

(B) the purchaser of the term grazing permit holder's permitted livestock or base property is eligible and qualified to hold a term grazing permit.

(b) TERMS AND CONDITIONS.—Except as provided in subsection (c)—

(1) a new term grazing permit under subsection (a)(1) shall contain the same terms and conditions as the expired term grazing permit; and

(2) a new term grazing permit under subsection (a)(2) shall contain the same terms and conditions as the waived permit.

(c) DURATION.—

(1) IN GENERAL.—A new term grazing permit under subsection (a) shall expire on the earlier of—

(A) the date that is 3 years after the date on which it is issued; or

(B) the date on which final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

(2) FINAL ACTION IN LESS THAN 3 YEARS.—If final agency action is taken with respect to the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws before the date that is 3 years after the date on which a new term grazing permit is issued under subsection (a), the Secretary shall—

(A) cancel the new term grazing permit; and

(B) if appropriate, issue a term grazing permit for a term not to exceed 10 years under terms and conditions as are necessary for the proper administration of National Forest System rangeland resources.

(d) DATE OF ISSUANCE.—

(1) EXPIRATION ON OR BEFORE DATE OF ENACTMENT.—In the case of an expiring term grazing permit that has expired on or before the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) not later than 15 days after the date of enactment of this Act.

(2) EXPIRATION AFTER DATE OF ENACTMENT.—In the case of an expiring term grazing permit that expires after the date of enactment of this Act, the Secretary shall issue a new term grazing permit under subsection (a)(1) on expiration of the expiring term grazing permit.

(3) WAIVED PERMITS.—In the case of a term grazing permit waived to the Secretary pursuant to section 222.3(c)(1)(iv) of title 36, Code of Federal Regulations, between January 1, 1995, and December 31, 1996, the Secretary shall issue a new term grazing permit under subsection (a)(2) not later than 60 days after the date on which the holder waives a term grazing permit to the Secretary.

SEC. 04. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.

The issuance of a new term grazing permit under section 03(a) shall not be subject to administrative appeal or judicial review.

SEC. 05. REPEAL.

This Act is repealed effective as of January 1, 2001.

Mr. GLENN. Madam President, we have been through the details of this. I think it is justified. We would be glad to accept it on this side.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. NICKLES. Madam President, we have no objection to the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from South Dakota.

The amendment (No. 414) was agreed to.

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

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

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY THE KING OF THE HASHEMITE KINGDOM OF JORDAN, KING HUSSEIN I, AND QUEEN NOOR

Mr. HELMS. Madam President, we have in the Chamber two distinguished guests, one a native of the United States, the Honorable King of Jordan, King Hussein, and his bride, Queen Noor.

RECESS

Mr. HELMS. Madam President, I ask unanimous consent that we stand in recess so that Senators may greet our guests after which time we resume.

There being no objection, the Senate, at 4:36 p.m. recessed subject to the call of the Chair; whereupon, at 4:43 p.m. the Senate reassembled when called to order by the Presiding Officer (Ms. SNOWE).

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

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

REGULATORY TRANSITION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 415 TO AMENDMENT NO. 410

(Purpose: To ensure that a migratory birds hunting season will not be canceled or interrupted, and that commercial, recreational, or subsistence activities related to hunting, fishing, or camping will not be canceled or interrupted)

Mr. PRYOR. Mr. President, at this time, I rise to offer an amendment with my friend, Senator STEVENS of Alaska, and also Senator PRESSLER, Senator WELLSTONE, and Senator COCHRAN. This amendment would ensure that the 45-day suspension of a significant rule does not include the regulations opening duck hunting season. The amendment I am offering at this time was adopted by the Governmental Affairs Committee when it considered S. 219, but it was not included in the Nickles-Reid substitute.

The substitute would suspend for 45 days any significant rule to give Congress time to review the regulation. The annual rule regulating duck hunting, which has a direct effect on the economy of \$686 million annually, would be considered a significant rule. The effect of this 45-day suspension on the duck hunting season would be most severe. The Fish and Wildlife Service is

required by law to issue regulations each year to open and close the duck hunting season. Each year, in late July, after the young birds are large enough to be counted, the Fish and Wildlife Service then gathers information about the various duck populations. They then have roughly 2 months to draft and finalize the duck hunting regulations, which are typically issued 2 or 3 days before the hunting season begins.

Because these regulations are significant regulations, they would be suspended for 45 days, which would cut a month and a half from the duck hunting season. I do not believe this effect on duck hunting is necessary or useful. It is counterproductive, and it may be a classic case of unintended consequences.

Our amendment today simply says that for the purposes of the Nickles-Reid substitute, duck hunting regulations would not be considered significant and, therefore, would not be suspended for 45 days. The duck hunting rule, like all other rules under the Nickles-Reid substitute, would still be reported to Congress.

Mr. President, I do not think that in the name of regulatory reform, we should eliminate 45 days of the duck hunting season. I believe our amendment is simple and it is straightforward. I thank my colleagues for cosponsoring this amendment with me.

I sincerely appreciate the help and the strong support of my good friend and colleague from Alaska, Senator STEVENS, who has worked with us very carefully to develop this amendment as it is.

Mr. President, I have not actually sent my amendment to the desk. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. STEVENS, Mr. PRESSLER, Mr. WELLSTONE, and Mr. COCHRAN, proposes an amendment numbered 415 to amendment No. 410.

Mr. PRYOR. 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 13, beginning on line 12, strike all through line 8 on page 14 and insert in lieu thereof the following:

“(2) SIGNIFICANT RULE.—The term “significant rule”—

(A) means any final rule, issued after November 9, 1994, that the Administrator of the Office of Information and Regulatory Affairs within the office of Management and Budget finds—

(i) has an annual effect on the economy of \$100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

(B) does not include any agency action that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping."

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am very pleased to join Senator PRYOR. We are delighted Senator PRESSLER and several others on the committee have joined now.

The amendment, I think, addresses concerns many others have had concerning the potential impact this amendment would have on hunting, camping, or fishing activities. In Alaska, those activities are of major importance to our daily life.

The amendment will make it clear now that regulatory actions to open, close, or manage commercial, recreational, and subsistence hunting, fishing, and camping activities will not be included under the definition of "significant rule."

As an example, let me point out to the Senate that over 54 percent of all the fish that are caught commercially in waters off the United States are caught off my State of Alaska. These fisheries are some of the world's largest and they certainly are the healthiest in all the world because of our proper fisheries management concepts.

In some cases, the delay of even 24 hours in closing a fishery could have tremendously detrimental impacts on the health of the fish resource. Yet the action to close the fishery could be found to have an adverse effect on a sector of the economy, namely the fishing vessels that might have to stop fishing.

We cannot afford to risk the long-term health of our fisheries if someone could successfully argue that closing of a fishery or restriction on the use of certain gear in an area is a significant rule that must be delayed for 45 days under this bill.

This is not hypothetical. There are people that will do just that. Just last month, the Secretary of Commerce, based on a recommendation from our North Pacific Regional Fishery Management Council, issued an emergency order to shut down scallop fishing in Federal waters off Alaska.

That is a major fishery, but it had to be done. The emergency order was necessary because one boat, just one boat—it was called Mr. Big, incidentally—found a loophole in the law that allowed it to take more scallops than the State of Alaska had allowed all boats of the fleet to take for the whole season.

I do hope Members here will join in supporting this amendment unani-

mously. It is essential to duck hunters. I hope we are all duck hunters—up our way, we are all duck hunters. And I do hope people understand it means a great deal to some of the people who rely on subsistence hunting and fishing in my State.

It is an essential amendment. It is one I tried to offer in committee, and some people did not understand it. I am happy to see that now they do.

Thank you, Mr. President.

Mr. GLENN. Mr. President, I want to clarify a couple of things. We have been through this. I think it is satisfactory.

I want to be sure the definition that was made in the committee on the previous amendment was something that could not be expanded into things never intended as far as the hunting and routine rules and regulations and others that are done on an annual basis. I think this just changes the definition of what is considered a significant rule. In effect, what it does by changing the designation a little bit, as I understand it, is permit all the previous rules, regulations, and procedures to continue as they have in the past so they will not be cut out.

Is that correct?

Mr. STEVENS. Mr. President, if the Senator will yield, it really, from my perspective, looks at the management tools of the State, and Federal fish and game management agencies in particular—there are others involved also—and says that they can continue their management practices that are designed to protect the resource base. Some open, some close, some limit, some alter, some add, and some subtract. But they are done on a basis of public knowledge. But the public knowledge is of the regulations that give them the opportunity to step in and issue an emergency regulation to take care of a situation or to change a pattern of, say, hunting in order to protect the species. I think that is in the public interest. That is what we intended all along. This is excepted from the 45 days.

The Senator referred to the prior bill—not Senator PRYOR's bill but the former bill. I think the Senator may be referring to an amendment that I offered because of the form of that bill to deal with specific circumstances in Alaska. I do not have to offer that amendment because this is a 45-day general moratorium now, and those amendments that I talked about in committee are in fact covered under this type of general regulation now in terms of the significant-rule concept.

Mr. GLENN. As I understood it from the explanation given earlier this afternoon, I understood that this does not provide any new exemptions for additional hunting or additional opening up of tracts or anything that is not there right now.

Mr. STEVENS. It could. I just gave an example of one. Just this last month the Secretary of Commerce issued a regulation closing the scallop

fishery because an emergency developed. That is the kind of thing that cannot wait 45 days. That is a type of action that has been taken care of in the process of protecting our migratory waterfowl. Ducks Unlimited comes in with a study and says, "Look, you should change this anyway. You should open that flyway. You should change that season." They will come in for some emergency modifications during the period for hunting season. This says that the Fish and Wildlife Service are to know to go ahead. That is what you are supposed to do; no delay on those items of the kind we have mentioned. Subsection B and subsection A carry some specific concepts about what has to be affected.

Mr. GLENN. I certainly have no objection to that because that provides regulations in the same way it has been done for a long time. It does not really provide any new escape hatch for anybody, as I understand it. So I think that would be acceptable on our side.

Mr. CHAFEE. Mr. President, on this floor and in the Senate as a whole, there have been a lot of attacks on environmental regulations. That seems to be the way to go these days. But I think the Senator from Alaska gave a very powerful talk on illustrating why these regulations are necessary. Indeed, he felt so strongly that he did not want—I agree with him—these regulations that apply to fishing, hunting, and camping to be held up for 45 days. In his powerful statement, the Senator from Alaska illustrated that in some cases these regulations have to go into effect immediately.

So I hope that rebuts some of the feeling around this floor that all environmental regulations are useless and that we ought to attack them, which is, unfortunately, too often said around here. I am not saying necessarily right here on the floor. I am talking about in the committees, in the conversations. Thank goodness we have some of these environmental regulations.

So, Mr. President, I commend the Senator from Alaska. Somebody can contradict me, but there are certain regulations under this bill we are dealing with that are held up for 45 days. Under this category they fall under "significant regulations." But what the Senator from Alaska has done is he has said that significant regulations or delay for 45 days does not apply to this category of regulation that he has defined; namely, those that establish, modify, open, close, or conduct regulatory programs for commercial, recreational, or subsistence activities relating to hunting, fishing, or camping.

So I think it makes sense. I congratulate the Senator from Alaska and hope he will be a strong fighter for environmental regulations here on the floor in the future.

Mr. STEVENS. Mr. President, I seldom get personal on the floor, but I recall standing behind my friend 45 years

ago when we entered law school. And we signed into the same law school, but I do not think we have agreed in the 45 years since. I am delighted we have once, despite our prior disagreements. It is nice to have one time for agreement. There are some environmental regulations that are useless. We should burn the paper they are on. But this is not one of them.

Mr. GLENN. Mr. President, I am happy to accept the amendment.

The PRESIDING OFFICER (Mr. COCHRAN). Is there further debate?

Mr. NICKLES. Mr. President, we have reviewed this amendment. I compliment my friends and colleagues, Senator PRYOR from Arkansas and Senator STEVENS, and I compliment Senator STEVENS for his leadership. I think it is a good amendment. It further clarifies that what we are doing in this bill in no way would have any harmful impact whatsoever on hunting and fishing and delay those activities in any way whatsoever.

I urge its adoption.

Mr. STEVENS. Mr. President, if the Senator will yield for just one moment, I failed to thank my good friend John Roots on our behalf, who has worked so hard on this staff and Senator PRYOR's staff. I thank him very much.

Mr. PRYOR. Mr. President, if I may, I do not want to spoil the opportunity to pass this amendment because I think it is going to be accepted by everyone. So I will sit down. I could not help but catch it when my good friend and colleague from Alaska was talking about his good friend and our colleague from Rhode Island when he referred to their "prior disagreements." I am very hopeful that they will just use "former disagreements." I think that would be a little more helpful here. [Laughter.]

Mr. President, I thank the managers. I thank them for the support for this amendment. I hope it will be adopted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (No. 415) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 413, AS MODIFIED

Mr. NICKLES. Mr. President, I send to the desk technical amendments. This changes a couple of letters and numerals. They are technical corrections to amendment No. 413 that were made earlier.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment (No. 413), as modified, is as follows:

On page 2, strike lines 6 through 20, and insert in lieu thereof and renumber accordingly:

"(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule; and

(iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request:

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of P.L. 96-354;

(iii) the agency's actions relevant to Title II, section 202, section 203, section 204, and section 205 of P.L. 104-4; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 4(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subsection B(i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subsection (2)(A) of this section."

On page 14, at the beginning of line 5, insert "section 3(a)(1)-(2) and ", and on line 5 strike "3(a)(2)" and insert in lieu thereof "3(a)(3)".

Mr. NICKLES. 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. GLENN. 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. GLENN. Mr. President, the Governmental Affairs Committee's unanimous bipartisan regulatory reform bill has a legislative veto of major rules in it. Major rules. I believe this is a good proposal, because there are anywhere from between 700 to 900, some estimates have gone as high as 1,000, "major" or "significant" rules issued each year. And that word "significant" means something special, because these are the rules that have an annual impact on the economy of \$100 million per year or more, or otherwise have a significant impact on the economy or a region of the country, or other important effect.

These 700 to 900 major rules or regulations are the big rules out of the approximately 4,000 rules that are issued every year—4,000. One estimate today when we were discussing another bill was that these rules in some years run as high as 4,800 to 5,000.

Let us say an average of 4,000 rules are issued each year by Federal agencies. A legislative veto, where we call rules back up or have the potential for calling them back up for review, for all 4,000 rules, I think, is just too much. What kind of regulatory overload are we putting on the Congress? Will we be so overloaded in these rules that we will not be able to adequately consider ones that we should consider?

It is the major rules that we care about, the ones that are significant. These are the big rules that implement the primary policies and requirements of our laws on public health and safety, on environmental protection, economic policy, communications, farm policy, and all the rest.

We have a hard enough time getting our work done the way things are. I do not think we should create an almost automatic process to bring up every rule under the Sun.

Let me give some examples. Just from yesterday's Federal Register, I see rules on drawbridge closings, rules on safety zones in New Jersey's Metedeconk River, Federal prison work compensation program rules, Justice Department claims settlement rules, FAA—the Federal Aviation Administration—class D airspace rules.

And I would say from some personal experience, FAA just a short time ago redid all the airspace designations, A, B, C, D, and F, right on down the line, to show what areas planes can fly into and out of without radios, being on instrument control, visual flight rules, and so on. These kind of rules are still being flushed out and changed a bit. So one of the things in the Federal Register is for class D airspace rules.

There is the postsecondary education "borrower defenses" regulations.

Let us not forget that the reason we have agencies and an open "notice and comment" administrative process is so that Government can get its work done in a fair and orderly and semiefficient process. At least, that is the goal.

We need regulatory reform. And I am first to support regulatory reform. We worked on it for several years in the Governmental Affairs Committee. So we know we need regulatory reform, and I am all for it. I have been saying that for some time. But we do not need to create more gridlock by trying to run, or have the potential of running, 4,000 rules through Congress each year. That is a bottleneck that we just do not need.

We are trying to make Government work better, not grind to a complete halt.

So I think we need to keep the legislative veto focused on the big rules that really matter, that really mean something, ones that we should be addressing.

The amendment I was going to submit limits the legislative veto to significant rules—just significant rules,

not all the smaller rules, the significant ones—that fit the definition that I gave a moment ago. Again, this matches the scope of the provision we passed in the Governmental Affairs Committee by a vote of 15 to 0—eight Republicans and seven Democrats.

The amendment that I was planning to submit would make the following changes to the Nickles-Reid substitute:

One, the amendment would insert the word "significant" into the substitute at three places—in sections 3(a)(1)(A), 3(b), and 3(d)(1). With this change, the congressional hold-over and process covers "significant rules" instead of all "rules."

No. 2, the amendment would have stricken one subsection, section 3(a)(3). This would have deleted the paragraph relating to effective date for other rules which refers to the submission of nonsignificant rules to Congress for review.

Again, the single purpose of this amendment would have been making the legislative veto process apply to significant rules. This is what the Governmental Affairs Committee supports unanimously, and I think it makes good sense.

The alternative, congressional review of potentially all 4,000 rules issued each year, makes little sense to me at all.

Mr. President, I will not submit this amendment. I did want to address it, but I will not submit it because I know from discussions with the floor leaders that we are not going to get this adopted. The votes are there to defeat this.

So I would rather not have a vote on it now. I think the best thing to do is not submit it, but talk a little bit about it and let people know how important I think it is and, hopefully, out of the conference process with the House, we might be able to address this problem.

But let me just say a couple more things. Four thousand rules could be sent to Congress and parceled out to appropriate committees—just think of that—4,000 rules. That would be the potential. I am not saying all 4,000 rules are going to be called up every time. But let me say this: For each rule, you sure are going to have some lobbyists out there interested in that rule. We are going to have lobbyists coming out of the woodwork to lobby one or more Members to move a resolution of disapproval through the appropriate committee. That can be done through committee. So these lobbyists would be trying to get Members to move that resolution of disapproval.

If the committee does not act within 20 days, the lobbyists will work to get 30 Members to sign a petition of discharge or will pressure the majority and minority leaders to discharge the committee.

So the lobbyists and special interests will have special ways of doing this, first with committee members. If that does not work, then they will try for the majority or minority leaders, or within 20 days they can do the 30-Mem-

bers approach of signing a petition to have that particular rule brought up for reconsideration.

If the committee reports out a resolution of disapproval or the committee is discharged, the disapproval of the rule will be the subject of lobbying by those parties affected. All this could happen; the potential is there for it to happen up to 4,000 times a year.

If we think the demands for lobby reform have been great before, you just wait until the public sees the lobbying feeding frenzy, like piranhas, looking at this legislation, and the potential for redoing legislation that they may have just lost a point on in the recent past when the original legislation was passed.

So that kind of a lobbying feeding frenzy could take place after we provide expedited procedures for congressional review of all these rules.

That might just be for starters. Consider what will happen if we pass a controversial bill that produces significant political argument. All these things are not bound up just in money. Significant rules can have a basis other than money.

Think of this one: We pass a controversial bill that produces significant political argument—let us take a hot button item like abortion. We know what happens every time that issue comes up in the Congress. When we have to debate abortion legislation, every regulation, every rule, no matter how minor, will have a whole string of Senators and lobbyists and outside groups who will want to bring that regulation back to the floor, not necessarily because they think the regulation does not reflect congressional intent—it may be perfect and may have passed with a majority and have expressed congressional intent perfectly. Because what they want under our expedited procedures is to spend 10 hours in political and ideological argument, regardless of the original bill that might have just passed. So we are opening all of that up.

I had hoped to close some of that up by designating just the significant rules for reconsideration.

When we open up this additional time under our expedited procedures to spend extra hours, the 10 hours in political or ideological argument, about something that just passed—and I used the example of abortion because we all know how impassioned the pleas get around here and how emotional that issue is, think of what happens if we pass something in that regard and we are out here with the agencies doing rules and regulations to back up what the Congress just passed. Then we find that once the rules and regulations are written, do we think that the lobbying groups will not immediately come back up and do everything they possibly can do to get that back on the floor again for additional discussion? You can bet they will.

Is that what we want? Do we want to provide a forum for continually revis-

iting issues that have been settled by a vote because a vocal and determined minority will now have the review of regulation by Congress as a convenient trigger for such debate?

Well, I know when to put amendments in, I hope, and I know when the amendments are not worthy to be put in because they are just going to be voted down. I think the second is the situation I find myself in right now.

I think this would be better legislation if we had in there the amendment I was going to propose. But since we will not have it in there, I just want everyone to know that I will be voting for the legislative veto, but with my fingers crossed that we do not wind up creating a real gridlock in legislative reconsideration of legislation just passed for which the rules and regulations are being written.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 412, AS MODIFIED, TO
AMENDMENT NO. 410

Mr. LEVIN. Mr. President, I send to the desk a copy of amendment No. 412, which has already been adopted, and I ask unanimous consent that the amendment be modified as indicated on this document that I am sending to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, I have been working with my friend and colleague, Senator LEVIN, as well as Senator BYRD from West Virginia. We have no objection to this amendment.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, with its modification, is as follows:

On page 9, line 2, strike everything after "discharged" through the period on line 6 and insert the following: "from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate, and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved."

Mr. LEVIN. Mr. President, I thank the Chair and I thank the Senator from Oklahoma, and I particularly thank Senator BYRD for pointing out to us the problem which could have been raised unintentionally by that amendment.

AMENDMENT NO. 416 TO AMENDMENT NO. 410

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 416 to amendment No. 410.

Mr. LEVIN. 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:

On page 14, strike lines 3 through 7, and insert in lieu thereof:

“SEC. 7. JUDICIAL REVIEW.

No determination, finding, action, or omission under this Act shall be subject to judicial review.”

Mr. LEVIN. Mr. President, this amendment addresses the issue of judicial review. It has been agreed to by the managers of the bill, and I thank them for their cooperation and support.

I want to thank the Senator from Ohio also for the tremendous work that he has put in on this amendment and also on the entire bill. I will have something more to say about his comments relative to which rules should be subject to legislative review, because I happen to agree with his comments a few moments ago.

The purpose of this amendment, which I understand has been agreed to by the managers of the bill, is to be more precise on the question of judicial review. The substitute that is before us in two sections specifies that they are not subject to judicial review, and the problem is that there could be an ambiguity raised unintentionally about the reviewability then of other sections which do not have that language.

So the concern that some of us have is the implication relative to other sections of the bill by the specific language in two sections of the bill.

My amendment states that no determination, finding, action or omission under this act shall be subject to judicial review, which clarifies the judicial nonreviewability of this act. I understand that this has been cleared by the managers.

The PRESIDING OFFICER (Mr. GRAMS). Is there further debate on the amendment of the Senator from Michigan?

Mr. NICKLES. Mr. President, I thank my friend and colleague from Michigan. We have no objection to this amendment. This amendment precludes judicial review of determina-

tions, findings, actions, or omissions with respect to this act. However, judicial review of regulations not disapproved by Congress is not affected by this act. Of course, it is expected that the courts will give affect to any disapproval of the regulation.

Moreover, instructions to the courts contained in the act, such as section 3(g) regarding inferences not to be drawn from this inaction are neither determinations, findings, actions or omissions, within the meaning of the amendment; and therefore courts are expected to accept such direction from the Congress. Therefore, we have no objection to this amendment.

Mr. GLENN. Mr. President, I ask unanimous consent that I be permitted to be a cosponsor of the amendment.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 416) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 414, AS MODIFIED

Mr. REID. Mr. President, as to amendment No. 414, which was previously accepted, I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment, as modified, is as follows:

Page 5 of amendment No. 414 is modified as follows:

(2) FINAL AGENCY ACTION.—The term “final agency action” means agency action with respect to which all available administrative remedies have been exhausted.

(3) TERM GRAZING PERMIT.—The term “term grazing permit” means a term grazing permit or grazing agreement issued by the Secretary under section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752), and section 19 of the Act entitled “An Act to facilitate and simplify the work

of the Forest Service, and for other purposes”, approved April 24, 1950 (commonly known as the “Granger-Thye Act”) (16 U.S.C. 580f), or other law.

SEC. 03. ISSUANCE OF NEW TERM GRAZING PERMITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, court order, or court sanctioned settlement agreement, the Secretary shall issue a new term grazing permit without regard to whether the analysis required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws has been completed, or final agency action respecting the analysis has been taken—

(1) to the holder of an expiring term grazing permit; or

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 8 minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Iowa?

The Senator from Iowa is recognized.

DEPARTMENT OF DEFENSE APPROPRIATIONS

Mr. GRASSLEY. Mr. President, I want to speak for the fifth and probably final time—at least for a few days—on this subject of Department of Defense appropriations and the continuing program budget mismatch.

If Congress rolled back DOD’s spending plans at the height of the cold war in the mid-1980’s—and we did that on May 2, 1985—then why would Congress now move to pump up the defense budget when the cold war is over and the Soviet threat is gone? It makes no sense to me.

Mr. President, the General Accounting Office has prepared an interesting set of tables that portray the evolution of the future years defense program for the Defense Department and the budget mismatch with that future years plan. I ask unanimous consent to have this printed in the RECORD at this point.

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

TOTAL OBLIGATIONAL AUTHORITY REFLECTED IN DOD’S FUTURE YEARS DEFENSE PROGRAMS ^a

[In billions of dollars]

Table with columns for Fiscal Year (1969-1994) and rows for years 1971-1996. Values represent billions of dollars. Includes a 'Difference' row at the bottom.

Difference ^d n/a n/a n/a n/a n/a n/a \$18.9 \$15.8 \$24.3 \$27.4 \$26.3 \$19.9 \$44.0 \$42.4 \$61.3 \$76.8