower lost (where replacement cost is defined as the cost to purchaser power from existing alternative sources). If hydropower is lost as a result of the implementation of such contract, the Secretary shall provide credits to the Southwestern Power Administration of amounts equal to such replacement costs. Such credits shall be against sums required to be paid by the Southwestern Power Administration for costs of the project allocated to hydropower. In each such case the Southwestern Power Administration shall reimburse each preference customer for an amount equal to the customer's actual replacement cost for hydropower lost as a result of the implementation of such contract, less the cost such customer would have had to pay to the Southwestern Power Administration for such hydropower. The Secretary may not increase payments of water users under a water supply contract under this section on account of the credits and reimbursement required to be provided under this section. Nothing in this section shall be construed as amending or altering in any way the Red River Compact. In consideration of benefits in connection with such reallocation and usage of municipal, industrial, and agricultural water, all benefits that can be assigned to the Red River chloride control project, Texas and Oklahoma, or the Red River and tributaries multipurpose study, Oklahoma, Texas Arkansas, and Louisiana, and any individual projects arising from such study, shall be reserved for such projects. Nothing in this section shall affect water rights under the laws of the States of Texas and Oklahoma.

"SEC. . (a) The existing irrigation projects known as the Hilltop Irrigation District, Brule County, South Dakota, and the Gray Goose Irrigation District, Hughes County, South Dakota, are authorized as units of the Pick-Sloan Missouri Basin Program. As so authorized, the Hilltop Unit and the Gray Goose Unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented, and subject to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto).

"(b) Pick-Sloan Missouri Basin Program power shall be made available as soon as practicable for the Hilltop Unit and the Gray Goose Unit on the same basis as for other units of the Pick-Sloan Missouri Basin Program. The suballocated costs of the Pick-Sloan Missouri Basin Program assigned to the Hilltop Unit and the Gray Goose Unit shall be reimbursed by the water users as determined by the Secretary of the Interior in accordance with Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto).

"SEC. . (a) Except as otherwise provided in this section, all rights, title, and interests of the United States in the lands described in subsection (b), including all improvements thereon, are hereby declared to be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation and to be part of the Fort Berthold Reservation.

"(b) The lands held in trust under subsection (a) are—

"(1) approximately 136.44 acres lying above elevation 1850 feet (mean sea level) and the probable ultimate erosion line (other than those portions which lie north of North Dakota State Highway 23) in the following sections of Township 152 North, Range 93 West of the Fifth Principal Meridian, McKenzie County, North Dakota:

"Section 15: south half of the southwest quarter,

"Section 21: northeast quarter and northwest quarter of the southeast quarter, and

"Section 22: north of the half northwest quarter; and

"(2) approximately 16.40 acres lying above elevation 1850 feet (mean sea level) situated in the west half southwest quarter, Section 15, Township 152 North, Range 93 West of the Fifth Principal Meridian, McKenzie County, North Dakota, and more particularly described as follows:

"Commencing at the quarter corner common to Sections 15 and 16; thence East along the quarter line a distance of 1,320.0 feet to the true point of beginning; thence North 45 degrees 0 minutes East a distance of 891.0 feet; thence South 0 degrees 3 minutes East a distance of 1,518.0 feet; thence to a point on a line which bears South 0 degrees 3 minutes East from the point of beginning; thence North 0 degrees 3 minutes West to the point of beginning.

"(c) In consideration for the transfer in trust described above, the Secretary of Interior shall transfer to the United States lands of equal value held in trust for the Three Affiliated Tribes of the Fort Berthold Reservation which are required for the maintenance and operation of the Garrison Dam and Reservoir Project: *Provided*, That the Tribes shall retain the right to use such lands for grazing purposes when such lands are not subject to flooding. The United States shall not be responsible for damages to property or injuries to persons which may arise from, or be incident to, the use of said lands.

"(d) The United States hereby retains a flowage and sloughing easement for the purpose of flood control and related Garrison Dam and Reservoir project purposes over that portion of the lands described in subsection (b) that lie below the greater elevation of—

"(1) 1860 feet (mean sea level), or

"(2) any alignment the Secretary determines to be necessary for such project operations.

"(e) All the rights, title, and interests of the Economic Development Administration, U.S. Department of Commerce (EDA), as evidenced by three EDA projects designated as 05-01-00676 (closed on October 8, 1971, as 06-1-00676), 05-01-00677 (closed on June 30, 1971, as 06-1-00677), and 05-02-00675 (closed on October 8, 1971, as 06-2-00675) shall remain in full force and effect for the full terms thereof, including any and all extensions and shall not be subordinated in any manner whatsoever to any other interests.

"SEC. . (a) The project for navigation for Honolulu Harbor, Hawaii, authorized by section 101 of the River and Harbor Act of 1954, is modified to authorize and direct the Secretary to maintain a 23-foot project depth in the Kalihi Channel portion of such project.

"(b) The consent of Congress is hereby given to the State of Hawaii to construct, operate, and maintain a fixed-span bridge in and over the water of the Kalihi Channel, Honolulu Harbor, Hawaii.

"SEC. . The Secretary is authorized to pay the Federal share of the settlement amount, and any associated interest, resulting from the decision of the Engineer Board of Contract Appeals in ENG BCA Docket Number 4650 (June 28, 1985), notwithstanding the Federal cost limitation set out in Section 84(c) of the Water Resources Development Act of 1974 (Public Law 93-251).

"SEC. . The project for navigation, New York Harbor-Collection and Removal of Drift, New York and New Jersey, authorized by section 91 of the Water Resources Development Act of 1974, as amended, is amended further by deleting the period following the phrase "Office, Chief of Engineers" and the following sentence, and inserting in lieu thereof the following: ": Except, That the project area is expanded to include the western shore of Hempstead Harbor, New York, and the Secretary of the Army is authorized and directed to remove derelict vessels from the western shore of Hempstead Harbor. There is authorized to be appropriated to the Secretary of the Army not to exceed $30,725,000 for the purposes of this section."

(Amendment 28) On page 71, after line 5, insert the following new section, and renumber subsequent section accordingly:

"SEC. 403. (a) After the date of enactment of this Act, costs incurred in the modification by the Secretary of dams and related facilities constructed or operated by the Secretary, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art design or construction criteria deemed necessary for safety purposes, shall be recovered in accordance with the provisions in this subsection.

"(1) Fifteen percent of the modification costs shall be assigned to project purposes in accordance with the cost allocation in effect for the project at the time the work is initiated. Non-Federal interests shall share the costs assigned to each purpose in accord with the cost sharing in effect at the time of initial project construction: *Provided*, That the Secretary of the Interior shall recover costs assigned to irrigation in accordance with repayment provisions of Public Law 98-404.

"(2) Repayment under this subsection, with the exception of costs assigned to irrigation, may be made, with interest, over a period of not more than 30 years from the date of completion of the work. The interest rate used shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursable period during the month preceding the fiscal year in which the costs are incurred, plus a premium of one-eighth of one percentage point for transaction costs. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish an interest rate at the weighted average of the rates so determined.

"(b) Nothing in this section affects the authority of the Secretary to perform work pursuant to Public Law 84-99, as amended (33 U.S.C. 701n) or cost sharing for such work."

(Amendment 29) On page 71, line 9, delete "(a)".

(Amendment 30) Beginning on page 73, line 20, strike all through line 10 on page 79 and insert in lieu thereof the following:

"SEC. 504. (a)(1) This section may be cited as the 'Upper Mississippi River Management Act of 1986'.

"(2) To ensure the coordinated development and enhancement of the Upper Mississippi River system, it is hereby declared to be the intent of Congress to recognize that system as a nationally significant ecosystem and a nationally significant commerical navigation system. Congress further recognizes that the system provides a diversity of opportunities and experiences.

"The system shall be administered and regulated in recognition of its several purposes.

"(b) For purposes of this section—

"(1) the terms "Upper Mississippi River system" and "system" mean those river reaches having commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois:

"(2) the term "Master Plan" means the comprehensive master plan for the management of the Upper Mississippi River system dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to Congress pursuant to Public Law 95-502;

"(3) the term "GREAT I, GREAT II, and GRRM studies" means the studies entitled "GREAT Environmental Action Team—GREAT I—A Study of the Upper Mississippi River," dated September 1980, "GREAT River Environmental Action Team—GREAT II—A Study of the Upper Mississippi River," dated December 1980, and "GREAT River Resource Management Study," dated September 1982; and

"(4) term "Upper Mississippi River Basin Association" means an association of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, formed for the purposes of cooperative efforts and united assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System.

"(c)(1) Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River system. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

"(2) Section 101 of Public Law 95-502 is amended by striking the last two sentences of subsection (b), striking subsection (i) in its entirety, striking the final sentence of subsection (j), and renumbering subsection "(j)" as subsection "(i)".

"(d)(1) The Secretary is authorized to enter into cooperative agreements with the Upper Mississippi River Basin Association (hereinafter referred to as the "Association") established under paragraph (1) of this subsection to promote and facilitate active State government participation in river system management, development, and protection.

"(2) For the purpose of insuring the coordinated planning and implementation of programs authorized in subsection (f) and paragraph (i)(2) of this section, the Secretary shall enter into an interagency agreement with the Secretary of the Interior to provide for the direct participation of, and transfer funding to, the Fish and Wildlife Service and any other agency or bureau of the Department of the Interior for the planning, design, implementation, and evaluation of such programs.

"(3) Any changes in the master plan recommended by the Secretary shall be submitted to the Association for comment. The Association may make comments with respect to such recommendations or initiate other recommended changes as the Association deems appropriate and shall transmit such comments or recommended changes to the Secretary. The Secretary shall transmit his recommendations, together with the comments and recommended changes of the Association to Congress for approval within 90 days of the receipt of such comments or recommended changes.

"(e) The Secretary is authorized to provide for the engineering, design, and construction of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri, at a total cost of $220,000,000 (October 1984). Such second lock shall be one hundred and ten feet by six hundred feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502.

"(f)(1) The Secretary, in concert with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake, as identified in the master plan, a program for—

"(A) the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

"(B) the implementation of a long term resource monitoring program; and

"(C) the implementation of a computerized inventory and analysis system.

"(2) Each program referred to in paragraph (1) of this subsection shall be carried out for 10 years. Within 10 years from the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall conduct an evaluation of the programs and submit a report on the results of such evaluation to Congress. Such evaluation shall analyze each such program's effectiveness, strengths, and weaknesses, and contain recommendations for the modification and continuance or termination of such programs.

"(3)(A) For purposes of carrying out paragraph (1)(A) of this subsection, there is authorized to be appropriated to the Secretary the sum of $8,200,000 for the first fiscal year beginning after the date of enactment of this Act, the sum of $12,400,000 for the second fiscal year beginning after the date of enactment of this Act, and the sum of $13,000,000 for each of the next eight fiscal years.

"(B) for purposes of carrying out paragraph (1)(B) of this subsection, there is authorized to be appropriated to the Secretary the sum of $7,680,000 for the first fiscal year beginning after the date of enactment of this Act, and the sum of $5,080,000 for each of the next nine fiscal years.

"(C) For purposes of carrying out paragraph (1)(C) of this subsection, there is authorized to be appropriated to the Secretary the sum of $40,000 for the first fiscal year beginning after the date of enactment of this Act, the sum of $280,000 for the second fiscal year beginning after the date of enactment of this Act, the sum of $1,220,000 for the third fiscal year beginning after the date of enactment of this Act, and the sum of $775,000 for each of the next seven fiscal years.

"(4)(A) notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of Section 224 of this Act.

"(B) Notwithstanding the provisions of subsection (a)(2) of this section, the cost of implementing the activities authorized by paragraphs (1)(B) and (1)(C) of this subsection shall be allocated in accordance with the provisions of Section 224 of this Act, as if such activity was required to mitigate losses to fish and wildlife.

"(g)(1)(A) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, is authorized to implement a program of recreational projects for the system substantially in accordance with the recommendations of the GREAT I, GREAT II, and GRRM studies and the master plan reports. The cost of each such project shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with Section 701 of this Act.

"(B) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, shall at Federal expense conduct an assessment of the economic benefits generated by recreation activities in the system.

"(2)(A) For purposes of carrying out the program of recreational projects authorized in paragraph (1)(A) of this subsection, there is authorized to be appropriated to the Secretary the sum of $500,000 for each of the 10 fiscal years beginning after the date of enactment of this Act.

"(B) For purposes of carrying out the assessment of economic benefits of recreational activities authorized in paragraph (1)(B) of this subsection, there is authorized to be appropriated to the Secretary the sum of $300,000 for the first fiscal year beginning after the date of enactment of this Act, the sum of $300,000 for the second fiscal year beginning after the date of enactment of this Act, and the sum of $150,000 for the third fiscal year beginning after the computerized inventory and analysis system implemented pursuant to phrase (f)(1)(C) of this section is fully functional.

"(h) The Secretary shall, in his budget request, identify those measures developed by the Secretary, in consultation with the Secretary of Transportation and any agency established under subsection (d)(1) of this section, to be undertaken to increase the capacity of specific locks throughout the system by employing nonstructural measures and making structural improvements.

"(i)(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, shall monitor traffic movements on the system for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluation so as to verify the need, if any, for future capacity expansion of the system.

"(2) The Secretary, in concert with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri and Wisconsin, shall determine the need for river rehabilitation and environmental protection based on the condition of the environment, project developments, and projected environmental impacts from implementing any proposals resulting from recommendations made under subsection (h) and paragraph (1) of this subsection.

"(j) None of the funds appropriated pursuant to the authorization contained in subsections (f) and (g) of this section shall be considered to be attributable to commercial navigation.

"(k) This section shall not be subject to the provisions of section 212 of this Act."

(Amendment 31) Beginning on page 79, line 12, strike all through line 17 and insert in lieu thereof the following:

"SEC. 601. (a) Following the data of enactment of this Act, feasibility studies of any proposed commercial channel or harbor project or plan undertaken by the Secretary shall be initiated only in accordance with the provisions of Section 223 of this Act."

(Amendment 32) On page 80, beginning with line 18, delete all through line 4 on page 81, and insert in lieu thereof the following:

"SEC. 602. (a) For the purposes of cooperative financial development of projects, or separable elements thereof, for any commercial channel or harbor construction, the Secretary shall initiate no such construction project unless an appropriate non-Federal sponsor agrees to construct at its own expense all project facilities other than those for general navigation and by contract to provide during the period of construction of such project, or separable element thereof, the following percentages of the construction cost for general navigation facilities of the project, or separable element thereof, assigned to commercial navigation based on the depths below mean low water listed herein:"

(Amendment 33) On page 81, beginning with line 9, delete all through page 82, line 2, and insert in lieu thereof the following:

"(b)(1) In addition to the sums required to be paid during the period of construction under the terms of subsection (a) of this section, each non-Federal sponsor shall contract with the Secretary to repay to the United States, over a period not to exceed thirty years following completion of the project, or separable element thereof, 10 per centum of the total of construction of general navigation facilities for the project assigned to commercial navigation, with interest at a rate determined by the Secretary of the Treasury. In determining such rate of interest, the Secretary of the Treasury shall consider the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the Reimbursement period during the month preceding the fiscal year in which costs are incurred, plus a premium of one-eighth of one percentage point for transaction costs: *Provided*, That the Secretary of the Treasury shall recalculate the rate of interest every five years. Funds paid under this paragraph shall be deposited into the general fund of the Treasury."

(Amendment 34) On page 82, line 19, beginning with the word "the" strike all through the period on line 20 and insert in lieu thereof the following: "Section 221 of the Flood Control Act of 1970 (Public Law 91-611), as amended."

(Amendment 35) On page 83, after line 15, insert the following:

"(e) Notwithstanding the provisions of Section 212 of this Act, the project for navigation at the Houston Ship Channel (Greens Bayou), Texas, authorized pursuant to section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), the project for navigation at the Houston Ship Channel (Barbour Terminal Channel), Texas, authorized pursuant to section 107 of the River and Harbor Act of 1960 (74 Stat. 486), and the project for navigation at the Houston Ship Channel (Bayport Ship Channel), Texas, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 298), are modified to authorize and direct the Secretary to assume responsibility for maintenance to forty-foot project depths, as constructed by non-Federal interests prior to enactment of this Act.

"(f) For the purpose of demonstrating the potential advantages and efficiencies of non-Federal management of projects, the Secretary may approve as many as two proposals pursuant to which the non-Federal interests will undertake part or all of the project as the agent of the Secretary by utilizing its own personnel or by procuring outside services, so long as the cost of doing so will not exceed the cost of the Secretary undertaking the project."

(Amendment 36) On page 84, lines 8 and 9, insert the following after "such improvements.": "The responsibilities authorized under subsection (f) of this section shall not apply to such improvements unless the Secretary determines, prior to construction, that the improvements, or separable elements thereof, are economically justified, environmentally acceptable, and consistent with the purposes of this title."

(Amendment 37) On page 85, line 2, after the word "section.", add the following: "Any non-Federal sponsor which has requested and received from the Secretary pursuant to this subsection, or subsection (b) of this section, the completed study and engineering for an improvement to a commercial channel or harbor, or separable element thereof, for the purpose of constructing such improvement and for which improvement a Final Environmental Impact Statement has been filed, shall be authorized to carry out the terms of the plan for such improvement. Any plan of improvement proposed to be implemented in accordance with this provision shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal sponsor's acceptance of the terms and conditions of such permits: *Provided*, That the Secretary determines that applicable regulatory criteria and procedures have been satisfied. The Secretary shall monitor any project for which permits are granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits."

(Amendment 38) On page 85, line 4, following the word "section" delete the comma and insert in lieu thereof the following: "or section 602(a)(3) of this Act,"

(Amendment 39) On page 85, line 16, strike the word "section" and insert in lieu thereof the word "subsection".

On page 85, line 22, delete the period, insert a colon and the following: *"Provided*, That prior to such approval the Secretary does not find that the project, or separable element thereof, is no longer economically justified or environmentally acceptable."

On page 85, beginning on line 22 with the words "The Secretary", strike all through line 12 on page 86, and insert in lieu thereof the following:

"In reviewing such plans, the Secretary shall consider budgetary and programmatic priorities, potential impacts on the cost of dredging projects nationwide, and other factors that the Secretary deems appropriate. The Secretary shall regularly monitor and audit any project for a commercial channel or harbor constructed under this subsection by a non-Federal sponsor in order to ensure that such construction is in compliance with the plans approved by the Secretary, and that costs are reasonable. No reimbursement shall be made unless and until the Secretary has certified that the work for

which reimbursement is requested has been performed in accordance with the approved plans.

"(f) Whenever a non-Federal sponsor constructs improvements to any commercial channel or harbor, the Secretary shall be responsible for maintenance to forty-five feet below mean low water, and 50 per centum of the costs of incremental maintenance below forty-five feet below mean low water: *Provided*, That the Secretary certifies that the project is constructed in accordance with the appropriate engineering and design standards: *And provided further*, That the Secretary does not find that the project, or separable element thereof, is no longer economically justified or environmentally acceptable."

(Amendment 40) On page 87, delete lines 17 and 18, and insert in lieu thereof the following: "The schedule of compliance shall not exceed two years from the date of the agreement except that a time period in excess of two years may be included if necessary to meet the requirements of the National Environmental Policy Act (Public Law 91-190), as amended."

(Amendment 41) On page 88, lines 14 and 15, strike the word "objectives" and insert in lieu thereof "objections".

(Amendment 42) On page 91, line 3, delete "Part B" and insert in lieu thereof "Section 803"

(Amendment 43) On page 91, line 12, beginning with "navigation of", delete all through line 16, and insert in lieu thereof the following: "navigation of all commercial channels or harbors within the United States."

(Amendment 44) On page 91, beginning line 24, delete all through line 18 on page 92, and insert in lieu thereof the following:

"(1) 'commercial channel or harbor' shall mean any channel or harbor (inland, coastal, or Great Lakes), or element thereof, capable of being utilized in the transportation of commercial cargo in domestic or foreign waterborne commerce by commercial vessels: *Provided*, That such term shall not include: (A) any navigational improvement designed to provide channel depths of 14 feet or less, other than a harbor (which is used principally for the accommodation of commercial vessels and the receipt and shipment of waterborne cargoes), on any inland or intracoastal waterway as described in Section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804), as amended, (B) the Saint Lawrence Seaway, (C) local access or berthing channels, or (D) channels or harbors constructed or maintained by non-public interests: *And provided further*, That such term shall be considered for the Columbia River, Oregon and Washington, to include the channels only up to the downstream side of Bonneville lock and dam, Oregon and Washington;"

On page 93, on lines 10 and 11, delete "and any Great Lakes navigation improvement".

On page 93, line 17, delete "or the United States".

On page 94, delete lines 1 through 7 and renumber subsequent paragraphs appropriately.

(Amendment 45) On page 95, line 12, strike "$468,933,000" and insert in lieu thereof "$388,000,000".

(Amendment 46) On page 96, beginning with line 8, delete all language through line 10, and insert said language following line 10 on page 124, and renumber appropriately.

(Amendment 47) On page 99, line 22, delete "and", and on page 99, line 25, delete the period, insert a semi-colon, and the following:

"(33) Oakland Inner Harbor, California: Report of the Chief of Engineers dated January 21, 1986, at a total cost of $28,000,000 (October 1985);

"(34) Palm Beach Harbor, Florida: Report of the Chief of Engineers dated December 10, 1985, to assume maintenance;

"(35) Pascagoula Harbor, Mississippi: Report of the Chief of Engineers dated February 14, 1986, at a total cost of $59,112,000 (October 1985);

"(36) Cleveland Harbor, Ohio: Report of the Chief of Engineers dated August 27, 1985, at a total cost of $4,308,000 (October 1984);

"(37) Galveston Bay Area, Texas City Channel, Texas: Report of the Chief of Engineers dated March 11, 1986, at a total cost of $182,013,000 (October 1985); and

"(38) East, West, and Duwamish Waterways Navigation Improvement Study, Seattle Harbor, Washington: Report of the Chief of Engineers dated May 31, 1985, at a total cost of $57,400,000 (October 1984)."

(Amendment 48) On page 100, strike lines 2 through line 11 on page 102, and insert in lieu thereof the following:

"SEC. 701. (a) Excluding all commercial navigation projects, the construction of Corps of Engineers water or related land resources projects (including small projects not specifically authorized by Congress), or separable elements thereof as determined by the Secretary, on which physical construction has not been initiated prior to May 15, 1986, or the date of enactment of this Act, whichever first occurs, shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary, agreeing to pay 100 per centum of the operation, maintenance, and rehabilitation costs, and agreeing to share in the assigned joint and separable costs of construction as follows:

"(1) urban and rural flood protection and rural drainage control: not less than 35 per centum, including a cash payment amounting to at least 5 per centum of the assigned costs to be made during the construction period; except—

"(A) for local flood protection projects, the non-Federal sponsor shall agree to: provide all lands, easements, and rights-of-way required for the project; perform all necessary relocations required for the project; and, hold and save the United States free from damages due to the construction, operation, or maintenance of the project except where such damages are due to the fault or negligence of the United States or its contractors. Where the value of the required lands, easements, rights-of-way, and relocations is—

"(i) greater than 20 per centum of the assigned costs, the required non-Federal contribution shall be the provision of the required lands, easements, rights-of-way, and relocations, plus 5 per centum of the assigned costs to be paid in cash during the construction period;

"(ii) less than or equal to 20 per centum of the assigned costs, the Secretary shall consider a non-Federal contribution of 25 per centum, which includes payment by the non-Federal sponsor of not less than 5 per centum in cash of the assigned cost in addition to provision of the required lands, easements, rights-of-way, and relocations, if made during the construction period, to constitute fulfillment of this paragraph; and

"(iii) less than or equal to 20 per centum of the assigned costs, the non-Federal sponsor may elect to make a cash payment of 5 per centum of the assigned costs during the construction period, in addition to the provision of required lands, easements, rights-of-way, and relocations, and to repay in accordance with the terms of this title the additional amount necessary to equal a total non-Federal contribution of 35 per centum.

"(B) For major reservoir projects providing flood control, the non-Federal sponsor's contribution shall be—

"(i) 25 per centum of the costs assigned to flood protection if paid during the construction period, including no less then 5 per centum in cash, or

"(ii) 35 per centum of the costs assigned to flood protection, including a cash payment of at least 5 per centum paid during the construction period, if repaid in accordance with the terms of this title.

"(C) For relocation or evacuation nonstructural flood control measures involving the acquisition of land, the value of such lands and other costs associated with development of the intended benefits therefrom shall be excluded from the computation of the 5 per centum cash contribution required from the non-Federal sponsor and the non-Federal sponsor's contribution for such nonstructural measures shall be—

"(i) 25 per centum of the costs assigned to such measures if paid during the construction period, or

"(ii) 35 per centum of the costs assigned to such measures if repaid in accordance with the terms of this title.

"(2) hydroelectric power: 100 per centum, except that the marketing of such power and the recovery of costs of constructing, operating, maintaining, and rehabilitating such projects shall be in accordance with existing law;"

(Amendment 49) On page 103, after line 19, insert the following, then reletter subsequent subsections appropriately:

"(d) Costs of constructing projects or measures for the prevention or mitigation of erosion of shoaling damages attributable to Federal navigation works shall be shared in the same proportion as the cost sharing provisions applicable to the project causing such damage: *Provided*, That a non-Federal public body agrees to operate and maintain such measures."

(Amendment 50) On page 104, line 9, delete the word "funds" and insert in lieu thereof "costs". On page 104, line 10, delete the word "disbursed" and insert in lieu thereof "incurred".

(Amendment 51) Beginning on page 104, line 15, strike all through line 20 and insert in lieu thereof the following:

"(f) At the request of any non-Federal sponsor the Secretary may permit such non-Federal sponsor to delay the initial payment of any non-Federal contribution under this title for up to one year after the date when construction is begun on the project for which such contribution is to be made. Any such delay in initial payment shall be subject to interest charges for up to six months at the rate determined by the Secretary of the Treasury taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period of delay, during the month preceding the fiscal year in which costs are incurred."

(Amendment 52) On page 105, redesignate "SEC. 702." as "SEC. 703.", and insert on page 105, after line 13, the following new section:

"SEC. 702. Section 73(b) of the Water Resources Development Act of 1974 (Public Law 93-251) is hereby repealed."

(Amendment 53) On page 107, delete lines 4 through 18, and insert in lieu thereof the following, numbering appropriately:

"( ) Santa Ana River mainstem, including Santiago Creek, California: Report of the Chief of Engineers dated January 15, 1982, at a total cost of $1,087,600,000 (October 1985): *Provided* further, That in lieu of the Mentone Dam feature of the project and subject to the provisions of sections 212, 213, and 701 of this Act, the Secretary is authorized to plan, design, and construct a flood control storage dam on the upper Santa Ana River, if such modification is approved by the Chief of Engineers: *Provided further,* That the Secretary shall not proceed on any alternative to the Mentone Dam until the Secretary determines such alternative is within all parameters in section 218 of this Act, and so reports to Congress: *And provided further,* That if a non-Federal sponsor agrees to pay at least 50 per centum of the cost of such investigation, the Secretary is authorized to investigate the feasibility of including water supply and conservation storage at Prado Dam.".

(Amendment 54) On page 110, line 6, delete the semicolon and insert in lieu thereof the following: ": *Provided,* That fish and wildlife enhancement benefits provided by this project shall be considered to be national for the purposes of section 224 of this Act;".

(Amendment 55) On page 115, delete lines 1 through 3, and renumber appropriately.

(Amendment 56) On page 116, beginning on line 22, strike all through "1983," on line 23, and insert in lieu thereof the following: "of the Chief of Engineers, dated February 13, 1986,".

(Amendment 57) On page 117, delete lines 19 through line 3 on page 118, and renumber appropriately.

(Amendment 58) On page 118, line 6, delete the period and insert a semicolon and the following:

"(78) O'Hare System, Chicagoland Underflow, Illinois: Report of the Chief of Engineers dated June 3, 1985, at a total cost of $8,502,000 (October 1984);

"(79) Arkansas City, Kansas: Report of the Chief of Engineers dated September 9, 1985, at a total cost of $14,270,000 (October 1984);

"(80) Pearl River Basin, Mississippi: Report of the Chief of Engineers dated March 17, 1986, at a total cost of $80,100,000 (October 1985): *Provided,* That if the Chief of Engineers fails to sign such report on such date, this paragraph shall be void.

"(81) Lower Saddle River, New Jersey: Report of the Chief of Engineers dated Jannary 28, 1986, at a total cost of $36,850,000 (October 1985);

"(82) Molly Ann's Brook, New Jersey: Report of the Chief of Engineers dated December 31, 1985, at a total cost of $21,860,000 (October 1985);

"(83) Ramapo River at Oakland, New Jersey: Report of the Chief of Engineers dated January 28, 1986, at a total cost of $6,610,000 (October 1985); and

"(84) Roanoke River Upper Basin, Virginia: Report of the Chief of Engineers dated August 5, 1985, at a total cost of $21,000,000 (October 1984).".

(Amendment 59) On page 118, delete lines 15 through 24 and renumber subsequent paragraphs appropriately.

(Amendment 60) On page 121, after line 22, insert the following and reletter following paragraphs appropriately:

"(G) Sarasota County, Florida: Report of the Chief of Engineers dated February 28, 1986, at a total cost of $12,536,000 (October 1985);".

(Amendment 61) On page 125, line 2, after "(October 1984)", insert the following: ": *Provided,* That the mitigation requirements shall be adjusted to reflect any decrease in the scope of the basic flood control project as authorized in the Flood Control Act of 1965 (Public Law 89-298)".

(Amendment 62) On page 125, delete lines 15 through 18 and insert in lieu thereof the following:

"(9) Smithville Lake, Little Platte River, Missouri, plan for replacement of the Trimble Wildlife Area: Report of the Chief of Engineers dated September 22, 1977, at a total cost of $1,569,000 (October 1985): Except, that the Secretary shall participate with the State of Missouri in the development of wildlife management measures and facilities on State lands rather than the acquisition of lands and the development of Jackass Bend;".

(Amendment 63) On page 126, line 3, delete "and".

On page 126, on line 7, delete the period, and insert the following: "; and

"(12) Tennessee-Tombigbee Waterway Wildlife Mitigation, Alabama and Mississippi: Report of the Chief of Engineers dated August 31, 1985: Except, That the 34,000 acres of bottomland hardwoods lost as a result of the construction of the navigation project shall be replaced in-kind at a total cost of $60,200,000 (October 1985).".

(Amendment 64) On page 126, line 15, delete the semicolon and insert in lieu thereof the following: ": *Provided,* That the Secretary shall deposit no spoil from such project onto lands of the White River National Wildlife Refuge without the approval of the Secretary of the Interior and without mitigating fully the adverse impacts of such spoil;".

(Amendment 65) On page 128, strike lines 2 through 5 and insert in lieu thereof the following: "(October 1984).".

Renumber all sections appropriately.

METZENBAUM AMENDMENT NO. 1677

Mr. METZENBAUM proposed an amendment to the bill (S. 1567), supra; as follows:

On page 65, between lines 5 and 6 insert the following:

"SEC. 337. (a) The Congress finds and declares that—

"(1) the Great Lakes are a most important natural resource to the eight Great Lakes States and two Canadian provinces, providing water supply for domestic and industrial use, clean energy through hydropower production, an efficient transportation mode for moving products into and out of the Great Lakes region, and recreational uses for millions of United States and Canadian citizens;

"(2) the Great Lakes need to be carefully managed and protected to meet current and future needs within the Great Lakes Basin;

"(3) any new diversions of Great Lakes water for use outside of the Great Lakes Basin will have significant economic and environmental impacts, adversely affecting the use of this resource by the Great Lakes States and Canadian provinces; and

"(4) four of the Great Lakes are international waters and are defined as boundary waters in the Boundary Waters Treaty of 1909 between the United States and Canada, and as such any new diversion of Great Lakes water in the United States would affect the relations of the Government of the United States with the Government of Canada.

"(b) It is therefore declared to be the purpose and policy of the Congress in this section—

"(1) to take immediate action to protect the limited quantity of water available from the Great Lakes system for use within the Great Lakes Basin and in accordance with the Boundary Waters Treaty of 1909;

"(2) to prohibit any diversion of Great Lakes water by any State, Federal agency, or private entity for use outside of the Great Lakes Basin unless such diversion is approved by the Governor of each of the Great Lakes States; and

"(3) to prohibit any Federal agency from undertaking any studies that would involve the transfer of Great Lakes water for any purpose for use outside of the Great Lakes Basin.

"(c) As used in this section, the term 'Great Lakes State' means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York and Wisconsin.

"(d) No water shall be diverted from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside of a Great Lakes Basin unless such diversion is approved by the Governor of each of the Great Lakes States.

"(e) No Federal agency may undertake any study, or expend any Federal funds to contract for any study, of the feasibility of diverting water from any portion of the Great Lakes within the United States, or from any tributary within the United States of any of the Great Lakes, for use outside of the Great Lakes Basin, unless such study or expenditure is approved by the Governor of each of the Great Lakes States. The prohibition of the preceding sentence shall not apply to any study or data collection effort performed by the Secretary or other Federal agency under the direction of the International Joint Commission in accordance with the Boundary Waters Treaty of 1909.".

HECHT (AND OTHERS) AMENDMENT NO. 1678

Mr. HECHT (for himself, Mr. LAXALT, Mr. SYMMS, and Mr. NICKLES) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 29, after Sec. 226(a), add the following new subsection (b), and renumber the subsequent accordingly:

"(b) The Secretary shall procure by contract not less than 40 percent of architectural and engineering services required for the design and construction of water resource projects undertaken by the Secretary."

ABDNOR AMENDMENT NO. 1679

Mr. ABDNOR proposed an amendment to the bill (S. 1567), supra; as follows:

On Page 2, line 4, delete "1985" and insert "1986".

On Page 2, line 14, delete "1986" and insert "1987".

On Page 2, line 16, delete "1987" and insert "1988".

On Page 2, line 18, delete "1988" and insert "1989".
On Page 2, line 20, delete "1989" and insert "1990".
On Page 2, line 25, delete "1990" and insert "1991".
On Page 7, line 18, delete "1986" and "1990" and insert "1987" and "1991" respectively.
On Page 8, line 10 delete "1986" and insert "1987" and on page 8 line 12 delete "1988" and insert "1989".
On Page 8, line 25, delete "1986" and insert "1987"; and on page 9, line 1, delete "1990" and insert "1991".
On Page 20, line 8, delete "1986" and "1990" and insert "1987" and "1990" respectively.
On Page 28, line 13, delete "1986" and insert "1987; and on page 28, line 14, delete "1990" and insert "1991".
On Page 38, line 1, delete "1986" and insert "1987".
On Page 41, line 22, delete "1986" and insert "1987".
On Page 42, line 16, delete "1986" and insert "1987"; on page 42, line 17, delete "1987" and insert "1988"; and on page 42, line 18, delete "1988" and insert "1989".
On Page 48, line 23, delete "1986" and insert "1987".
On page 49, line 7, delete "1986" and insert "1987".
On page 49, line 22, delete "1986", and insert "1988".
On page 50, line 4, delete "1989", and insert "1990".
On page 50, line 10, delete "1986" and insert "1987".
On page 52, line 8, delete "1988" and insert "1989".
On page 52, lines 19 and 23, delete "1985" and insert "1986".
On page 56, line 6, delete "1986" and insert "1987".
On page 57, line 6, delete "1986" and insert "1987".
On page 65, line 1, delete "1986" and insert "1987".
On page 65, line 18, delete "1986" and "1989", and insert "1987" and "1991" respectively.
On page 70, line 1, delete "1986" and insert "1987"; and on page 70, line 2, delete "1990" and insert "1991".
On page 70, line 12, delete "1986" and insert "1987"; and on page 70, line 13, delete "1990" and insert "1991".
On page 89, line 4, delete "March 1, 1987" and insert "December 31, 1987".

COHEN AMENDMENT NO. 1680

Mr. COHEN proposed an amendment to the bill S. 1567, supra; as follows:

On page 65, between lines 5 and 6, insert the following new section:

SEC. 337. The Dickey-Lincoln School project, Saint John River, Maine, as authorized by section 204 of the Flood Control Act of 1965, is hereby deauthorized.

LONG AMENDMENT NO. 1681

Mr. LONG proposed an amendment to the bill (S. 1567), supra; as follows:

On page 90, line 2, at the end of line 2, substitute a comma for the period and add: "or for the purpose of retiring debt of the non-Federal sponsor to the extent incurred for such purpose, including payment of principal and interest on obligations issued by the non-Federal sponsor for such purpose to the extent issued for such purpose."

BOREN (AND NICKLES) AMENDMENT NO. 1682

Mr. BOREN (for himself and Mr. NICKLES) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 65, after line 5, insert the following and number appropriately:

"SEC. . (a) Notwithstanding any other provision of law, the Cherokee Nation of Oklahoma is authorized to design and construct hydroelectric generating facilities at the W.D. Mayo Lock and Dam on the Arkansas River in Oklahoma, as described in the report of the Chief of Engineers dated December 23, 1981: *Provided* That, the agreement described in subsection (d) of this section is executed by all parties described in subsection (b) of this section.

"(b) Conditioned upon the parties agreeing to mutually acceptable terms and conditions, the Secretary and the Secretary of Energy, acting through the Southwestern Power Administration, may enter into a binding agreement with the Cherokee Nation of Oklahoma under which the Cherokee Nation of Oklahoma agrees—

"(1) to design and initiate construction of the generating facilities referred to in subsection (a) of this section within three years after the date of such agreement,

"(2) to reimburse the Secretary for his costs in—

"(A) approving such design and inspecting such construction, and

"(B) providing any assistance authorized under subsection (c)(2) of this section, and

"(3) to release and indemnify the United States from any claims, causes of action, or liabilities which may arise from such design or construction.

Such agreement shall also specify:

"(1) the procedures and requirements for approval and acceptance of such design and construction are set forth,

"(2) the rights, responsibilities, and liabilities of each party to the agreement are set forth, and

"(3) the amount of the payments under subsection (f) of this section, and the procedures under which such payments are to be made, are set forth.

"(c)(1) No Federal funds may be expended for the design construction of the generating facilities referred to in subsection (a) of this section prior to the date on which such facilities are accepted by the Secretary under subsection (d) of this section.

"(2) Notwithstanding any other provision of law, the Secretary is authorized to provide, on a reimbursable basis, any assistance requested by the Cherokee Nation of Oklahoma in connection with the design or construction of the generating facilities referred to in subsection (a) of this section.

"(d) Notwithstanding any other provision of law, upon completion of the construction of the generating facilities referred to in subsection (a) of this section, and final approval of such facilities by the Secretary—

"(1) the Cherokee Nation of Oklahoma shall transfer title to such facilities to the United States, and

"(2) the Secretary shall—

"(A) accept the transfer of title to such generating facilities on behalf of the United States, and

"(B) operate and maintain such facilities.

"(e) Pursuant to any agreement under subsection (b) of this section, the Southwestern Power Administration shall market the excess power produced by the generating facilities referred to in subsection (a) of this section in accordance with section 5 of the Act of December 22, 1944 (58 Stat. 890; 16 U.S.C. 825s).

"(f) Notwithstanding any other provision of law, the Secretary of Energy, acting through the Southwestern Power Administration, is authorized to pay to the Cherokee Nation of Oklahoma, in accordance with the terms of the agreement entered into under subsection (b) of this section, out of the revenues from the sale of power produced by the generating facilities of the interconnected systems of reservoirs operated by the Secretary and marketed by the Southwestern Power Administration—

"(1) all costs incurred by the Cherokee Nation of Oklahoma in the design and construction of the generating facilities referred to in subsection (a) of this section, including the capital investment in such facilities and interest on such capital investment, and

"(2) for a period not to exceed 50 years, a reasonable annual royalty for the design and construction of the generating facilities referred to in subsection (a) of this section.

"(g) Notwithstanding any other provision of law, the Secretary of Energy, acting through the Southwestern Power Administration, is authorized—

"(1) to construct such transmission facilities as necessary to market the power produced at the generating facilities referred to in subsection (a) of this section with funds contributed by non-Federal sources, and

"(2) to repay those funds, including interest and any administrative expenses, directly from the revenues from the sale of power produced by the generating facilities of the interconnected systems of reservoirs operated by the Secretary and marketed by the Southwestern Power Administration.

"(h) There are authorized to be appropriated to the Secretary for the fiscal year in which title to the generating facilities is transferred and accepted under subsection (d) of this section, and for each succeeding fiscal year, such sums as may be necessary to operate and maintain such facilities.".

(Amendment). On page 119, strike lines 5 through 8, and renumber following paragraphs appropriately.

DANFORTH AMENDMENT NO. 1683

Mr. DANFORTH proposed an amendment to the bill (S. 1567), supra; as follows:

On page 90, after line 24, add the following:

(c) The United States district court for the district in which is located a non-Federal sponsor that imposes fees subject to this section shall have original and exclusive jurisdiction over any matter arising out of, or concerning, the imposition, computation, or collection of such fees by a non-Federal sponsor under this section and, upon petition of the Attorney General or any party subject to such fees imposed by the non-Federal sponsor—

(1) may grant appropriate injunctive relief to restrain any act by that non-Federal sponsor that violates the conditions in this section;

(2) shall order that refunds be paid to the extent it is found that fees were collected in violator of this section; and

(3) may grant such other relief or remedy as may be appropriate.

Before the start of construction of a project subject to section 602 or 604, the non-Federal sponsor shall notify the Secretary that it consents to the jurisdiction of the district court as set forth in this subjection.

DECONCINI AMENDMENT NOS. 1684 AND 1685

Mr. BENTSEN (for Mr. DECONCINI) proposed two amendments to the bill (S. 1567), supra; as follows:

AMENDMENT No. 1684

On page 65, between lines 5 and 6, insert the following new section, and number accordingly:

"SEC. . (a) The Secretary of the Army, acting through the Chief of Engineers, shall—

"(1) construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) a project for flood control on the San Francisco River at Clifton, Arizona, for the purpose of protecting residential and commercial properties on the east side of the river downstream of the State Highway 666 Bridge, for an estimated total cost of $3,500,000: *Provided*, That such work shall be considered to complete all studies and proposals of the Secretary for such area.".

AMENDMENT No. 1685

On page 65, between lines 5 and 6, insert the following and number accordingly:

"SEC. . For purposes of future studies undertaken pursuant to Section 223 of this Act, the Secretary is authorized to consider benefits which may accrue to Indian tribes as a result of a project resulting from such a study.".

JOHNSTON AMENDMENT NOS. 1686 AND 1687

Mr. BENTSEN (for Mr. JOHNSTON) proposed two amendments to the bill (S. 1567), supra; as follows:

AMENDMENT No. 1686

A new section 505 to be added to TITLE V—INLAND NAVIGATION to read as follows:

SEC. 505. The navigation lock authorized by the River and Harbor Act of 1956, Public Law 84-455, provides for replacement of the navigation lock connecting the Mississippi River Gulf Outlet with the Mississippi River. Inasmuch as this new lock will provide substantial benefits to shallow draft navigation (inland waterway), the costs should be allocated between deep draft and shallow draft navigation, and the Secretary is authorized to utilize the Inland Waterways Trust Fund to pay for one-half of the costs allocated to shallow draft navigation with the remaining half of such allocated costs to be paid only from amounts appropriated out of the general fund of the Treasury.

On page 150, line 22, after "502" delete "and" and insert a comma after 504(e) and add "and 505".

AMENDMENT No. 1687

On page 35, after line 16, add the following:

SEC. 238. (a) Section 208 of the Flood Control Act of 1954 (68 Stat. 1266; 33 U.S.C. 701g) as amended, is hereby amended by striking out "$250,000" and inserting in lieu thereof $500,000".

(b) Section 14 of the Act of July 24, 1946 (60 Stat. 653; 33 U.S.C. 701r), as amended, is hereby amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

(c) Section 205 of the Flood Control Act of 1948 (62 Stat. 1182; 33 U.S.C. 701s), as amended, is amended by striking out "$4,000,000" and inserting in lieu thereof "$4,500,000".

(d) Subsection 107(b) of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 577), as amended, is amended by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000".

(e) Section 3 of the Act approved August 13, 1946 (60 Stat. 1056; 33 U.S.C. 426g), as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

ARMSTRONG AMENDMENT NO. 1688

Mr. STAFFORD (for Mr. ARMSTRONG) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 337. Section 88(c) of the Water Resources Development Act of 1974 is amended by—

(1) inserting after "encroachments" the following: "(other than the Mineral Avenue/Ken Caryl Road extension and associated transmission lines)"; and

(2) inserting "significantly" after "areas which would".

KASTEN AMENDMENT NO. 1689

Mr. KASTEN proposed an amendment to the bill (S. 1567), supra; as follows:

On page 65, between lines 5 and 6, insert the following new section:

SEC. 337. The project for Racine Harbor, Wisconsin, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 19), is hereby modified as described in Racine County Federal permit application number 85-196-02. The Secretary of the Army, acting through the Chief of Engineers, is authorized to dredge the modified harbor area at an estimated cost of $3,000,000, if all appropriate non-Federal interests agree to operate, maintain, repair, rehabilitate, and replace the modified project, including the breakwaters previously constructed by the Federal Government.

KASTEN (AND PROXMIRE) AMENDMENT NO. 1690

Mr. KASTEN (for himself and Mr. PROXMIRE) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 65, between lines 5 and 6, insert the following new section:

SEC. 337. The project for improvements at Racine Harbor, Wisconsin, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (59 Stat. 19), as amended, is hereby deauthorized. The Secretary shall transfer without consideration to Racine County, Wisconsin, title to any facilities constructed by the United States (as part of the project described above).

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1691

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 143, line 15, strike out "HAWAII AND" and insert in lieu thereof "ALASKA, HAWAII, AND";

On page 143, line 21, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 143, line 22, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 143, line 24, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 144, line 5, strike out "Hawaii or" and insert in lieu thereof "Alaska, Hawaii, or";

On page 144, strike out lines 8 through 10, and insert in lieu thereof the following:

"(2) CARGO DOES NOT INCLUDE CRUDE OIL WITH RESPECT TO ALASKA.—For purposes of this subsection, the term 'cargo' does not include crude oil with respect to Alaska.

"(3) UNITED STATES MAINLAND.—For purposes of this subsection, the term 'United States mainland' means the continental United States.

GORTON (AND OTHERS) AMENDMENT NO. 1692

Mr. GORTON (for himself, Mr. EVANS, Mr. BRADLEY, and Mr. LAUTENBERG) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 144, after line 18, insert the following:

"(d) NONAPPLICABILITY OF CHARGES TO CERTAIN CARGO.—

"(1) IN GENERAL.—Subject to paragraph (2), the charge imposed pursuant to Section 4461(a)(1), shall not apply to bonded commercial cargo entering the United States for transportation and direct exportation to a foreign country.

"(2) IMPOSITION OF CHARGES.—Paragraph (1) shall not apply—

"(A) after the date on which the Secretary determines that the Government of Canada has imposed a substantially equivalent fee or charge on commercial vessels or commercial cargo utilizing Canadian ports: *Provided*, That subject to subparagrph (B), paragrph (1) shall apply after the date on which the Secretary determines that such fee or charge has been discontinued by the Government of Canada.

"(B) with respect to a particular United States port (or to any transaction or class of transactions at any such port) to the extent that the study made pursuant to section 807(a) of the Water Resources Development Act of 1985 (or a review thereof pursuant to section 807(b) of such Act) finds that—

"(i) the imposition of such charge at such port (or to any transaction or class of transactions at such port) is not likely to divert a significant amount of cargo from such port to a port in a country contiguous to the United States, or that any such diversion is not likely to result in significant economic loss to such port; or

"(ii) the nonapplicability of such charge at such port (or to any transaction or class of transactions at such port) is likely to result in significant economic loss to any other United States port.".

On page 144, line 19, delete "(d)" and insert in lieu thereof "(e)".

On page 144, line 22, delete "(e)" and insert in lieu thereof "(f)".

On page 145, line 20, delete "(f)" and insert in lieu thereof "(g)".

On page 146, line 6, delete "(g)" and insert in lieu thereof "(h)".

On page 154, beginning on line 2, delete all through "agencies" on line 4 and insert in lieu thereof:

"(a) INITIAL STUDY.—The Secretary of the Treasury, in consultation with United States ports, the Secretary of the Army, the Secretary of Transportation, and other appropriate Federal agencies".

On page 154, strike line 7 and insert in lieu thereof "cargo from particular United States ports to any port in a country contiguous to the United States. The".

On page 154, after line 11, insert the following:

"(b) REVIEW.—The Secretary of the Treasury may, at any time, review and revise the findings of the study conducted pursuant to subsection (a) with respect to any United States port (or to any transaction or class of transactions at such port).

"(c) IMPLEMENTATION OF FINDINGS.—For purposes of section 4462(d)(2)(B) of title 26, United States Code, the findings of the study or review conducted pursuant to subsections (a) and (b) of this section shall be effective 60 days after notification to the ports concerned.".

SYMMS AMENDMENT NO. 1693

Mr. SYMMS proposed an amendment to the bill (S. 1567), supra; as follows:

On page 8, following line 11, insert the following, and reletter the subsequent subsection accordingly:

"(e)(1) The Secretary is directed to complete an experimental program placing screens in the Salmon River in the vicinity of Salmon, Idaho, to trap frazzle ice, and thus to eliminate flooding caused by ice dams in the river. Within one year of the enactment of this Act, the Secretary shall report to the Congress of the feasability of such experiment, including consideration of any adverse environmental or social effects that could result from such experiment. If, in the Secretary's judgment, such experiment is not feasible or acceptable, the Secretary is authorized to consult with local public interests to develop a plan that is workable and practical, then submit such plan to Congress.

"(2) For the purposes of this subsection, there is authorized to appropriated to the Secretary the sum of $1,000,000 for the fiscal year ending September 30, 1987, or thereafter, such sum to remain available until expended."

EXON (AND ZORINSKY) AMENDMENT NO. 1694

Mr. EXON (for himself and Mr. ZORINSKY) proposed an amendment to the bill (S. 1567), supra; as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 337. (a) The Secretary of the Army (hereafter in this section referred to as the "Secretary"), acting through the Chief of Engineers, is authorized and directed to establish and conduct at multiple sites within the State of Nebraska for a period beginning on the date of enactment of this section and ending five years after such date a demonstration program consisting of projects for streambank erosion prevention and flood control.

(b) Demonstration projects carried out under this section shall include projects for the construction, operation, and maintenance of flood damage reduction measures, including bank protection and stabilization works, embankments, clearing, snagging, dredging, and all other appropriate flood control measures.

(c) For each demonstration project under this section, the Secretary shall evaluate the environmental impacts of such project with respect to both riverine and adjacent land use values, with the view of enhancing wildlife and wildlife habitat as a major purpose coequal with all other purposes and objectives, and with the view of minimizing environmental losses.

(d) Demonstration projects authorized by this section shall be undertaken to reflect a variety of geographical and environmental conditions, including naturally occurring erosion problems and erosion caused or incurred by man-made structures or activities. At a minimum, demonstration projects shall be conducted at sites on—

(1) that reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska;

(2) that reach of the Platte River from the boundary between Colfax and Dodge Counties, Nebraska, to its confluence with the Missouri River;

(3) that reach of the Elkhorn River from the boundary between Antelope and Madison Counties, Nebraska, to its confluence with the Platte River; and

(4) other locations deemed appropriate by the Secretary in consultation with the State of Nebraska, if sufficient funds are available.

(e) The Secretary shall condition the construction, operation, and maintenance of any project under this section upon the availability to the United States of such land and interests in land as he deems necessary to carry out such project and to protect and enhance the river in accordance with the purposes of this section.

(f) The Secretary shall establish a Nebraska Advisory Group consisting of representatives of the State of Nebraska and political subdivisions thereof, affected Federal agencies, and such private organizations as the Secretary deems desirable. Projects under this section shall be carried out in coordination and consultation with such Advisory Group.

(g)(1) Except as provided in paragraph (2), projects carried out under this section shall be at full Federal expense.

(2) Prior to construction of any project under this section, non-Federal interests shall agree that they will—

(A) provide without cost to the United States lands, easements, and rights-of-way necessary for construction, operation, and maintenance of such project;

(B) hold and save the United States free from damages due to construction, operation, and maintenance of such project (other than damages due to the fault or negligence of the United States or its contractors; and

(C) operate and maintain the projects upon completion.

(h) There are authorized to be appropriated for fiscal years beginning after September 30, 1986, $25,000,000 to carry out the provisions of this section.

(i) Beginning twelve months after the date of enactment of this section, and at intervals of twelve months thereafter, but not later than five years after such date, the Secretary shall prepare and transmit to the Congress a report describing the progress achieved in carrying out the demonstration program established pursuant to this section.

(j) The Congress finds that demonstration projects established pursuant to this section are economically feasible. Such projects shall emphasize the development of low-cost erosion and flood control measures.

WARNER (AND TRIBLE) AMENDMENT NO. 1695

Mr. WARNER (for himself and Mr. TRIBLE) proposed an amendment to the bill (S. 1567), supra; as follows:

Insert on page 65, after line 5, the following and number appropriately:

"SEC. . The navigation project for Lynnhaven Inlet, Bay and connecting waters, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173, 1174) is hereby modified to provide that the United States shall pay for the remedial work to Long Creek Canal which the City of Virginia Beach, Virginia, was required to carry out as a result of such navigation project, at a cost not to exceed $1,660,000".

GORE AMENDMENT NO. 1696

(Ordered to lie on the table.)

Mr. GORE submitted an amendment intended to be proposed by him to the bill (S. 1567), supra; as follows:

On page 22, after line 9, insert the following new section:

(1) the President shall take all appropriate actions, in cooperation with any international organization which the President determines to be appropriate, to establish a long-term study, beginning with a 1-year cooperative international research program, with respect to the greenhouse effect with the purposes of—

(A) increasing the worldwide dissemination of information with respect to the causes of the greenhouse effect and methods to alleviate or avoid the effect;

(B) coordinating the research efforts of the participating nations with respect to the greenhouse effect;

(C) fostering cooperation among nations to develop more extensive research efforts with respect to the greenhouse effect;

(D) preparing a report on the accomplishments of the program;

(E) identifying the potential alternative policies necessary to avoid a buildup of greenhouse gases beyond levels which could have catastrophic results; and

(F) developing a long-term plan for future research efforts with respect to the greenhouse effect;

(2) any such program established by the President shall be started during or before the calendar year 1991, which year shall be known as the "International Year of the Greenhouse Effect"; and

(3) the participation of the United States in any such program established by the President shall be planned and coordinated on behalf of the United States by the Chairman of the National Academy of Sciences the Secretary of the Army, the Secretary of Energy and other appropriate Federal and State agencies and the private sector.

AGENCY REPORTS TO CONGRESS

COHEN AMENDMENT NO. 1697

Mr. STAFFORD (for Mr. COHEN) proposed an amendment to the bill (S. 992) to discontinue or amend certain requirements for agency reports to Congress; as follows:

On page 48, strike out lines 24 and 25.

On page 49, line 1, strike out "(b)" and insert in lieu thereof "Sec. 108. (a)".

On page 49, line 7, strike out "(c)" and insert in lieu thereof "(b)".

On page 49, line 9, strike out "(d)" and insert in lieu thereof "(c)".

On page 49, line 11, strike out "(e)" and insert in lieu thereof "(d)".

On page 49, line 13, strike out "(f)" and insert in lieu thereof "(e)".

On page 49, line 15, strike out "(g)" and insert in lieu thereof "(f)".

On page 49, line 17, strike out "(h)" and insert in lieu thereof "(g)".

On page 49, line 24, strike out "(i)" and insert in lieu thereof "(h)".

On page 50, line 5, strike out "(j)" and insert in lieu thereof "(i)".

On page 50, line 7, strike out "(k)" and insert in lieu thereof "(j)".

On page 50, line 23, strike out "(l)" and insert in lieu thereof "(k)".

On page 50, line 25, strike out "(m)" and insert in lieu thereof "(l)".

On page 51, strike out lines 1 and 2 and insert in lieu thereof the following:

(m) Section 1705 and the Public Health Service Act (42 U.S.C. 300u-4) is amended—

(1) by striking out subsection (b); and

(2) by striking out "(a)" before "The".

On page 51, line 3, strike out "(o)" and insert in lieu thereof "(n)".

On page 51, line 6, strike out "(p)" and insert in lieu thereof "(o)".

On page 51, line 11, strike out "(q)" and insert in lieu thereof "(p)".

On page 51, line 13, strike out "(r)" and insert in lieu thereof "(q)".

On page 58, beginning with line 22, strike out through line 4 on page 59.

On page 59, line 5, strike out "(d)" and insert in lieu thereof "(c)".

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENT PROCUREMENT

Mr. WEICKER. Mr. President, I would like to announce that the Subcommittee on Government Procurement of the Committee on Small Business will hold a field hearing on small business participation in the Federal procurement process. Specifically, the field hearing will focus on the results of the various competition advocacy and spare parts breakout programs being undertaken as a result of the "Competition in Contracting Act of 1984," Public Law 98-369, the "Small Business and Federal Procurement Competition Enhancement Act of 1984," Public Law 98-577, and the agency initiatives, and the extent to which these programs have created additional competitive contracting opportunities for small business.

Further, the committee will seek testimony concerning various programs, provided by governmental and nongovernmental sources, assisting small business to effectively pursue these expanded numbers of competitive contracting opportunities. In addition to small business Government contractors, the committee will receive testimony from representatives of the Department of the Air Force, the Department of Transportation [FAA], the Florida and Oklahoma Small Business Development Centers, and the Indiana Commerce Center.

The field hearing will be held on Saturday, March 22, 1986, commencing at 10:30 a.m. at the Officers Club, Tinker Air Force Base, Oklahoma City, OK. Further information concerning this field hearing can be obtained from the committee's procurement policy counsel, William B. Montalto, at 224-5175.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry has scheduled a markup on S. 2045, a bill to amend the Commodity Exchange Act to reauthorize appropriations to carry out such act, and for other purposes.

The markup is to be held on Tuesday, March 25, 1986, at 9:30 a.m. in room 328-A Russell Senate Office Building.

Please contact the committee staff at 224-2035 if further information is needed.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Public Lands, Reserve Water and Resource Conservation of the Committee on Energy and Natural Resources has added an additional measure on which the subcommittee will receive testimony at its hearing scheduled for Friday, April, 11, 1986, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building, Washington, DC.

The additional measure is H.R. 3556, to provide for the exchange of land for the Cape Henry Memorial site in Fort Story, VA. As previously announced, the subcommittee also will receive testimony on S. 977, S. 1374, S. 1413 and H.R. 2067 and S. 1542.

For further information regarding this hearing, please contact Patty Kennedy of the subcommittee staff at (202) 224-613.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will hold a hearing on S. 1452, a bill to settle Indian land claims in the town of Gay Head, MA, and for other purposes on April 9, 1986, commencing at 2 p.m., in room 538 of the Dirksen Senate Office Building.

Those wishing additional information should contact Peter S. Taylor or Michael Mahsetky of the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON STRATEGIC THEATER AND NUCLEAR FORCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Theater and Nuclear Forces, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Friday, March 14, 1986, in open/closed session on the ICBM modernization for fiscal year 1987.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, March 14, to held an oversight hearing on the domestic and international petroleum situation.

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

ADDITIONAL STATEMENTS

FUNDING FOR COMMUNITY SERVICES BLOCK GRANT

● Mr. SARBANES. Mr. President, once again the administration is attempting to eliminate funding for the Community Services Block Grant [CSBG], a primary resource for the Nation's poor. CSBG funds are vital in allowing Community Action Agencies [CAA's] to perform support services for low income Americans. The flexibility and accessibility of community action agencies enable low income families facing emergencies to seek counseling services, day care, fuel assistance, and surplus commodity foods. CSBG funds are in fact the leverage for generating new resources and for coordinating assistance to the poor so that resources are used efficiently and without duplication. For as long as I can remember, it has been our Nation's policy, and I believe an obligation, to provide certain programs for low income Americans.

The administration has slashed CSBG funding 35 percent from 1981 levels. Mr. President, the program has already taken its share of cuts and should be retained so that lower income Americans will no longer bear a disproportionate share of the burden of deficit reductions.

On March 10, 1986, the Baltimore Sun published an article on the editorial page entitled "The 20-Year War on Poverty" which underscores the damage that eliminating CSBG funds would have on low income families. The editorial raises serious concerns which, I am certain, are shared by thousands of low income Americans nationwide who depend on the services of community action agencies to keep their families healthy and selfsufficient. Knowing that my colleagues share my concern about the future of this program, I wanted to bring this editorial to the attention of the entire Senate.

The editorial follows:

[From the Baltimore Sun, Mar. 10, 1986]

THE 20-YEAR WAR ON POVERTY

Maryland's 13 local Community Action Agencies are scratching to retain many of the special services they have provided for 20 years. Federal grants already have been reduced 4.3 percent under the initial phase of Gramm-Rudman-Hollings. President Reagan also wants Congress to cut block grants, but his case has yet to be made. If it is supported, the state could lose its $4.4 million allocation that goes to local agencies. The cut-backs could be very damaging.

The Human Resources Development Agency of Baltimore County is one of the state's largest providers of CAA services, helping 12,000 persons annually. They are mostly impoverished men, women, children and seniors who need jobs, housing, counseling, day-care, fuel assistance, food and other assistance that help keep families healthy and self-sufficient.

Community Action Agencies were created in 1964 under the Economic Opportunity Act that initiated President Lyndon Johnson's War on Poverty. The agencies sought to help the unemployed and afflicted by funneling federal money directly to people. Some localities—Baltimore City and Montgomery County in Maryland—established and ran their own CAA organizations. Others such as Baltimore County relied on independent paid staff and volunteers.

Because of financial constraints, some agencies already have decided to furlough paid workers for short periods. Unless money is found, there could be more furloughs. Last week, Baltimore County's CAA group began a $70,000 fund-raising campaign to help supplement its $2.7 million annual budget. Others in Western Maryland, the Eastern Shore and other parts of Central Maryland also rely on private donations.

This year, the Maryland Association of Community Action Agencies is urging Gov. Harry R. Hughes to include in his supplemental budget money to make up for federal cuts. A Senate committee has reduced Mr. Hughes's initial budget request by $40 million, and some of that money can be recycled into other programs. However, at least $15 million is expected to be set aside to supplement the $35 million earmarked by the governor for a "rainy day" fund.

It is in everyone's interests to preserve reasonable levels of aid for those in need. Further cut-backs in CAA funding will only shift the care of its clients onto the shoulders of government agencies, or leave them to do without. Government leaders must choose whether to support CAA networks with small stipends—in local subdivisions as well as at the state level—or turn their backs and let people do without these services.

ATTITUDES TOWARD CAMPAIGN FINANCING

● Mr. STEVENS. Mr. President, a survey by Civic Service, Inc., of St. Louis, MO, and Washington, DC, commissioned by the American Medical Political Action Committee, brings out the true public feeling and attitude toward campaign financing. Mr. President, I ask to have printed in the RECORD the data compiled in the 1986 survey by Civic Service, Inc.

The material follows:

ATTITUDES TOWARD CAMPAIGN FINANCING—1986

(The tenth in a series of annual CSI studies)

Public attitudes toward federal funding of presidential and congressional campaigns have remained relatively stable over the past ten years. The data contained in a 1986 nationwide public opinion survey indicates continued opposition to extending public financing to congressional campaigns.

A majority of respondents favor a change in the current system of total public financing of the fall general election campaigns for President.

The 1986 poll was the tenth annual survey of attitudes toward campaign financing conducted since 1977. The current data included 1,568 voting age Americans interviewed in a random telephone survey.

CONGRESSIONAL CAMPAIGNS

For a decade, Americans have indicated their opposition to public funding of congressional campaigns. This feeling was endorsed in the 1986 data. A benchmark question has been asked since 1977: "It has been proposed in Congress that the federal government provide public financing for congressional campaigns for the U.S. House of Representatives and Senate. Would you approve or disapprove of the proposal to use public funds, federal money, to pay the costs of congressional campaigns and how strongly do you feel?"

Strongly approve, 7.4 percent.
Approve, 13.7 percent.
Disapprove, 28.6 percent.
Strongly disapprove, 42.0 percent.
No opinion, 8.3 percent.

The data indicates that virtually every sub-group within the populace opposes the use of federal funds for congressional elections. For example, Democratic respondents registered 68.7 percent opposition; Republicans, 72.0 percent; and independents, 69.4 percent.

Among occupational groupings, white collar respondents registered 20.1 percent approval versus 73.0 percent disapproval; blue collar, 19.2 percent versus 72.6 percent; professional, 25.0 percent versus 65.6 percent; students, 14.9 percent verus 71.6 percent; and farmers, 18.9 percent versus 70.3 percent.

Union members included 69.3 percent opposition to public funding of congressional campaigns with 21.3 percent approving. White respondents indicated 77.0 percent opposition; Black, 74.3 percent opposition; and Hispanic, 73.1 percent opposition.

Male voters voiced 69.7 percent opposition and female, 71.6 percent. The strongest opposition was found in the West North Central states; the East South Central and Mountain areas.

A 10-YEAR DATA CURVE ON THE BENCHMARK QUESTION

1977—Approve, 32.5 percent; disapprove, 63.4 percent.
1978—Approve, 21.5 percent; disapprove, 67.1 percent.
1979—Approve, 21.8 percent; disapprove, 67.9 percent.
1980—Approve, 23.1 percent; disapprove, 68.2 percent.
1981—Approve, 21.0 percent; disapprove, 67.8 percent.
1982—Approve, 25.4 percent; disapprove, 65.2 percent.
1983—Approve, 24.5 percent; disapprove, 65.0 percent.
1984—Approve, 23.6 percent; disapprove, 64.8 percent.
1985—Approve, 26.6 percent; disapprove, 65.0 percent.
1986—Approve, 21.1 percent; disapprove, 70.6 percent.

PRESIDENTIAL CAMPAIGNS

The public favors a change in the system of financing the fall presidential election which currently is funded totally with public money. Again, a standard question on the use of such funds has been asked since 1981. In 1986, the following benchmark registered 22.4 percent approval and 73.1 percent disapproval, with 4.5 percent indicating no opinion.

"The 1984 campaign for President was financed or paid for as follows: The primary campaigns were financed in part by tax dollars through public financing and in part by private contributions . . . a matching system. The fall general election campaigns were totally financed by public funds. Do you approve or disapprove of the use of public funds, federal money, to pay the total cost of the fall, general election campaigns for President, such as was done for Reagon and Mondale? How strongly do you feel?"

As with congressional campaigns, opposition cut across virtually all sub-groups in the population. For example, Republicans expressed 72.2 percent opposition, Democrats, 74.3 percent; and independents, 71.3 percent.

CHANGING THE PRESENT SYSTEM—ALLOWING MATCHING FUNDS

A majority of respondents favor some kind of change in the present system. Over one/third support allowing matching contributions similar to the process now used to finance presidential primary campaigns.

"There has been a lot of talk after the presidential campaign about changing the way general election or fall campaigns are financed. Which of the following do you favor?

Abolish public financing and return to a system of private contributions to pay the cost of general election presidential campaigns—39.2 percent approve.

Allow a matching system for the fall general campaign like the presidential primary campaigns are financed, where there is a combination of private contributions from individuals and committees and public funds—36.1 percent approve.

Maintain the present system of financing the fall presidential campaign totally with public funds—17.0 percent approve.

No opinion—7.8 percent.

STATE LEVEL CAMPAIGNS

Respondents also do not favor using public funds for state level races. "Would you approve or disapprove of the proposal to use public funds, state money, to pay the

costs of major statewide offices like the governor's race, state senatorial and legislative campaigns?"

Approve, 19.0 percent.
Disapprove, 76.8 percent.
No opinion, 4.2 percent.

SUPPORT FOR THE DOLLAR CHECK-OFF

The provision to allow citizens to check off $1.00 from their federal income tax for use in the presidential campaign has widespread citizen support:

Approve, 69.9 percent.
Disapprove, 26.4 percent.
No opinion, 3.7 percent.

CAMPAIGN REFORMS

There is support for changes in the manner of congressional campaigns.

A strong majority favor abolishing paid television commercials and providing a limited amount of free time to candidates—65.2 percent approve.

Of those polled, 76 percent favor limiting TV advertising to a candidate or spokesperson, instead of broadcasting production or movie-like spots.

Giving challengers the use of the congressional frank for a district wide mailing is supported by 49.9 percent of the sample, with 43.0 percent opposing.

NATURE OF THE SAMPLE

The nationwide survey was conducted during the period of January 25, 1986 through February 2, 1986. The sample was selected by a computer generated random set of telephone numbers throughout the United States and limited to voting age citizens. Consultants for the project included Seymour M. Lipset, Ph.D., Professor of Sociology and Political Science, Stanford University; Dan Nimmo, Ph.D., Professor of Communications, University of Oklahoma; and Mike Mansfield, Ph.D., Associate Professor of Political Science, Baylor University.

The survey comprised 1,568 completed interviews with voting-age Americans and relfects general socio-economic characteristics of the American populace. The data provides a tolerated error margin of 3 percent at the 95th confidence level.

THE URGENT NEEDS OF INNA AND NAUM MEIMAN

● Mr. SIMON. Mr. President, today marks the completion of the first week of daily statements concerning two friends of mine in the Soviet Union, Inna and Naum Meiman. I intend to continue this daily reminder until Inna and Naum receive permission to emigrate and obtain desperately needed medical treatment for Inna in the West.

Inna, at 53, has had four operations to remove cancerous tumors at the top of her spine. A member of my staff visited with Inna and Naum in January and saw Inna's fifth tumor. The Soviet doctors refuse to operate again because they fear they could damage the spine. New technologies have been developed in the West, but the Soviets will not allow Inna and Naum the chance to fight. Inna's situation is critical. The Soviets, by refusing to allow Inna and Naum to leave, are slowly and painfully torturing a kind, good woman and her husband whose only "crime" is their desire to live in the West.

I urge the Soviet authorities to allow Naum and Inna Meiman to emigrate.●

THE CALL TO CONSCIENCE

● Mr. GRASSLEY. Mr. President, today I am honored to participate in the call to conscience sponsored by the Union of Councils for Soviet Jews.

Two and one-half years ago I, along with my colleagues, Senator DENNIS DECONCINI, and Congressmen PORTER and LANTOS in the House, and with the sponsorship of the Union of Councils, formed an organization called the International Parliamentary Group for Human Rights in the Soviet Union [IPG]. The purpose of this group is to provide a form where the Western parliaments can speak with one voice regarding Soviet human rights abuses, thereby increasing our ability and effectiveness in demonstrating to the free world, Soviet violation of the Helsinki accords.

The IPG has grown to a membership of over 700 MP's in 15 countries. Continued pressure by these parliamentarians, not only on the Soviet Government itself, but on their own governments, will ensure that this issue will not fall through the cracks.

As an illustration of the interest in this issue that is being shown by other countries, I would like to have the following statement by State Minister Lutz Stavenhagen, Federal Republic of Germany, printed in the RECORD for the benefit of my colleagues.

The statement follows:

THE SITUATION OF JEWS IN THE SOVIET UNION

(Statement in the German Bundestag (Parliament) by State Minister Lutz Stavenhagen, Foreign Office of the Federal Republic of Germany (30 January 1986).

The situation of Jews in the Soviet Union is of concern to all of us. At stake here are human rights which have an important role in contemporary international relations.

The fate of Soviet Jews is of special meaning to us, because it is so similar to the fate of ethnic Germans in the Soviet Union to whom we direct special efforts. What I have in mind here are families divided, in some cases for decades now. What I have in mind here is the agonizing of many Jews over being discriminated against in terms of maintaining linguistic and cultural roots, and over increased pressure for assimilation.

It is against this background, and out of solidarity with the Jewish people, that the Federal Government has repeatedly intervened on behalf of Soviet Jews in its dealings with the Soviet leaders. I am referring, for instance, to the talks between Foreign Ministers Genscher and Shevardnadze during the foreign ministers' meeting in Helsinki for the 10th anniversary of the CSCE Final Act; I am also referring here to interventions of the delegation of the Federal Republic of Germany during the recent CSCE experts' meeting on human rights in Ottawa.

The Soviet Union likes to point out how much has been done for Soviet Jews: that they have an autonomous Jewish region of their own around Birobidzhan (East Siberia) which is a true homeland for Soviet Jewry with Yiddish publications and a Yiddish theater. Soviet officials will also remind us that Yiddish is a recognized national language.

However, the facts are that during the latest census a mere 14 percent of Jews gave Yiddish as their native language, and that less than 1 percent of the approximately 1.8 million Soviet Jews live in Birobidzhan, but 98 percent of them in the European part of the Soviet Union. Which underscores the vast gap between reality and official claims: language and culture are being officially promoted above all in a region that has almost no Jewish population.

The Soviet Union boasts an excellent level of research in Hebraistics, and righteously so. However, it is also a fact that teaching modern Hebrew is prohibited and that Jews engaging in this are subject to prosecution. It is in this context that Soviets frequently refer to "zionist elements". But the fact of the matter is that a new self-perception, especially among Jews of the younger generation, is developing here which represents a countermove to the strong pressure of assimilation. And let us not forget that anti-zionist campaigns are paving the way for anti-semitism.

General Secretary Gorbachev, in a televised interview on the eve of his Paris visit in October 1985, stated that Soviet Jews are overrepresented in arts and scientific research, given their 16th place among the Soviet nationalities. Yet many Jews don't see a future for their professional and artistic development and cannot cope with the problems arising from their nationality in the Soviet Union. This is the reason for the massive desire of Soviet Jews to emigrate. Figures speak out loud and clear. And this, too, is very similar to the problems of Germans in the USSR. It is no mere chance that emigration of both Germans and Jews under the family reunification scheme is threatened by a complete standstill. The Soviet explanation of natural causes for decreasing figures can claim little credibility in view of the great number of applications for emigration on record.

It is rather the political factor that plays a decisive role. The Soviets are wrong in maintaining that discussion of these issues is tantamount to interference in Soviet domestic matters. A reference to provisions of the CSCE Final Act, which also bears a Soviet signature, cannot be dismissed as interference in internal matters.

The Soviet Union, in outlining its foreign policy, places peace above everything else. It should be aware that peace is more than just the prevention of war and that respect for human rights is a significant contribution towards peace.

The Soviet leadership should also be aware that their credibility is being put to the test, that open-mindedness and generosity vis-a-vis minorities such as the Jews and Germans are part of the commitment that arises from the Soviet signature under the CSCE Final Act.

I therefore appeal to General Secretary Gorbachev to make sure that his words about the fundamental significance of guaranteeing human rights are matched by deeds.●

LOVE THWARTED BY RUSSIA

● Mr. SIMON. Mr. President, I applaud Secretary Gen. Mikhail Gorba-

chev for his promising statement to the Soviet Union's Party Congress on reuniting families. Nearly 2 dozen American citizens wait anxiously for the Soviet Government's decision on the fate of their spouses who are Soviet citizens. Their simple request is that they be allowed to live with their loved ones and enjoy what most Americans take for granted. The story of the divided spouses is a happy one for eight couples who were reunited following the Geneva summit. I have recounted both the happy and the sad stories and my hope for more reunited families in a column I write for newspapers in my home State. I ask unanimous consent that it be printed in the RECORD.

The column follows:

[Weekly Column by U.S. Senator PAUL SIMON of Illinois]

FROM RUSSIA, THWARTED LOVE

It starts like an ordinary story. Edith and Michael fell in love and got married.

From then on it is anything but an ordinary story. Edith Luthi is an American who was studying in the Soviet Union. Michael Iossel is a Soviet citizen. After they were married the Soviet government would not let Michael go to the United States.

Their first child was born with Michael 4,000 miles away from Edith. I met Edith and their little son Gregory when we appeared together on the "Today Show." I saw Gregory, then 3 years old, when his father had not yet seen him.

Over the last year many of my colleagues in Congress have joined me to help bring together U.S. citizens married to Soviet citizens—people like Edith Luthi and her husband Michael.

Thanks to the fact there was a summit meeting, Secretary General Mikhail Gorbachev let it be known that eight of these would be permitted to emigrate to the United States. One was Edith's husband.

I am grateful for that.

But what about the others?

Simon Levin of Deerfield, Ill., married Tamara Tretyakova. They now have a 7-year-old son in Moscow whom Simon Levin has never seen. He shows pictures of his son like any proud father, but why can't the Soviet government let him hug his son? When I was in Moscow I visited with his wife and son, a happy, active young man who has never seen his father.

Fran Pergericht of Chicago married Roman Kuperman of the Soviet Union. On February 24, they marked their fourth wedding anniversary—and four years of living apart. In a few days they will have their first child, separated by thousands of miles and a needlessly uncertain future. (On March 10, 1986, Fran gave birth to a daughter.

As contacts between our people grow, as they should, inevitably there will be more marriages. Our governments should not stand in the way of marriages and of people then living together.

There are many things governments can do, but they cannot prevent people from falling in love.

Soviet law is clear in permitting married couples to select their place of residence. And the Soviet government signed the Helsinki Accord. The governments that signed that document agreed to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating state."

Is it asking too much to ask the Soviet government to live up to its own laws and the international agreements it signed?

I have been one of those who believes that the United States and the Soviet Union should improve their relationship, and sometimes this nation has not been as helpful as it might be. But the Soviets' needless standing in the way of couples who wish to be together is something no American can understand—and my guess is that very few Soviet citizens understand it either.

Professor Woodford McClellan of the University of Virginia has been joined by his wife Irina after a separation of 11 years. Eleven long years! Why?

It causes needless human misery and is not good public relations for the Soviet government.

I hope that soon President Reagan and Secretary Gorbachev can agree on an arms control limitation.

But in the meantime we ought to be able to agree that people who fall in love and get married can live in the country of their choice.

I'm grateful that the Soviet Union has permitted eight of its citizens to live with their spouses. But I wait impatiently for word on the rest, and for a more humane, sensible policy on the part of the Soviet government.●

U.S. TRADE POLICY

● Mr. BOSCHWITZ. Mr. President, recently an article appeared in the Washington Times by Clayton Yeutter, our new U.S. Trade Representative. This article on the U.S. response to the foreign trade deficit mirrors my feelings on the subject. In his article, "The Four Pillars of U.S. Trade Policy," Mr. Yeutter conveys an excellent understanding of the trade problem and the actions which we must take to overcome the trade deficit and restore our competitive position in world markets.

I agree with Mr. Yeutter's views that hard work and a proper sense of direction will be very important virtues when solving the problem of our large foreign trade deficit. As we consider our options on trade, Mr. Yeutter suggests that we resist the temptation to simply reach short-term political solutions by enacting unwise, protectionist legislation. That kind of response only produces long-term detrimental effects to the economy.

The most important action which can be taken by this body is to work out a budget that will further decrease the Federal deficit and, in turn, lower the value of the dollar in foreign markets. Returning the dollar to appropriate levels and addressing restrictions to foreign markets will go a long way toward our becoming a net exporting nation once again.

Clearly new trade agreements must be negotiated. I share Mr. Yeutter's view that the General Agreement on Tariffs and Trade [GATT] should be updated. We must also make sure that the fee trade agreements we have established with our importers are reciprocated back to American business by these nations.

Mr. President, I urge my colleagues to read this timely and informative article and I ask that it be printed in the RECORD.

The article follows:

THE FOUR PILLARS OF U.S. TRADE POLICY

(By Clayton Yeutter)

With the U.S. trade deficit in the $150 billion range, there is no denying that international trade is an important issue. But it would be a vital issue for the United States even if there were a trade surplus. We cannot maintain our current standard of living or pass on that standard of living to our children and grandchildren unless we as a nation do a good job on international trade.

Our trade difficulties did not happen overnight. They have been building over a period of years. But political pressure to do something about imports seemed to peak this year when members of Congress returned from summer recess. Their increased concern resulted in a swirl of activity around some 300 protectionist trade bills in Congress.

Obviously it was imperative for the administration to respond to this legislative threat. President Reagan did, by taking a number of steps which countered protectionism in a vigorous and comprehensive way. I call those steps the four pillars of the administration's trade policy:

1. THE FREE TRADE GYROSCOPE

The first pillar relates to basic trade principles, i.e., the necessity of keeping our gyroscopes spinning properly. When dealing with a problem as sensitive and emotion-packed as trade, one must work hard to retain a proper sense of direction. It is imperative to resist the temptation of short-term political or economic benefits which in the long run would be detrimental to the country.

One of President Reagan's great qualities is that he knows where he is headed in the policy arena and why. His gyroscope has a firm and consistent spin, reflecting his very strong belief in free and open trade. For the past 40 years, this country and the world have been served well by such a trading system, and it makes no sense at all to abandon it. The president fully understands that.

But this trade pillar in not enough. We live in an imperfect world, and we must often deal with that world as it is, rather than as we would like it to be.

2. THE FAIR TRADE PILLAR

A dose of reality leads us to the fair trade pillar. The administration must demonstrate to the American people that we are doing our best to ensure that there is a "level playing field" on which American business can plan.

A decade ago we had a weak dollar, exports were booming, and we opened up agricultural markets overseas. The United States had a big trade surplus, so the tendency was to turn the other cheek when our trading partners did not play by the rules. But Americans are not so tolerant on this subject anymore.

Through the years there have been many cases in which U.S. firms and industries have been exposed to unfair trade practices.

The adverse economic impact of those practices has recently been exacerbated by a strong dollar. In response to that economic trauma, it was imperative that the administration address the fair trade issue quickly and decisively. It was important for the American public to know that President Reagan is not only a free trader, but also a fair trader. That was done in two important ways.

First, the president instructed me as his U.S. trade representative to launch several unfair trade practice cases under Section 301 of the Trade Act. Under that provision of the law if the offending nation does not remove the inequity within a specified period, the president is empowered to retaliate. The administration has initiated six such cases thus far, some of which have already been settled. All indications are that Section 301 will prove to be a very valuable trade policy tool.

The administration also established a special fund to counteract certain grant programs that some of our competitors have been offering in order to make their exports more attractive. We strongly believe that export sales should be made on the basis of price, quality, service, etc., rather than on the basis of subsidized credit or grant programs financed by national treasuries.

These two initiatives vividly demonstrate that the administration will respond aggressively to the unfair trade practices of other nations.

3. UPDATING THE GENERAL AGREEMENT ON TARIFFS AND TRADE [GATT]

Our third pillar has a long-run orientation. It relates to the need for a truly effective international organization to provide the "rules of the road" for international trade. The GATT has been in existence nearly 40 years, and has served the world well. Trade volumes have risen dramatically over the past four decades, and our own standard of living is one of the major beneficiaries. But the GATT now is creaking a bit, and we need to get it ready for the next four decades. If we fail, the entire world will be the loser.

In addition to the obvious need to improve exising GATT codes and rules, we also need to bring new areas of trading activity under its jurisdiction. That means developing new rules for areas such as services—banking, insurance, transportation, telecommunications, data processing, etc.—which now constitute well over half our gross national product. Both developed and developing countries are also in need of a new framework for handling investment issues. Without such a framework, investors in the developed countries will continue to be reluctant to share capital and technology with the less-developed nations, and the latter will continue to have extreme difficulties in servicing their debts.

The GATT also needs new rules on intellectual property—trademarks, copyrights, and patents. Firms cannot afford to spend hundreds of millions of dollars on research and development if the product of those efforts is unprotected internationally. The same applies to creative endeavors such as movies, books, and computer software. An immense amount of international piracy exists today in all these areas, and it is important that such nefarious activity be countered by the GATT.

One final challenge for the GATT is to improve its dispute-settlement mechanism. One of the great frustrations of business firms throughout the world lies with their inability to obtain a decisive, expeditious resolution of trade problems. They can take their troubles to the GATT through their respective governments, but there is little comfort in that if a nebulous response emerges five years later. That challenge needs to be faced in the next GATT round.

4. LETTING THE AIR OUT OF THE INFLATED DOLLAR

The fourth pillar of trade policy relates to the impact of an inordinately strong dollar on our U.S. trade balance. This year's trade deficit will likely approach $150 billion, and that is simply unsustainable.

Therefore, it is imperative that we get a handle on this problem and reverse the trends. Actions are already under way to do so, the first major move coming from Secretary of the Treasury James Baker's meeting with the G-5 finance ministers and central bankers in New York about three months ago.

From the U.S. standpoint, we believe the answer to the "dollar problem" is to reduce our federal budget deficit gradually but definitively, which should make it possible for our Federal Reserve to follow a monetary policy that will result in lower interest rates and a decline in the value of the dollar. We are also encouraging generation of additional economic growth in Western Europe and in Japan's domestic economy, coupled with a series of actions that will permit the less-developed countries to become active importers again.

If all this happens in the relatively near future, we should begin to see an improvement in our trade picture in 1986, and the rest of the 1980s should look much more favorable than it does today.

SUMMARY

The heart of our trade policy now lies in these four pillars: the overall objective of moving the world to a more free and open trading system, the intent to respond aggressively to the unfair trading practices of other nations, the need to modernize and improve the GATT and, most important, the recognition of the great importance that fiscal and monetary policies play in determining trade flows here and abroad.

If we and other nations can make the right moves in these four areas over the next few years, we'll be able to avoid shooting ourselves in the foot with protectionism, and we can look forward to a more interrelated but efficient international trading system that will serve future generations.●

COMMEMORATING MADISON'S BIRTHDAY AND FREEDOM OF INFORMATION DAY

● Mr. SPECTER. Mr. President, today I join my colleagues in recognizing the 235th anniversary of James Madison's birthday and in supporting House Joint Resolution 371, recently adopted by the Senate designating this day as National Freedom of Information Day.

As father of the Bill of Rights, James Madison is responsible for many of the constitutional freedoms Americans treasure so dearly. In particular, freedom of speech and a free press, which are at the heart of Freedom of Information Day, are to be protected vigorously and exercised fully by all citizens.

Our Nation cannot afford to take these constitutional rights for granted. Freedom of speech and a free press remain the foundation for our democratic society. They contribute to our political stability and economic prosperity. And freedom of information is essential if these constitutionally mandated freedoms are to have any real meaning.

Recent events in other parts of the world underscore the importance of the constitutional guarantees of free speech and a free press, supported by a free access to information. Citizens around the world who struggle against unjust regimes to obtain the most basic rights emulate our Nation. The struggle in South Africa, the triumphs in Haiti and the Philippines, and the release of Soviet dissident Anatoly Shcharansky, are events which do not occur in a vacuum. Rather, these events are connected, part of a tide which will carry away other regimes which seek to curtail the rights of their citizens.

Nearing the 210th anniversary of our country's birth, this Nation remains a beacon to many around the world who wish to embrace the constitutional freedoms Madison articulated. For more than two centuries, Americans have given their lives in defense of these constitutional rights which we so highly value.

Therefore, it is my hope that by proclaiming this day Freedom of Information Day, we as a nation will reaffirm the constitutional freedoms of speech and press, which James Madison set forth in the Bill of Rights. It is also my hope that on this day and each following year, we as a nation will renew our commitment to all the freedoms set forth in the Bill of Rights, which are guaranteed not to some persons but to all. In doing so, we honor James Madison.●

DEPAUW UNIVERSITY AND THE GUILD FAMILY

● Mr. QUAYLE. Mr. President, as an alumnus of DePauw University, it is my pleasure to introduce to the Senate a family from my home State of Indiana, the Guild family. For the Guilds, attending DePauw University has become an integral part of family tradition.

DePauw University, a small liberal arts university in Greencastle, Indiana, has long excelled in the promotion of quality education at all levels and for all students. It exemplifies the American education system at its best. The Guild family's ongoing attendance and support of this university attests to this. The Guild family has for many generations pursued their education in a variety of fields at the same university, DePauw University. Currently, Sarah Elizabeth Guild is the 60th member of the Guild family to attend this university.

I commend the Guild family for their dedication and commitment to higher education. Such a family merits recognition if only for the steadfast family values they nurture and the sound upbringing that is so apparent—albeit the continued support of my alma mater, DePauw University.

I ask to have printed in the RECORD an article that appeared Friday, February 21, 1986, in the Indianapolis Star, detailing this unusual family.

The article follows:

ALL IN THE FAMILY, DEPAUW UNIVERSITY HAS ATTRACTED 60 MEMBERS OF THE GUILD FAMILY

(By Rebecca Overton)

GREENCASTLE, IND.—If you ask Sarah Guild if any of her relatives went to DePauw, her reply may shock you.

"People are just flabbergasted most of the time," the 19-year-old sophomore said.

Sarah is the 60th member of the Guild family to attend the small liberal arts university which nestles here near the heart of Putnam County. For the Guilds, going to DePauw has become a family affair.

Sarah doesn't advertise the fact that so many of her relatives sport DePauw diplomas. She's proud of the tradition but doesn't brag about it. It doesn't pop up in conversation all the time, she said.

Still, it inevitably crops up when classmates talk about friends or relatives who studied at the university founded in 1837. Often they discover their paths crossed those of a Guild.

Her family may hold the record for the most members attending DePauw, say school spokesmen. No doubt DePauw's reputation as a "family school" has been enhanced by the Guilds.

Many families continue to send sons and daughters to the peaceful campus dotted with solid, old brick buildings. But few go back as far and wide as the Guild family.

Sarah's earliest recollection of the university goes back to when she was 4 years old. She and her sister and two brothers were all wearing DePauw sweatshirts, she remembers.

DePauw pennants decorated some of the bedrooms at their house in Plymouth, where her parents still live, and school paperweights and alumni magazines always could be seen.

Her family's love affair with the school goes back to the 1880s. Thomas M. and Daniel H. Guild were the first in her family to be educated there. The brothers graduated in 1885 and 1892, respectively, then became Methodist ministers in Indiana, following in the footsteps of their father, George, a Methodist circuit rider.

Since Depauw was founded by the Methodist Church (originally the school was called Indiana Asbury University), its alliance with the religion-oriented Guilds was a natural. The university still is affiliated with the church today.

One of Thomas and Daniel's brothers, James R. Guild, had eight children, six of whom were DePauw graduates. They included Sarah's great-aunt, Florence C. Guild, who was professor emeritus of English and taught there for 14 years.

Three out of four of Sarah's grandparents attended the university. Her grandfather, Merrill D. Guild, served on the school's Board of Trustees, a position now held by Dr. J. Kent Guild, Sarah's father. Her mother, Judith, also was graduated from DePauw, as well as Sarah's brothers, Steven and John, and her sister, Anne Guild Adams.

Her brothers and sister are Indianapolis residents.

The list of relatives who went to the Greencastle school goes on and on. Some, like Florence Guild, always knew DePauw would be their alma mater.

"As a little girl, I never thought of anything else," said Miss Guild, who lives in Indianapolis.

Still, Sarah says she never felt pressured to go there. For a while, she considered attending Northwestern University. But after so many trips to Greencastle to visit her brothers and sister, she wanted to share their experiences.

"Some people might wonder if I was forced to come here," explained the biology major. "It was my own decision."

"It doesn't bother me to be a Guild. But I'm an individual."

The campus is full of family memories, of course. As a freshman, Sarah lived in Rector Hall, like some of here relatives before her. Today she resides in the Kappa Kappa Gamma Sorority house, as her mother did, too.

A dance studio in the Lilly Physical Education and Recreation Center bears the name of Mildred Reed Guild, another relative. Occasionally, on the first day of a class, a professor will recognize Sarah's name.

The memories continue. "Every once in awhile, I realize my grandmother was walking down this hall. I get a big kick out of it," Sarah said.

She expecially enjoyed swapping stories about campus life with her grandmother, Lily Kent Guild. Mrs. Guild, a chemistry major, shared Sarah's interests in science.

Sarah is the last Guild at DePauw right now. Would she like her children to go there?

She hesitated for a minute.

"I wouldn't pressure them, but I'd really like them to consider it. I'd definitely mention it a time or two!" she laughed.●

DOD INFLATION DIVIDEND

● Mr. D'AMATO. Mr. President, I rise today to comment on a report recently issued by the General Accounting Office. This report, "Potential for excess Funds in DOD—March 1986 Update," brings up to date a study I requested which was issued by GAO in September of last year. This update reveals that the estimated inflation dividend for fiscal year 1986 will be an incredible $7.5 billion. During fiscal years 1982 through 1986 the total inflation windfall is $39.5 billion.

Mr. President, I find this situation outrageous. As one of the strongest supporters of our defense modernization, it is difficult for me to reconcile the administration's request for an 8-percent increase in defense spending for fiscal year 1987 with an inflation dividend of $7.5 billion for the military this year.

On December 10 of last year, I introduced legislation, S. 1921, which would eliminate the special multiplier used for major weapon systems. Since 1983, the first year of use for the special multiplier, it is estimated that $14.17 billion was allocated for major weapon systems over normal inflation allowances. This is a $5 billion increase over previous estimates. It is obvious that the 130-percent inflation multiplier is unnecessary. As a member of the Senate Defense appropriations panel, I was instrumental in reducing this inflation factor by more than 50 percent for fiscal year 1986. I am pleased to report that the 130-percent special multiplier is not included in the President's fiscal year 1987 budget request. Unfortunately, this is not good enough. The administration is not precluded from using the multiplier in future fiscal years. It is important, therefore, that S. 1921 be signed into law.

The special inflation factor for major weapons systems, however, is the lesser part of the inflation dividend problem. GAO estimates that the Defense Department budgeted $25.31 billion more than necessary for inflation in fiscal years 1982 through 1986. During the highly inflationary 1970's, the Department of Defense understandably needed supplemental appropriations to make up for depreciating defense purchasing power. For the most part, Congress acquiesced. Now, however, the Department is reaping inflation windfalls, and the lion's share of the money cannot be accounted for. Even though DOD has an elaborate planning, programming, and budgeting system, the accounting system which tracks the actual use of funds is not directly linked to the budgetary process. In short, the budgeting system is arcane.

The fault is not all the Pentagon's. Congress, which much authorize and appropriate money for defense, seems to be losing control over where this money goes: It is imperative for Congress to strengthen its oversight abilities.

Mr. President, Congress will be anguishing over difficult budget decisions in the near future. Indeed, the Gramm-Rudman-Hollings budget legislation already has made sharp cuts. There could be major reductions in defense spending under the Gramm-Rudman-Hollings bill; proper accounting by the Defense Department of these inflation dividends will better ensure that essential defense programs will not be emasculated or eliminated.

I strongly urge the Defense Department to review its budget closely, identify the significant savings from inflation, and apply them to our Nation's deficit-reduction efforts. The Soviet Union is not impressed by a defense budget that grows a certain percentage each year, they are impressed only by how wisely we spend our defense dollars. By identifying inflation savings, rooting out waste and fraud, applying procurement reforms, and

other actions, it is very possible for the United States to have little or no growth in the defense budget, yet still spend significantly more on defense.●

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

● Mr. DOMENICI. Mr. President, in 1984, 26 percent of this Nation's households were touched by a crime of violence or theft. A home that is touched by crime is one that has experienced a burglary, auto theft, household larceny, or one in which a member of the household was raped, robbed, or a victim of personal larceny.

There has been a series of particularly violent crimes in New Mexico lately. A young woman was abducted from the driveway of her fiance's home. She was subsequently raped and murdered. In another incident a judge was tied up in his own home at 2 o'clock in the afternoon and his home was ransacked. Also, within the last 2 months two police officers were killed while on routine patrol. These are examples of crimes that bring into focus our vulnerability to random attacks. This fear causes so many people to isolate themselves, both during the day and night, from others around them. In essence, the criminal element has caused us to erect walls of fear which imprison the human spirit.

What are we to do to protect ourselves against these violent crimes? We could become paranoid and isolate ourselves, or we could arm ourselves. But doing so would only destroy our quality of life. What we can do is supply the police with the necessary equipment and manpower. But that is not enough. We, as neighbors, must look out for one another. By doing so, we can defeat those criminal elements who would prey on us.

That is why I join 18 of my colleagues in cosponsoring Senate Joint Resolution 256 today. This measure will designate August 12, 1986, as "National Neighborhood Crime Watch Day." The purpose of this commemoration is to commend our Nation's neighborhood crime watch groups and to encourage other citizens to take an active role in protecting their neighborhoods from crime. "National Neighborhood Crime Watch Day" will correspond to a "national night out," during which citizens will be encouraged to spend the time from 8 to 9 p.m. with their neighbors in front of their homes. This is a symbolic gesture signifying neighborhood participation and support for this worthwhile and proven program.

Mr. President, Senate Joint Resolution 256 will recognize the contributions of local crime watch programs in the fight against neighborhood crime. "National Neighborhood Crime Watch Day" will help these local crime watch programs get the support they need. The best form of crime prevention is people looking out for people and on August 12, 1986, we will encourage and support this idea. I invite all Americans to join us in this effort.●

MAINTAINING DEDUCTIBLE EXPENSES IN ADOPTION

● Mr. HUMPHREY. Mr. President, we are all aware that the Finance Committee will soon start marking up the Senate tax reform bill. I, and 12 Senate colleagues who share my interest in adoption, want to ensure that in the noisy battle to preserve tax deductions, the message of advocates for the current adoption expenses tax deduction be heard. We have sent to each member of the Finance Committee a letter urging them to give careful consideration to preserving this deduction.

The costs associated with this deduction are de minimis. Although we have no hard data on how many taxpayers claim this deduction or what it costs, experts estimate that it falls in the $5 to $10 million range, maybe lower. In a recent estimate of Federal tax expenditures for fiscal years 1986-90 prepared by the staff of the Joint Committee on Taxation, the deduction for adoption expenses merits only a footnote indicating costs less than $50 million annually. In tax reform terms, a negligible amount.

But loss of this deduction would not be negligible to those who are entitled to claim it. Who are these taxpayers? They are the individuals and couples who give a permanent home to children in foster care who need it most—children who are beyond the infant stage, who suffer from some disability, who have siblings and want to stay together, or those who belong to a minority group.

They are people who are willing to take on large responsibilities in order to build a family and bring joy to a child who needs a home. Those who adopt children with a disability requiring medical treatment take on extraordinary financial responsibilities. Under these circumstances, the current deduction, limited to $1,500, is indispensable.

I would like to insert into the RECORD a copy of our letter to the Finance Committee. I hope that my colleagues will read this letter and join the fight to preserve the tax deduction for adoption expenses.

Mr. President, I ask that the letter be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, February 28, 1986.

DEAR COLLEAGUE: As members of the Senate who are dedicated to the promotion of adoption, we urge you to give careful consideration to the tax deduction for adoption expenses when the Finance Committee takes up the Tax Reform Act.

Current law provides an itemized deduction for up to $1,500 of expenses incurred by an individual in the legal adoption of a child with special needs. Deductible expenses include reasonable and necessary adoption fees, court costs, and attorney fees. The criteria in the Adoption Assistance Program authorized under Title IV-E of the Social Security Act are used to define "a child with special needs." Generally, these are older children, those in sibling groups, children who are mentally, physically or emotionally handicapped, or children who belong to minority groups.

The current deduction was authorized under the Reconciliation Act in 1981, when Congress recognized the need to remove the barriers to adoption of the large numbers of children in foster care in this country. The limited deduction was intended to encourage, and reduce the financial burdens in connection with, the adoption of children who have special needs.

Because of limitations in available data, we don't know exactly how many adoptive parents have utilized the adoption expenses deduction. But we do know the number of special needs adoptions has risen in recent years, and the number of children in foster care has dropped. Undoubtedly many factors have contributed to this progress in special needs adoptions, but clearly the tax deduction reduces one important barrier to adoption, the cost.

Some members of the Senate believe we should extend this tax deduction to apply to all adoptions, and Senator Hatch has introduced the Fairness for Adopting Families Act (S. 856). S. 856 would allow a deduction for the reasonable and necessary adoption fees for infant, special needs, or foreign child adoptions. This bill would also exclude from an employee's income adoption expenses paid by an employer, and treat an employer's contribution to an adoption expense plan as an ordinary and necessary business expense. The latter provision related to the growing number of companies which are beginning to recognize the importance of helping their employees meet the costs of adoption.

The House tax reform bill repeals the itemized deduction for adoption expenses, and substitutes Federal matching funds to States to pay for "nonrecurring adoption expenses" related to the adoption of a special needs child. According to the Committee Report, the funds to the States are estimated to increase budget outlays by amounts comparable to the amounts of increased budget receipts resulting from repeal of the deduction. But the costs associated with this deduction are negligible, and we are concerned that repeal of the deduction may be seen as a step backward in the recognition of adoption as an important way to build families.

We are all painfully aware that the American family is in trouble, and that many children are growing up in foster care without the feeling of security and stability that only a permanent family can provide. We believe that any change in the tax code should contribute to the strengthening of the American family, and the commitment of the Federal government to this nation's children.

Some of us are members of the Congressional Coalition On Adoption. Some are cosponsors of the Fairness to Adopting Families Act. All of us want to ensure that the tax deduction for adoption expenses receives a thorough review by the Finance Committee. We urge you to take a fresh

look at this issue when the tax reform bill comes before you, and would be happy to provide you with any further background information on our position on this issue. If you have any questions, please call Emily Cooke at 224-2841.

Sincerely yours,

Paul Simon, James A. McClure, Albert Gore, Jr., Gordon J. Humphrey, Sam Nunn, Patrick J. Leahy, Don Nickles, Mack Mattingly, Strom Thurmond, Jesse Helms, Jeremiah Denton, Paula Hawkins, Orrin G. Hatch.●

AID TO THE CONTRAS

● Mr. BAUCUS. Mr. President, next week the Senate will once again be faced with the difficult decision of whether to provide more aid to the Contras in Nicaragua.

This time, President Reagan has asked for $100 million—$70 million in military aid and $30 million in economic, humanitarian aid.

I would like to make my position very clear on this upcoming vote.

I will oppose the President's request for $100 million in aid.

It's true that the Sandinista government is not the ideal government. It's clear that the Sandinistas are dedicated Marxists who are stifling opposition at home, limiting human and political rights and wrecking havoc on the country's economy.

But funding the Contras is the wrong way to bring about change.

Increasing military aid to the Contras will only foment war and more bloodshed in Nicaragua.

In fact, the aid we've provided the Contras over the past 2 years has done little to improve the situation for the people of Nicaragua.

The solution to the Nicaraguan conflict is not more military or economic aid.

The only effective solution is through negotiation. I have always and will continue to support regional negotiations. We should continue to pressure the Government of Nicaragua to negotiate with the rebels and to cooperate with the Contadora process.

Frankly, I do not think the administration has really made a strong effort to pursue a negotiated settlement.

President Reagan's decision to send Philip Habib to the region is a step in the right direction. I only hope that Mr. Habib's message to the President of El Salvador and other Central American leaders is that the United States want to work through the Contadora process.

Mr. President, everyone agrees that something must be done to alleviate the tensions in Nicaragua. But the President's proposal is the wrong solution.●

DECISIVE LEADERSHIP BY JOHNSON & JOHNSON

● Mr. LAUTENBERG. Mr. President, the recent concern raised by contamination of some Tylenol capsules has challenged Johnson & Johnson for the second time in nearly 4 years. For some incomprehensible reason, J&J has been singled out for this bizarre and senseless form of domestic terrorism. The leadership of Johnson & Johnson, in both cases, has been quick to recognize that public confidence in Tylenol and in the company would be best served by decisive action. Each time, James E. Burke, chairman of the board, has provided resolute and speedy leadership, meeting his responsibility to the company and the public.

As a major step in assuring that the public can believe in the safety of over-the-counter medications, Johnson & Johnson has decided to stop producing such products in capsules. It took this step unilaterally. The company is confident that the public will accept Tylenol in caplets as a satisfactory replacement. This bold step is typical of J&J's leadership. It saw what needed to be done to protect and reassure the public, and was willing to accept the lost opportunity. Undoubtedly, J&J will lose some business, but that was not the primary consideration—the trustworthiness of their products was. And the public will respond well because it respects the J&J name and business skills.

As I have learned through my dealing with Mr. Burke and the other executives in the firm, Johnson & Johnson is a company dedicated to serving the public need above all. I have a great deal of confidence that it will come through this difficult episode with flying colors. And I especially want to salute the leadership of Chairman Burke. He is an outstanding example of corporate citizenship, so representative of our State.

I ask to have printed in the RECORD an article about James Burke that appeared in the New York Times.

The article follows:

[From the New York Times, Feb. 19, 1986]

SOLID CORPORATE CITIZEN: JAMES EDWARD BURKE

(By Steven Prokesch)

In the days since Diane Elsroth died after taking cyanide-laced Extra-Strength Tylenol, James E. Burke, chairman of Johnson & Johnson, once again has had to deal with a public crisis. In doing so in a forthright way and with his decision to stop selling Tylenol in capsule form, Mr. Burke is receiving praise from analysts, marketing experts and from consumers themselves.

"I give him high marks for the way he has handled the situation thus far," said Stephen Greyser, a marketing professor at the Harvard Business School.

Although the crisis is far from over, Mr. Burke is coming across both as a solid corporate citizen and an irrepressible corporate marketer, attributes that helped his rise to the top of the 100-year-old health-care company. And while most analysts predicted the demise of Tylenol and trouble for Johnson & Johnson's image after a wave of similar poisonings occurred in the Chicago area in 1982, they are much more optimistic this time.

Many predict that Tylenol will hold on to its leading share of the over-the-counter, pain-reliever market. And some believe that Johnson & Johnson could turn the crisis to its competitive advantage by capitalizing on consumer worries about the safety of capsules to push its Tylenol caplets, a coated, elongated tablet that is supposedly easier to swallow than normal tablets.

Such talk is a tribute to the decisive leadership that Mr. Burke has exhibited during the crisis. He has left little doubt about who is calling the shots at the company.

Rather than delegating the responsibility of corporate spokesman to a division president or public relations officer, Mr. Burke has assumed that task himself.

The 60-year-old executive made his boldest move to date on Monday, when he announced that Johnson & Johnson would no longer sell Tylenol capsules over the counter and would recall all such capsules on the market. The decision will be a costly one: $100 million to $150 million after taxes, the company estimates.

"SETS HIGH STANDARDS"

Associates of Mr. Burke say that his expressed concerns about public safety are sincerely held. "He sets high standards for his company, for his people and for himself," said Robert S. Hatfield, the former chairman of the Continental Group and a Johnson & Johnson's director.

Company insiders say that corporate ethics have almost been an obsession for Mr. Burke. In a speech to an advertising trade group two years ago, Mr. Burke tried to convince his audience that companies with written codes of ethics, such as Johnson & Johnson, outperform other companies in both profitability and stock prices.

In the nine years since Mr. Burke became Johnson & Johnson's chief executive, the company's profits have nearly tripled, to $613.7 million in 1985. And its sales have soared from $2.52 billion to $6.42 billion. Last year, he earned about $900,000 in salary and bonuses, a company spokesman said.

But despite this record and his handling of the Tylenol poisonings, Mr. Burke's tenure as chief executive has not been unblemished. He has come under persistent attack from Wall Street for attempting to move a company that made its mark in pharmaceutical and consumer products into sophisticated medical equipment.

STRICT STANDARDS CITED

The eldest son of an insurance salesman, James Edward Burke was born on Feb. 28, 1925, in Rutland, Vt. "Our father had strict ethical standards, and our mother was very creative," one of Mr. Burke's two sisters, Phyllis Davis, said in a recent magazine interview. Mrs. Davis is the top sales executive at Avon Products and a brother, Daniel Burke, is president of Capital Cities/ABC. Another sister, Sidney Burke Carroll, is a New York lawyer.

After commanding a landing craft tank in the Pacific during World War II, Mr. Burke completed his college education and graduated from Holy Cross College in 1947.

He then attended the Harvard Business School and after working for three years as a brand manager at the Procter & Gamble Company, Mr. Burke joined Johnson & Johnson in 1953. His first job was as a product director in the division now known as Johnson & Johnson Products, the unit that

sells the company's original first aid products to consumers.

Rising through the marketing ranks, Mr. Burke became the unit's president in 1966. In 1971 he landed his first job at the corporate level: vice chairman of the company's executive committee. And in November 1976 he was elected to the top job.

Mr. Burke is married. He has two grown children from a previous marriage.●

DESIGNATING JULY 4, 1986, AS "NATIONAL IMMIGRANTS DAY"

● Mr. D'AMATO. Mr. President, I am very pleased to be one of the first cosponsors of Senate Joint Resolution 290, designating "July 4, 1986 as National Immigrants Day." I commend my colleague and very good friend, Senator DECONCINI, for introducing this resolution.

It is especially fitting that we should designate "July 4 this year as National Immigrants Day." If this resolution is enacted, as it should be, we will pay special tribute to those the Statue of Liberty has welcomed on the very day the restored statue is unveiled.

The Statue of Liberty has been the eloquent symbol of freedom, hope, and opportunity for millions of immigrants for a century. True to that message, the United States continues to accept more legal immigrants and refugees for permanent resettlement than any other nation. Legal permanent admission to the United States reached 510,000 in 1984. There were 60,000 refugee admissions that same year.

I cosponsor this resolution as the grandson of immigrants, and as one who recognizes that, if this country is to continue to welcome immigrants, we must bring immigration under control.

Proclaiming National Immigrants Day will make clear to all that, even as we grapple with the very difficult problem of illegal immigration, and assert our sovereign right to control our borders, we are proud to remain a nation of opportunity and refuge. I urge my colleagues to cosponsor and support Senate Joint Resolution 290.

Thank you, Mr. President.●

NAMING OF ALAN R. KEMPER A NATIONAL OUTSTANDING YOUNG FARMER FOR 1986

● Mr. QUAYLE. Mr. President, I am very pleased and proud to announce to the Senate that on February 15 the U.S. Jaycees named Alan R. Kemper one of four outstanding young farmers for 1986. I want to take this opportunity to praise Alan for his many contributions to Indiana agriculture and this country, and congratulate him on this latest recognition of his outstanding leadership in agriculture.

I am especially pleased to bring this matter to the attention of my colleagues because Alan serves on my agricultural team, along with Harry Armstrong of Springville, IN, as one of two successful Indiana farmers who represent me on matters of concern to agriculture.

Alan, 33, and his wife, Janet, make their home in Lafayette, IN, where, with Alan's father, Floyd, they own and operate a 1,544-acre farming operation. They have two children, Crystal and Brian.

Alan Kemper represents the future of U.S. agriculture. He is a progressive farmer who utilizes state-of-the-art technologies on his fully computerized farming operation, while finding time to raise his family, contribute to his community and country, serve as a leader in several organizations, and travel the State of Indiana to represent my views.

Alan currently serves as president of the Indiana Corn Growers, representing the interests of the growers of our State's major agricultural commodity. Before being named president, Alan also served as the association's vice president and secretary. Alan is active in the National Corn Growers Association as well, where he currently serves as a national director and vice president for field services.

The breadth of Alan's experience and participation in agriculture are simply remarkable. In addition to the Corn Growers, Alan is a leader in the Indiana Farm Bureau, where he has served on his county board of directors, with his wife, Janet, on the State young farmer committee, the State farm bureau energy committee, and developed the Tippecanoe County Young Farmers and served as its president. For his many activities and contributions to the farm bureau, Alan and his wife were twice named in the top five couples for the State Outstanding Young Farmer Awards and won the District 3 Outstanding Young Farmer Couple in 1980.

Alan's work for agriculture has not been confined to the continental United States. In order to more fully understand the international factors affecting agriculture, Alan has traveled abroad on several occasions. Some of his travels include trips to China, Russia, and Finland as a part of the Dwight D. Eisenhower Goodwill People to People International Tour. In 1985, Alan traveled to Mexico with the first class of the Indiana Agriculture Leadership Program, sponsored by the Indiana Institute of Agriculture, Food, and Nutrition.

With all of the many activities taking Alan away from home, one might assume that his ability to remain involved in his local community would be diminished. But that is certainly not the case. Alan remains an active member of the Stockwell United Methodist Church where he has served on various committees and boards, and did mission work in Texas and Missouri.

Alan's local involvements include his work as a 4-H leader, past member of the Tippecanoe County Fair Board, current president of the Tippecanoe County Grain Producers, and a member of the American Legion.

Mr. President, I could go on indefinitely. Alan Kemper and his lovely family are model citizens and a credit to their community, to Indiana agriculture and to this country.

I am very pleased to congratulate Alan on being named one of four outstanding young farmers for 1986 and want to take this opportunity to personally thank him for his service to me and to all of us. Our farmers face tremendous difficulties today, and will continue to face challenges in the future. But with men like Alan Kemper at its helm, I am confident that agriculture will meet those challenges and succeed.

Mr. President, I ask that a copy of the news release made available by the U.S. Jaycees be printed in the RECORD.

The material follows:

INDIANA FARMER HONORED BY THE UNITED STATES JAYCEES

JACKSON, MS.—Alan Ray Kemper, 33, of Lafayette, Indiana, has been chosen as one the four National Outstanding Young Farmers for 1986.

His selection was announced Saturday night (2/15/86) at The United States Jaycees 30th National Outstanding Young Farmer Award Congress (NOYF) in Jackson, Mississippi. The program is sponsored by Deere and Company, maker of John Deere equipment and implements.

Kemper and his father are partners in a 1,544-acre farming operation near Lafayette, Indiana. Since joining his father in 1971, Kemper has increased his contribution to the operation as his father became semi-retired.

Prior to 1971, Kemper's grain bin system had a capacity of 16,000 bushels with all drying done "in bin". The system has been expanded to 67,000 bushels with "in bin" and batch drying.

One of the innovations Kemper introduced to his farm was a two-auger grain pit with individual auger controls which he built himself. This enables the grain to be moved straight to the leg, or through a grain cleaner.

In recent years, Kemper remodeled his farm office and added a computer. He has written several farm management programs for his computers. Kemper also designed and installed a communication package for his farm. Recently he designed a 12-row, 17-inch planter for soybeans that is now being built. His farm records show agronomy data, such as individual field fertility, herbicides and yields. This information allows him to plan future planting schedules and to make accurate cash flow projections. Additionally, personnel records help him match people with jobs.

He worked through farm organizations to promote his productions and to speak with bankers and businessmen about agriculture in America. He has traveled to China and the Soviet Union representing Indiana agriculture.

Kemper's farmstead is a well-planned and structured site that has been visited by na-

tional farm groups and several international trade delegations.

He and his wife, Janet, have two children, Crystal and Brian.

The National Outstanding Young Farmer Awards Congress is the culmination of a year-long search for the nation's top young farmers. Nominees at the local, state and national level are judged on the basis of their progress in agriculture, the extent of their soil and water conservation practices and their contributions to the well-being of their community, state and nation.

The U.S. Jaycees adopted the NOYF program in 1954. Since that time, hundreds of farmers have been honored across America.

Deere and Company, of Moline, Illinois, has been the sponsor of the NOYF program for the past ten years.●

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-83, appoints Levi Goldberger, of New York, and Julius Berman, of New York, to the Commission for the Preservation of America's Heritage Abroad.

The Chair, on behalf of the President pro tempore and upon the recommendation of the minority leader, pursuant to Public Law 93-29, as amended by Public Law 98-459, appoints Jon B. Hunter, of West Virginia, to the Federal Council on the Aging.

Mr. BYRD. Mr. President, I thank the Chair, and I thank the distinguished President pro tempore.

Mr. STAFFORD. Mr. President, if no one wishes to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Sidney A. Fitzwater to be United States District Judge.

Mr. BYRD. Mr. President, reserving the right to object, I have no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The legislative clerk read the nomination of Sidney A. Fitzwater, of Texas, to be U.S. District Judge for the Northern District of Texas.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the question of advising and consenting to the nomination of Sidney A. Fitzwater, of Texas, to be United States District Judge for the Northern District of Texas.

Bob Dole, Strom Thurmond, Phil Gramm, Daniel J. Evans, Thad Cochran, Paul Simon, Bill Armstrong, Orrin G. Hatch, Mitch McConnell, James A. McClure, John Heinz, Dan Quayle, Slade Gorton, Chuck Grassley, Pete Domenici, and Ted Stevens.

Mr. DOLE. Mr. President, I ask unanimous consent, notwithstanding the provisions of rule XXII, that the cloture vote occur at 3 p.m. on Tuesday, March 18, 1986, and that the mandatory quorum call under rule XXII be waived.

Mr. BYRD. Mr. President, reserving the right to object, do I have an understanding with the distinguished majority leader that there will be 1 hour of debate between the hour of 2 and 3 p.m.?

Mr. DOLE. Yes. In fact, I can add that to the unanimous-consent request that when the Senate reconvenes at 2 p.m., I ask the Senate to go into executive session to debate the Fitzwater nomination for 1 hour to be equally divided between the distinguished Senator from Massachusetts, Senator KENNEDY, and the distinguished Senator from South Carolina, Senator THURMOND.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

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

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection to returning to legislative session? Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, March 17, 1986, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and morning business be deemed to have expired.

Mr. President, let me withdraw the unanimous-consent request.

ORDERS FOR TUESDAY, MARCH 18, 1986

RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent, that immediately following convening on Monday, the Senate automatically stand in recess until 10 a.m. on Tuesday, March 18. No business will be transacted during Monday's session of the Senate.

RECOGNITION OF CERTAIN SENATORS

I further ask unanimous consent that, following the two leaders under the standing order on Tuesday, the following Senators be recognized for special orders not to exceed 5 minutes each: Senators NICKLES, PROXMIRE, KENNEDY, and CRANSTON.

ROUTINE MORNING BUSINESS

I also ask unanimous consent that, following the special orders, there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. DOLE. Mr. President, I further ask unanimous consent that when the Senate convenes on Tuesday, March 18, 1986, the reading of the Journal be dispensed with, no resolutions come over under the rule, and the call of the calendar be dispensed with; and, provided further, that the morning hour be deemed to have expired.

Mr. BYRD. Mr. President, I have no objection to that, but did the distinguished majority leader ask that when the Senate completes its business today that it will recess over to Monday and that immediately following the pro forma session on Monday we will adjourn to Tuesday?

Mr. DOLE. Recess until 12 noon on Monday.

Mr. BYRD. On Monday and adjourn over until Tuesday?

Mr. DOLE. That is correct.

Mr. BYRD. I have no objection.

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

ORDER FOR RECESS BETWEEN 12 NOON AND 2 P.M. ON TUESDAY, MARCH 18, 1986

Mr. DOLE. I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m. on Tuesday in order for the weekly party caucuses to meet.

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

PROGRAM

Mr. DOLE. Mr. President, following morning business, the Senate could be asked to turn to the CCC supplemental appropriations bill. I might say we would like to get that early Tuesday so we can get it over to the House so we do not further inconvenience farmers

who need to go to the ASCS office and sign up for various programs.

By a previous unanimous consent, at 3 p.m. a cloture vote will occur on the nomination of Sidney A. Fitzwater to be U.S. district judge. If cloture is invoked, the Senate will remain on the nomination until disposed of.

I also hope on Tuesday we can return to the water resources bill. I am not certain just what state we may be in. According to the managers on each side, they have made considerable progress. I thank my colleagues for being here with their amendments, and I thank the managers for the progress made.

So we would have the possibility of, in addition to the cloture vote, dealing with the commodity credit supplemental appropriation bill, the water resources bill, and then for the remainder of the week it would appear at this point that sometime next week we must deal with the Contra aid.

I have been advised by the chairman of the Budget Committee that he is still hopeful that he may have a budget resolution on the floor sometime late next week. We probably would be on that until we recess for the Easter recess on Thursday, March 27.

Mr. BYRD. Mr. President, in view of the fact that the order has been entered to adjourn from Monday over to Tuesday, what will be the unfinished business at that time? Will it be Senate Joint Resolution 225 or will it be the water resources bill?

Mr. DOLE. The water resources bill, S. 1567, will be the unfinished business.

Mr. BYRD. That will displace Senate Joint Resolution 225 out of the unfinished business?

Mr. DOLE. That is correct.

Mr. BYRD. I thank the Chair.

RECESS UNTIL MONDAY, MARCH 17, 1986

Mr. DOLE. Mr. President, I now move the Senate stand in recess until 12 noon, Monday, March 17, 1986, for a pro forma session only.

The motion was agreed to; and, at 5:27 p.m., the Senate recessed until Monday, March 17, 1986, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 14, 1986:

Department of Labor

George R. Salem, of Virginia, to be solicitor for the Department of Labor, vice Francis X. Lilly, resigned.

In the Army

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, 533:

Judge Advocate General's Corps

To be major

Melvin Abercrombie, xxx-xx-xxxx
Murray B. Baxter, xxx-xx-xxxx
Byron J. Braun, xxx-xx-xxxx
Robert J. Dautrich, Jr., xxx-xx-xxxx
Dominick J. DeLorio, xxx-xx-xxxx
Harry L. Dorsey, xxx-xx-xxxx
Connie S. Faulkner, xxx-xx-xxxx
Eric T. Franzen, xxx-xx-xxxx
Carl D. Goins, Jr., xxx-xx-xxxx
Stephen K. Hill, xxx-xx-xxxx
Russell D. Johnson, xxx-xx-xxxx
John A. Krump, xxx-xx-xxxx
Karen A. MacIntyre, xxx-xx-xxxx
James M. Miller, xxx-xx-xxxx
Richard A. Miller, xxx-xx-xxxx
Arthur L. Passar, xxx-xx-xxxx
Steven M. Post, xxx-xx-xxxx
Stuart H. Simms, xxx-xx-xxxx
Robert L. Swann, xxx-xx-xxxx

To be captain

Peter J. Comodeca, xxx-xx-xxxx
Lawrence M. Cuculic, xxx-xx-xxxx
Benjamin P. Dean, xxx-xx-xxxx
William L. Deneke, xxx-xx-xxxx
Thomas F. Douglas, xxx-xx-xxxx
Thomas A. Duncan, xxx-xx-xxxx
James P. Gerstenlauer, xxx-xx-xxxx
James J. Gildea, xxx-xx-xxxx
David L. Hayden, xxx-xx-xxxx
Lawrence D. Kerr, xxx-xx-xxxx
Paul F. Koch, xxx-xx-xxxx
Charles R. Marvin, Jr., xxx-xx-xxxx
Kurt S. Meckstroth, xxx-xx-xxxx
Kenneth F. Miller, xxx-xx-xxxx
Marjorie R. Mitchell, xxx-xx-xxxx
John B. McDaniel, xxx-xx-xxxx
Allan R. Pearson, xxx-xx-xxxx
Daniel A. Perkowski, xxx-xx-xxxx
James P. Pottorff, Jr., xxx-xx-xxxx
Karl R. Rabago, xxx-xx-xxxx
Keith L. Sellen, xxx-xx-xxxx
Michael R. Snipes, xxx-xx-xxxx
Margaret O. Steinbeck, xxx-xx-xxxx
Jeffrey A. Stonerock, xxx-xx-xxxx
Douglas B. Tesdahl, xxx-xx-xxxx

In the Marine Corps

The following-named Naval Reserve Officers Training Corps Graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, sections 531 and 2107:

Michael T. Barry, xxx-...
Todd C. Hyson, xxx-...
Luke Marsden, xxx-...
Mitchell G. Minnaert, xxx-...
Paul C. Schreck, Jr., xxx-...

CONFIRMATIONS

Executive nominations confirmed by the Senate March 14, 1986:

Federal Trade Commission

Andrew John Strenio, Jr., of Maryland, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1982.

Interstate Commerce Commission

Paul H. Lamboley, of Nevada, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1989.

J.J. Simmons III, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1990.

Department of Transportation

Janet Hale, of Massachusetts, to be an Assistant Secretary of Transportation.

Department of Commerce

Alfred C. Sikes, of Missouri, to be Assistant Secretary of Commerce for Communications and Information.

In the Coast Guard

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Edward Nelson, Jr.
Clyde E. Robbins
Theodore J. Wojnar
Arnold M. Danielsen
Howard B. Thorsen

National Institute of Building Sciences

Philip D. Winn, of Colorado, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1986.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The Judiciary

Raymond J. Dearie, of New York, to be U.S. district judge for the Eastern District of New York.

Con. G. Cholakis, of New York, to be U.S. district judge for the Northern District of New York.

In the Coast Guard

Coast Guard nominations beginning Mark A. Revett, and ending Douglas W. Elston, which nominations were received by the Senate and appeared in the Congressional Record on February 18, 1986.

Coast Guard nominations beginning Robert G. Cozzolino, and ending Kenneth J. Reynolds, which nominations were received by the Senate and appeared in the Congressional Record on February 18, 1986.