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6/21/76

APPROVED  
JUN 21 1976

THE WHITE HOUSE  
WASHINGTON  
June 18, 1976

ACTION  
Last Day: June 23

Posted  
6/22/76  
archives  
6/22/76

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: S. 532 - Wool Act Payments

Attached for your consideration is S. 532, sponsored by Senator Haskell and four others.

The enrolled bill authorizes the Secretary of Agriculture to retroactively amend regulations pertaining to the computation of price support payments under the National Wool Act and adjust certain wool price support payments for the marketing years 1969 through 1972.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Bill Seidman, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill. Although they have no objection to the bill in general CEA (Davis) finds no sound economic reason to support it.

RECOMMENDATION

That you sign S. 532 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUN 11 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 532 - Wool Act payments  
Sponsors - Sen. Haskell (D) Colorado  
and 4 others

Last Day for Action

June 23, 1976 - Wednesday

Purpose

Authorizes the Secretary of Agriculture to (1) retroactively amend regulations pertaining to the computation of price support payments under the National Wool Act and (2) adjust certain wool price support payments for the marketing years 1969 through 1972.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval

Discussion

Under provisions of the National Wool Act, price support payments are made to wool producers. The payment rate is the percentage required to bring the national average price received by wool producers up to the support price. By making the price support payment a flat percentage, paid to all wool producers regardless of the average price they receive in marketing their wool, the Act



rewards quality producers. It also encourages those producers who sell at less than the national average price to improve the quality and marketing of their wool.

For the marketing years 1955 through 1973, Agriculture's regulations required that wool payments be computed as a function of the "net proceeds" realized by each grower from the sale of his wool, as evidenced by bona fide sales receipts. Agriculture's regulations did not include promissory notes or other promises to pay within the meaning of "net proceeds."

This situation lead to program inequities and created genuine hardships for some fifty wool producers during the 1969 and 1970 marketing years. Briefly, the affected producers sold their wool to a private marketing agent and received partial payment in cash with the balance due being covered by promissory notes. Subsequently, the notes proved to be uncollectable and the wool unrecoverable. Each wool producer's price support payments had been made on the basis of the full purchase price, including the amount of the promissory note, before there was knowledge of the marketing agent's default.

After learning of the problems created by these regulations, Agriculture instituted prospective changes in its regulations to avoid a recurrence of this unfortunate situation. However, the Department was advised by the Deputy Comptroller General that the regulations could not legally be waived retroactively to provide relief for the wool producers involved in the 1969/1970 note default. Accordingly, Agriculture made claims against these wool producers for repayment of the amounts improperly paid.

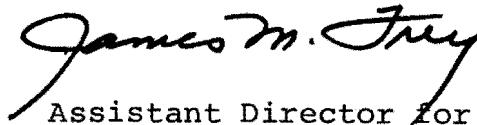
S. 532 would rectify the situation described above. Specifically, the enrolled bill would authorize the Secretary of Agriculture to amend

retroactively the regulations pertaining to the computation of price support payments under the National Wool Act. Payments would be computed on the basis of (1) the net sales proceeds received or (2) in the case of any producer who failed to realize the amount provided for in the sales document, the lesser of the following: (a) the net sales proceeds based on the price the producer would have received had there been no default of payment, or (b) the fair market value of the wool at the time of sale. Moreover, the Secretary could reconsider applications filed for wool price support payments covering the 1969-1972 marketing years and make payment adjustments as he determines fair and equitable.

In reporting on S. 532, the Senate Committee on Agriculture and Forestry noted that:

"The legislation would, therefore, provide relief to wool producers who were denied their full support payments for 1969 and 1970 because of defaults by their marketing agency and accord them the treatment now being afforded to all wool producers."

Agriculture estimates that \$150,000 would be needed to pay the affected producers.

  
Assistant Director for  
Legislative Reference

Enclosures



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

June 20, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled bill S.532, "To authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers."

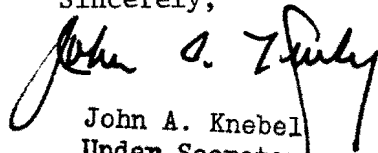
This Department recommends that the President approve the bill.

The bill would authorize the Secretary to amend retroactively the Department's regulations to provide that in the case of any rancher or farmer who failed to realize the amount provided for in the sales document that payments may be computed on the basis of the lesser of: (a) the net sales proceeds based on the price the producer would have received had there been no default of payment, or (b) the fair market value of the commodity concerned at the time of sale.

The bill would also authorize the Secretary to reconsider any application for payment with respect to any commodity marketed during marketing years 1969 through 1972 and to make payments as he determines are fair and equitable on the basis of the proposed amendment.

It is believed that a total of \$150,000 would be needed under this bill to pay the producers involved. The payments would likely be made during the 1977 fiscal year.

Sincerely,

  
John A. Knebel  
Under Secretary

To-  
J. Conroy  
6-14-76  
H: +5 J



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUN 11 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 532 - Wool Act payments  
Sponsors - Sen. Haskell (D) Colorado  
and 4 others

Last Day for Action

June 23, 1976 - Wednesday

Purpose

Authorizes the Secretary of Agriculture to  
(1) retroactively amend regulations pertaining  
to the computation of price support payments  
under the National Wool Act and (2) adjust  
certain wool price support payments for the  
marketing years 1969 through 1972.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval

Discussion

Under provisions of the National Wool Act, price support payments are made to wool producers. The payment rate is the percentage required to bring the national average price received by wool producers up to the support price. By making the price support payment a flat percentage, paid to all wool producers regardless of the average price they receive in marketing their wool, the Act

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 15

Time: 945am

FOR ACTION: Paul Leach *sh*  
Bill Seidman *oa*  
Alan Greenspan *connect*  
Max Friedersdorf *OK*  
Ken Lazarus *m*

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 16

Time: 1000am

SUBJECT:

S.532-Wood Act payments

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 15

Time: 945am

FOR ACTION: Paul Leach  
Bill Seidman  
Alan Greenspan  
Max Friedersdorf  
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- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*This is a very clear example of legislation designed in response to a specific situation which will set undesirably future precedents. About the only redeeming features are that "only" 150,000 is said to be involved and this would resolve an issue which has evidently been ~~been~~ kicking around since 1969-70. Although CEA has not commented on this bill (at least monthly) ~~there~~ we find no sound economic reason to support it.*

*Glenn Davis*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 15

Time: 945am

FOR ACTION: Paul Leach  
Bill Seidman  
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SUBJECT:

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ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection.

Ken Lazarus

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

## WOOL ACT PAYMENTS

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MARCH 29, 1976.—Ordered to be printed

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Mr. HUDDLESTON, from the Committee on Agriculture and Forestry,  
submitted the following

## REPORT

[To accompany S. 532]

The Committee on Agriculture and Forestry, to which was referred the bill (S. 532) to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

## SHORT EXPLANATION

S. 532 is remedial legislation which would authorize the Secretary of Agriculture to amend retroactively the regulations governing the computation of price support payments under the National Wool Act of 1954 for the marketing years 1969 through 1972. The amended regulations would permit the making of Wool Act payments to certain farmers and ranchers who failed to receive the full proceeds from their sale of wool because of defaults in payment by their marketing agency.

Under the bill, payments could be computed on the basis of the lesser of (A) the net sales proceeds based on the price the farmer or rancher would have received had there been no default of payment or (B) the fair market value of the wool at the time of sale. The Secretary would be authorized to reconsider any application filed for Wool Act payments during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines to be fair and equitable on the basis of any amendment made to the regulations under the authority of the bill.

## BACKGROUND

Under the National Wool Act, wool is recognized as an essential and strategic commodity which is not produced in sufficient quantity in the United States. It is the declared policy of Congress, as a measure of national security and in promotion of the general economic welfare, to encourage the annual domestic production of approximately 300 million pounds of shorn wool.

Under the Act, a support price is established to encourage the production of wool. Payments are made to wool producers in such amount as, when added to the national average price they receive, will give the producers a national average return equal to the support price.

The rate of payment is, therefore, the percentage required to bring the national average price received by wool producers up to the support price. Such rate recognizes quality production and encourages individuals producers to improve the quality and marketing of their wool.

For example, if the national average price of wool is 50 cents per pound and the support price is 65 cents per pound, the payment rate is the percentage necessary to bring the average up to the support price, or 30 percent. In determining a producer's Wool Act payments, such percentage is multiplied by the actual advance price received by the producer. Therefore, if a producer's actual average sales price is 50 cents per pound, his payment would be 15 cents per pound. If his actual sales price is 75 cents, his payment would be 22½ cents per pound.

## NEED FOR LEGISLATION

The regulations governing the wool program for the marketing years 1955 through 1973 provided that payments be computed on the basis of the net proceeds realized by each grower from the sale of his wool. A promise to pay, even though supported by a promissory note or a postdated check, was not accepted by the Department as the equivalent of "net proceeds" within the meaning of the regulations. In certain situations beyond a producer's control, this policy led to inequities in the program and resulted in considerable hardship.

During 1969 and 1970, a number of wool producers delivered wool to a marketing agency under one of several types of agreements whereby the producer delivered his wool to the agency, relinquished title of the wool, and received an advance against (1) a specified price, (2) a price to be agreed to at a later date, or (3) the market value at the time of receipt of the wool.

In a number of instances, the balances due the producers were represented by promissory notes. The notes were unpaid at maturity and proved to be uncollectable. Under the existing regulations, it was determined by the Department that the producers could receive Wool Act payments only on the basis of that part of the purchase price received in the form of a cash advance, and the uncollectable note could not be considered a part of the net sales proceeds.

In a letter to the Comptroller General dated July 6, 1973, the Department stated that it proposed to amend the regulations and make

payments to any wool producers where a bona fide sale of wool was made by the producer but he is unable to present evidence of payment because of default by the purchaser.

The Deputy Comptroller General, in a letter to the Secretary of Agriculture dated January 21, 1974, stated that, since the purpose of the proposed amendments to the regulations would clearly be to permit retroactive waiver of regulatory requirements applicable at the time the transactions were made, the proposed amendments could not legally be adopted. The Deputy Comptroller General stated, however, that there would be no objection to the prospective adoption and application of a provision for varying the actual net sales proceeds requirement under limited and clearly defined circumstances. Such a provision has been included in the regulations governing the wool program for the 1974 through 1977 marketing years. No payments were made on 1973 marketings of wool since the national average price received by all producers exceeded the support price.

The legislation would, therefore, provide relief to wool producers who were denied their full support payments for 1969 and 1970 because of defaults by their marketing agency and accord them the treatment now being afforded to all wool producers.

During the 93rd Congress, an identical bill (S. 3056) was reported by the Committee and passed by the Senate. However, the House took no action on the bill.

## DEPARTMENTAL VIEWS

The following letter dated March 28, 1975, from the Department of Agriculture recommends enactment of the legislation:

DEPARTMENT OF AGRICULTURE,

OFFICE OF THE SECRETARY,

Washington, D.C., March 28, 1975.

HON. HERMAN E. TALMADGE,  
Chairman, Committee on Agriculture and Forestry, U.S. Senate,  
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of February 10, for a report on S. 532. The bill is entitled "To authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers."

The Department recommends that the bill be passed.

S. 532 would authorize the Secretary to amend retroactively the Department's regulations to provide that in the case of any rancher or farmer who failed to realize the amount provided for in the sales document that payments may be computed on the basis of the lesser of: (a) the net sales proceeds based on the price the producer would have received had there been no default of payment, or (b) the fair market value of the commodity concerned at the time of sale.

The bill would also authorize the Secretary to reconsider any application for payment with respect to any commodity marketed during marketing years 1969 through 1972 and to make payments as he determines are fair and equitable on the basis of the proposed amendment.

A promise to pay, even though supported by a promissory note or a postdated check, has not been accepted as the equivalent of a payment within the meaning of the regulations governing the computation of payments under the National Wool Act. In certain situations beyond a producer's control, this policy can and, in fact, did lead to inequities in the program. During 1969 and 1970, a number of wool producers delivered wool to a marketing agency under one of several types of agreements whereby the producer relinquished title to the wool and received an advance against (1) a specified price, (2) a price to be agreed to at a later date, or (3) the market value at the time of receipt of the wool.

In a number of instances, the balance due the producers was paid by promissory notes which were never collectible. Because of the policy described above, it was determined that the producers could receive a payment only on the basis of that part of the purchase price received in the form of a cash advance and the uncollectible notes could not be considered a part of the net sales proceeds. This resulted in considerable hardship for the producers involved.

If S. 532 is enacted, it is estimated that approximately \$150,000 would be paid to about 50 producers who were denied their full incentive payments.

The current regulations governing the wool payment program for the 1974 through 1977 marketing years, provide for the use of administrative discretion under specified circumstances to include uncollectible notes as part of the net sales proceeds.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,  
*Acting Secretary.*

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the costs to be incurred by the federal government as a result of the enactment of this legislation would total approximately \$150,000. This estimate of costs is based on the estimate made by the Department of Agriculture.

OPINION OF THE DEPUTY COMPTROLLER GENERAL

In a letter dated July 6, 1973, the Department of Agriculture asked the Comptroller General whether it would be proper, under existing law, to amend the regulations and make Wool Act payments to producers who were denied such payments because of defaults by their marketing agency. The response of the Deputy Comptroller General, dated November 27, 1973, reads as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., November 27, 1973.*

The SECRETARY OF AGRICULTURE,  
*Washington, D.C.*

DEAR MR. SECRETARY: By letter dated July 6, 1973, the Assistant Secretary of Agriculture for International Affairs and Commodity

Programs requested our opinion whether a proposed amendment as hereinafter described may be made to the regulations governing the Commodity Credit Corporation's program for price support payments on marketings of shorn wool and unshorn lambs pursuant to the authority contained in the National Wool Act of 1954, as amended 7 U.S.C. 1781-1787. The current regulations for this program are published in Part 1472 of Title 7, Code of Federal Regulations.

The Assistant Secretary's letter reads, in part, as follows:

"The [National Wool] Act provides in pertinent part that 'The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to producers thereof by means of loans, purchases, payments, or other operations' (7 U.S.C. 1782(a)), and that 'If payments are utilized as a means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support price level therefor \* \* \* (7 U.S.C. 1783). The Act further provides that 'the amounts, terms, and conditions of the price support operations \* \* \* shall be determined or approved by the Secretary of Agriculture' (7 U.S.C. 1785).

"Prior to 1954, CCC supported wool prices through loans and purchases, as a result of which CCC took into inventory a considerable part of our domestic wool production. The National Wool Act was enacted as the best way to provide income protection to wool growers while at the same time leaving the marketing process in the hands of wool growers and the trade without Government involvement. As was pointed out during committee hearings on the legislation, it was proposed, in order to provide an incentive to each producer to obtain the maximum price for his wool and thereby reduce the government cost of the program, to base each grower's payment on the amount realized from the marketing of his wool. Accordingly, the program regulations for the marketing years from 1955 through 1973 have provided that the wool payments will be based on the net proceeds realized by each grower from the sale of his wool (7 CFR 1472.1308), at a rate of payment which is the percentage of the national average price per pound received by producers in the same marketing year which is required to bring such national average price up to the support price for the wool (7 CFR 1472.1305(b)). In order to determine the net sales proceeds, the regulations require the producer's application to be supported by a final accounting for the wool, evidenced by sales documents which may not include contracts to sell or tentative or pro forma settlements (7 CFR 1472.1310), and the supporting sales document to show, among other things, the net amount received by the producer for the wool (7 CFR 1472.1310(b)).

"A promise to pay, even though supported by a promissory note or a post-dated check, has not been accepted as the equivalent of a payment within the meaning of the regulations governing the computation of incentive payments. In certain situations beyond a producer's control, this policy can, and in fact recently did, lead to inequities in the program which would result in a frustration of the purpose of the program. For example, during 1969 and early 1970, a number of wool producers in Colorado, Idaho and Wyoming delivered wool to a mar-



keting agency under one of several types of agreement whereby the producer delivered his crop of wool to the agency, relinquished title to the wool, and received an advance against either a specified price, or a price to be agreed to at a later date, or the market value at the time of receipt of the wool. The balance was to be paid on delivery, under one type of contract, or when the agency sold the wool, under the others. In addition, in some instances the wool was turned over to the agency under a marketing agreement pursuant to which an initial advance was made and the proceeds from the sale of the wool were to be accounted for after the wool was sold. Under such an agreement, title to the wool did not pass at time of delivery. For all 1970 transactions, the balance was paid by note in December of 1970, transmitted with a final accounting on the wool and an explanation that although the agency was unable to sell a considerable proportion of the wool, it was completing the purchase in order that the producers might apply for their incentive payments. Each of the statements of account indicated final payment by check, however, rather than by note and as a result incentive payments were made on the net proceeds set forth in the statements of account. In all cases, the notes were unpaid and uncollectable at and subsequent to maturity. Because of the administrative policy in interpreting the computation provisions of the regulations described hereinabove, it was determined that incentive payments properly should have been made only on that part of the purchase price which was received in the form of a cash advance and the uncollectible notes should not have been considered a part of the net sales proceeds. Consequently, on learning the facts in these cases, claim was made against each of these producers for repayment of the amounts improperly paid. This has resulted in many instances in considerable hardship for the producers.

"In the view of the foregoing, it is proposed to amend the regulations to permit the computation of incentive payments, under 7 CFR 1472.1208 (applicable to the marketing years, 1966-1970) and 7 CFR 1472.1308 (applicable to the marketing years—1971-1973), to be based on either the net sales proceeds received by the producer or, in the event the producer does not realize the amount provided for in the sales document, as for example where the purchaser has become insolvent between the time all the conditions of a marketing as prescribed by 7 CFR 1472.1307 have been met and the time payment is due (under a note, check or some other contractual arrangement), the lower of (1) the net sales proceeds based on the price the producer should have received had there been no default or (2) the fair market value at the time of sale of the wool. It is further proposed to amend the regulations to permit reconsideration, under the amended sections governing computation of payments, of any application previously filed with respect to a marketing which took place within the current marketing year or the three marketing years prior thereto."

The Commodity Credit Corporation (CCC) regulations governing the wool price support programs, as published in the Code of Federal Regulations, recite as authority for their issuance sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 15 U.S.C. 714b, 714c, and the National Wool Act. Section 4(d) of the Charter Act, 15 U.S.C. 714b(d), authorizes the Corporation to "adopt,

amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised." Section 706 of the National Wool Act, 7 U.S.C. 1785, provides in part quoting from the United States Code.

"Except as otherwise provided in this chapter, the amounts, terms, and conditions of the price support operations and the extent to which such operations are carried out shall be determined or approved by the Secretary of Agriculture. \* \* \* The facts constituting the basis for any operation, payment, or amount thereof *when officially determined in conformity with applicable regulations prescribed by the Secretary* shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government." (Italic supplied.)

Under well-established principles applied in numerous decisions of our Office, regulations promulgated pursuant to express statutory authority, such as the CCC regulations here involved, have the force and effect of law and cannot be retroactively waived. See, e.g., 51 Comp. Gen. 162, 166 (1971); 43 id. 31, 33 (1963); 37 id. 820 (1958), and decisions cited therein.

Of particular interest here is our 1958 decision to the Secretary of Agriculture, 37 Comp. Gen. 820, wherein we concluded that there was no authority to waive substantive regulations governing the soil bank acreage reserve program, notwithstanding that section 485.240 of the soil bank regulations purported to authorize waiver of any provision of such regulations. Our decision stated:

"While section 124 [of the Soil Bank Act] grants broad discretionary authority for prescribing regulations, it is not dissimilar to numerous provisions in other legislative acts authorizing the issuance of regulations. It is well established in administrative law that valid statutory regulations have the force and effect of law, are general in their application, and may no more be waived than provisions of the statutes themselves. Regulations must contain a guide or standard alike to all individuals similarly situated, so that anyone interested may determine his own rights or exemptions thereunder. The administrative agency may not exercise discretion to enforce them against some and to refuse to enforce them against others. See *United States v. Ripley*, 7 Pet. 18; *United States v. Davis*, 132 U.S. 334; *Federal Crop Insurance Corporation v. Merrill*, 332 U.S. 380; *Sheridan-Wyoming Coal Co. v. Krug*, 172 F. 2d 282; 31 Comp. Gen. 193, and decisions cited therein.

\* \* \* \* \*

"Section 485.240 of the regulations under consideration attempts to create in the Administrator, Commodity Stabilization Service, the right to waive the requirements of any provision of the regulations or the agreements in hardship cases even though such action might give up vested rights of the Government; might permit payments contrary to the regulations or agreement; would be taken on a case-by-case basis; and would be retroactive rather than prospective in that the Administrator, after noncompliance, would determine whether to waive the pertinent regulation. Such authority is so contrary to the principles referred to above and normally associated with statutory regulations that we are convinced that such discretionary authority

was not contemplated by the Congress in enacting section 124 of the Soil Bank Act and numerous similar provisions in other laws. While section 103 of the Soil Bank Act, 7 U.S.C. 1821, authorizes you to include in the acreage reserve program such 'terms and conditions' as you deem desirable to effectuate the purposes of the Soil Bank Act and to facilitate the practical administration of the acreage reserve program, we do not believe it authorizes you to include in the regulations a further provision authorizing the waiver on an individual case basis of any 'terms and conditions' prescribed in the regulations. In our view, the authority to regulate and to include in the program such terms and conditions as the Administrator deems desirable for the specified purposes does not necessarily imply authority to disregard those terms and conditions thereby creating an unregulated area subject to his discretion. If any agency requires authority to waive its statutory regulations, we believe that specific statutory authority therefor \* \* \* should be requested from the Congress."

See also 15 Comp. Gen. 869 (1936), wherein we declined to give effect to a provision in regulations implementing the National Housing Act which purported to reserve authority to waive any other provision of such regulations. As noted in our 1958 decision, supra, the National Housing Act was subsequently amended to authorize waiver of regulations thereunder.

Turning to the instant matter, it is proposed to amend the wool price support regulations governing past marketing years and the present marketing year so as to permit under certain circumstances payments on a basis other than actual sales proceeds. Provision would then be made for reconsideration under the amended regulations of applications previously filed and presumably rejected for the present marketing year and three years prior.

Whatever may be the reasons for the particular approach thus suggested, its purpose and effect is clearly to provide for waiver of regulatory requirements applicable at the time transactions were consummated. Accordingly, we must conclude that this proposal is subject to the principles discussed herein precluding retroactive waiver. The instant proposal is, if anything, more tenuous than those disapproved in our 1958 and 1937 decisions, supra, since there is nothing in the present wool regulations which even purports to reserve waiver authority. Obviously the requirement that payments be based on actual net sales proceeds is a substantive element in the present regulations. Compare 37 Comp. Gen. 820, 823. Thus, in addition to the detailed requirements set forth in the regulations concerning documentation of net sales proceeds, it is specifically stated that "Contracts to sell as well as tentative or pro forma settlements will not be acceptable as sales documents." 7 CFR § 1472.1310.

For the foregoing reasons, it is our opinion that the proposed regulations may not legally be adopted to the extent that they would permit retroactive waiver of the requirement that payments be based on actual net sales proceeds. We might point out, however, that in view of the broad administrative discretion afforded by section 706 of the National Wool Act in formulating program terms and conditions, we would not object to prospective adoption (i.e., for marketing years

subsequent to 1973) and application of a provision for varying the actual net sales proceeds requirement under limited and clearly defined circumstances and subject to a determination that such provision is consistent with the purposes of the Act. See 37 Comp. Gen. 822-23; 17 id. 566, 568 (1938).

Sincerely yours,

R. F. KELLER,  
*Deputy Comptroller General  
of the United States.*

○

## WOOL ACT PAYMENTS

MAY 15, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,  
submitted the following

### REPORT

[Including the Congressional Budget Office Cost Estimates]

[To accompany S. 532]

The Committee on Agriculture, to whom was referred the bill (S. 532) to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### BRIEF EXPLANATION OF THE LEGISLATION

Incentive payments under the Wool Act are calculated on basis of a uniform national percentage which is applied against the actual proceeds received by each producer for his wool. The grower receives the dollar figure arrived at by multiplying the actual price he receives for his wool by the uniform national percentage figure. S. 532 is remedial legislation which would authorize the Secretary of Agriculture to amend and apply retroactively regulations governing the computation of price support payments under the National Wool Act of 1954 (7 U.S.C. 1781, et seq.). This will permit the making of full Wool Act payments to farmers and ranchers who received less than the full proceeds from sale of their wool because the company to which they had sold the wool went bankrupt before making full payment.

Under the regulation amendments authorized by the bill, payments could be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to receive the amount provided for in the relevant sales document, the lesser of (A) the net sales proceeds based on the price the farmer or rancher would have received had there been no default of payment, or (B) the fair



market value of the commodity concerned at the time of sale. The Secretary would, in addition, be specifically authorized by the bill to reconsider any application filed for Wool Act payments during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines to be fair and equitable on the basis of any amendment made to the regulations under the authority of the bill.

#### PURPOSE AND NEED FOR LEGISLATION

Under the National Wool Act, wool is recognized as an essential and strategic commodity which is not produced in sufficient quantity in the United States. It is the declared policy of Congress, as a measure of national security and in promotion of the general economic welfare, to encourage the annual domestic production of approximately 300 million pounds of shorn wool at prices fair to both producers and consumers.

Under the Act, a support price (expressed in cents per pound) is established. In years when the national average price actually received by producers is less than the support price, payments are made to wool producers in such amount as the Secretary determines sufficient, when added to the national average price, to give the producers a national average return equal to the support price. The rate of payment is that percentage of the national average price per pound received by all producers which, when added to such price, brings it up to the support price. The percentage figure thus arrived at is applied to the actual sales proceeds received by each producer for his wool thus providing an incentive to produce wool of a quality commanding a price higher than the national average price.

For example, if the national average price of wool is 50 cents per pound and the support price is 65 cents per pound, the payment rate is the percentage necessary to bring the average up to the support price, or 30 percent. In determining a producer's Wool Act payments, such percentage is multiplied by the actual average price received by the producer. Therefore, if a producer's actual average sales price is 50 cents per pound, his payment would be 15 cents per pound. If his actual sales price is 75 cents, his payment would be 22½ cents per pound.

Under the regulations in effect during marketing years 1969 through 1972, payments were computed on the basis of the net proceeds realized by each grower from the sale of his wool. A promise to pay, even though supported by a promissory note or a postdated check, was not accepted by the Department as the equivalent of "net proceeds" within the meaning of the regulations.

During 1969 and 1970, approximately 55 wool producers from several western States, including Colorado, Idaho, Oklahoma, Utah, and Wyoming, delivered wool to a concern in Denver, Colorado, pursuant to various agreements under which the producers relinquished title to the wool and generally received cash advances against either a specified price, or a price to be subsequently agreed to, or the market value at the time of receipt of the wool. The producers received Wool Act payments based upon the full net proceeds under these agreements. However, a subsequent audit revealed that, in a number of instances, the balances due the producers were represented by promissory notes. (The notes were unpaid at maturity and proved to be uncollectible.)

Under the regulations, in effect at that time, the Department determined that the producers could receive Wool Act payments only on the basis of that part of the purchase price received in the form of a cash advance, and the uncollectible promissory notes could not be counted toward the net sales proceeds. Accordingly, the Department recovered the amounts erroneously paid by withholding the amount overpaid in each case from Wool Act payments due to the same grower in subsequent years. The total amount involved is slightly in excess of \$151,000.

Since these growers had in fact complied with the program by producing wool, but had been denied payments due to a technicality, the Department sought to amend its regulations with retroactive effect to correct this inequity. In a letter to the Comptroller General of the United States dated July 6, 1973, the Department indicated its intention to amend the regulations and make payments to any wool producer who had made a bona fide sale of wool but was unable to present evidence of payment because of default by the purchaser. However, the Deputy Comptroller General, in a letter to the Secretary of Agriculture dated November 27, 1973 (set forth below), stated that, since the purpose of the proposed amendments would clearly be to permit retroactive waiver of regulatory requirements applicable at the time the transactions were made, the proposed amendments could not legally be adopted. The Deputy Comptroller General stated, however, that there would be no objection to the prospective adoption and application of a provision for varying the actual net sales proceeds requirement under limited and clearly defined circumstances. Such a provision has been included in the regulations governing the wool program for the 1974 through 1977 marketing years. No payments were made on 1973 marketings of wool since the national average price received by all producers exceeded the support price.

This legislation would, therefore, provide relief to wool producers who were denied their full support payments for 1969 and 1970 because of defaults by their marketing agency and accord them the treatment now being afforded to all wool producers. While the bill is drawn to provide general authority to make retroactive amendments in the regulations and specific authority to reconsider Wool Act payment applications for the four marketing years (1969 through 1972) during which the restrictive regulations were in effect, the Department of Agriculture has informed the Committee that it is not aware of any situation for which the authority would be required other than that of the 55 growers mentioned herein.

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., November 27, 1973.*

The SECRETARY OF AGRICULTURE,  
*Washington, D.C.*

DEAR MR. SECRETARY: By letter dated July 6, 1973, the Assistant Secretary of Agriculture for International Affairs and Commodity Programs requested our opinion whether a proposed amendment as hereinafter described may be made to the regulations governing the Commodity Credit Corporation's program for price support payments on marketings of shorn wool and unshorn lambs pursuant to the authority contained in the National Wool Act of 1954, as amended

7 U.S.C. 1781-1787. The current regulations for this program are published in Part 1472 of Title 7, Code of Federal Regulations.

"The [National Wool] Act provides in pertinent part that 'The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to producers thereof by means of loans, purchases, payments, or other operations' (7 U.S.C. 1782(a)), and that 'If payments are utilized as a means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support price level therefor \* \* \*' (7 U.S.C. 1783). The Act further provides that 'the amounts, terms, and conditions of the price support operations \* \* \* shall be determined or approved by the Secretary of Agriculture' (7 U.S.C. 1785).

"Prior to 1954, CCC supported wool prices through loans and purchases, as a result of which CCC took into inventory a considerable part of our domestic wool production. The National Wool Act was enacted as the best way to provide income protection to wool growers while at the same time leaving the marketing process in the hands of wool growers and the trade without Government involvement. As was pointed out during committee hearings on the legislation, it was proposed, in order to provide an incentive to each producer to obtain the maximum price for his wool and thereby reduce the government cost of the program, to base each grower's payment on the amount realized from the marketing of his wool. Accordingly, the program regulations for the marketing years from 1955 through 1973 have provided that the wool payments will be based on the net proceeds realized by each grower from the sale of his wool (7 CFR 1472.1308), at a rate of payment which is the percentage of the national average price per pound received by producers in the same marketing year which is required to bring such national average price up to the support price for the wool (7 CFR 1472.1305(b)). In order to determine the net sales proceeds, the regulations require the producer's application to be supported by a final accounting for the wool, evidenced by sales documents which may not include contracts to sell or tentative or pro forma settlements (7 CFR 1472.1310), and the supporting sales document to show, among other things, the net amount received by the producer for the wool (7 CFR 1472.1310(b)).

"A promise to pay, even though supported by a promissory note or a post-dated check, has not been accepted as the equivalent of a payment within the meaning of the regulations governing the computation of incentive payments. In certain situations beyond a producer's control, this policy can, and in fact recently did, lead to inequities in the program which would result in a frustration of the purpose of the program. For example, during 1969 and early 1970, a number of wool producers in Colorado, Idaho and Wyoming delivered wool to a marketing agency under one of several types of agreement whereby the producer delivered his crop of wool to the agency, relinquished title to the wool, and received an advance against either a specified price, or a price to be agreed to at a later date, or the market value at the time of receipt of the wool. The balance was to be paid on delivery, under one type of contract, or when the agency sold the wool, under the others. In addition, in some instances the wool was turned over to

the agency under a marketing agreement pursuant to which an initial advance was made and the proceeds from the sale of the wool were to be accounted for after the wool was sold. Under such an agreement, title to the wool did not pass at time of delivery. For all 1970 transactions, the balance was paid by note in December of 1970, transmitted with a final accounting on the wool and an explanation that although the agency was unable to sell a considerable proportion of the wool, it was completing the purchase in order that the producers might apply for their incentive payments. Each of the statements of account indicated final payment by check, however, rather than by note and as a result incentive payments were made on the net proceeds set forth in the statements of account. In all cases, the notes were unpaid and uncollectable at and subsequent to maturity. Because of the administrative policy in interpreting the computation provisions of the regulations described hereinabove, it was determined that incentive payments properly should have been made only on that part of the purchase price which was received in the form of a cash advance and the uncollectible notes should not have been considered a part of the net sales proceeds. Consequently, on learning the facts in these cases, claim was made against each of these producers for repayment of the amounts improperly paid. This has resulted in many instances in considerable hardship for the producers.

"In the view of the foregoing, it is proposed to amend the regulations to permit the computation of incentive payments, under 7 CFR 1472.1208 (applicable to the marketing years, 1966-1970) and 7 CFR 1472.1308 (applicable to the marketing years—1971-1973), to be based on either the net sales proceeds received by the producer or, in the event the producer does not realize the amount provided for in the sales document, as for example where the purchaser has become insolvent between the time all the conditions of a marketing as prescribed by 7 CFR 1472.1307 have been met and the time payment is due (under a note, check or some other contractual arrangement), the lower of (1) the net sales proceeds based on the price the producer should have received had there been no default or (2) the fair market value at the time of sale of the wool. It is further proposed to amend the regulations to permit reconsideration, under the amended sections governing computation of payments, of any application previously filed with respect to a marketing which took place within the current marketing year or the three marketing years prior thereto."

The Commodity Credit Corporation (CCC) regulations governing the wool price support programs, as published in the Code of Federal Regulations, recite as authority for their issuance sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 15 U.S.C. 714b, 714c, and the National Wool Act. Section 4(d) of the Charter Act, 15 U.S.C. 714b(d), authorizes the Corporation to "adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised." Section 706 of the National Wool Act, 7 U.S.C. 1785, provides in part quoting from the United States Code.

"Except as otherwise provided in this chapter, the amounts, terms, and conditions of the price support operations and the extent to which such operations are carried out shall be determined or approved by the Secretary of Agriculture. \* \* \* The facts constituting the basis for any operation, payment, or amount thereof *when officially determined*

*in conformity with applicable regulations prescribed by the Secretary shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.*" (Italic supplied.)

Under well-established principles applied in numerous decisions of our Office, regulations promulgated pursuant to express statutory authority, such as the CCC regulations here involved, have the force and effect of law and cannot be retroactively waived. See, e.g., 51 Comp. Gen. 162, 166 (1971); 43 id. 31, 33 (1963); 37 id. 820 (1958), and decisions cited therein.

Of particular interest here is our 1958 decision to the Secretary of Agriculture, 37 Comp. Gen. 820, wherein we concluded that there was no authority to waive substantive regulations governing the soil bank acreage reserve program, notwithstanding that section 485.240 of the soil bank regulations purported to authorize waiver of any provision of such regulations. Our decision stated:

"While section 124 [of the Soil Bank Act] grants broad discretionary authority for prescribing regulations, it is not dissimilar to numerous provisions in other legislative acts authorizing the issuance of regulations. It is well established in administrative law that valid statutory regulations have the force and effect of law, are general in their application, and may no more be waived than provisions of the statutes themselves. Regulations must contain a guide or standard alike to all individuals similarly situated, so that anyone interested may determine his own rights or exemptions thereunder. The administrative agency may not exercise discretion to enforce them against some and to refuse to enforce them against others. See *United States v. Ripley*, 7 Pet. 18; *United States v. Davis*, 132 U.S. 334; *Federal Crop Insurance Corporation v. Merrill*, 332 U.S. 380; *Sheridan-Wyoming Coal Co. v. Krug*, 172 F. 2d 282; 31 Comp. Gen. 193, and decisions cited therein.

\* \* \* \* \*

"Section 485.240 of the regulations under consideration attempts to create in the Administrator, Commodity Stabilization Service, the right to waive the requirements of any provision of the regulations or the agreements in hardship cases even though such action might give up vested rights of the Government; might permit payments contrary to the regulations or agreement; would be taken on a case-by-case basis; and would be retroactive rather than prospective in that the Administrator, after noncompliance, would determine whether to waive the pertinent regulation. Such authority is so contrary to the principles referred to above and normally associated with statutory regulations that we are convinced that such discretionary authority was not contemplated by the Congress in enacting section 124 of the Soil Bank Act and numerous similar provisions in other laws. While section 103 of the Soil Bank Act, 7 U.S.C. 1821, authorizes you to include in the acreage reserve program such 'terms and conditions' as you deem desirable to effectuate the purposes of the Soil Bank Act and to facilitate the practical administration of the acreage reserve program, we do not believe it authorizes you to include in the regulations a further provision authorizing the waiver on an individual case basis of any 'terms and conditions' prescribed in the regulations. In our view, the authority to regulate and to include in the program such terms and conditions as the Administrator deems desirable for the specified purposes does not necessarily imply authority to disregard

those terms and conditions thereby creating an unregulated area subject to his discretion. If any agency requires authority to waive its statutory regulations, we believe that specific statutory authority therefor \* \* \* should be requested from the Congress."

See also 15 Comp. Gen. 869 (1936), wherein we declined to give effect to a provision in regulations implementing the National Housing Act which purported to reserve authority to waive any other provision of such regulations. As noted in our 1958 decision, *supra*, the National Housing Act was subsequently amended to authorize waiver of regulations thereunder.

Turning to the instant matter, it is proposed to amend the wool price support regulations governing past marketing years and the present marketing year so as to permit under certain circumstances payments on a basis other than actual sales proceeds. Provision would then be made for reconsideration under the amended regulations of applications previously filed and presumably rejected for the present marketing year and three years prior.

Whatever may be the reasons for the particular approach thus suggested, its purpose and effect is clearly to provide for waiver of regulatory requirements applicable at the time transactions were consummated. Accordingly, we must conclude that this proposal is subject to the principles discussed herein precluding retroactive waiver. The instant proposal is, if anything, more tenuous than those disapproved in our 1958 and 1937 decisions, *supra*, since there is nothing in the present wool regulations which even purports to reserve waiver authority. Obviously the requirement that payments be based on actual net sales proceeds is a substantive element in the present regulations. Compare 37 Comp. Gen. 820, 823. Thus, in addition to the detailed requirements set forth in the regulations concerning documentation of net sales proceeds, it is specifically stated that "Contracts to sell as well as tentative or pro forma settlements will not be acceptable as sales documents." 7 CFR § 1472.1310.

For the foregoing reasons, it is our opinion that the proposed regulations may not legally be adopted to the extent that they would permit retroactive waiver of the requirement that payments be based on actual net sales proceeds. We might point out, however, that in view of the broad administrative discretion afforded by section 706 of the National Wool Act in formulating program terms and conditions, we would not object to prospective adoption (i.e., for marketing years subsequent to 1973) and application of a provision for varying the actual net sales proceeds requirement under limited and clearly defined circumstances and subject to a determination that such provision is consistent with the purposes of the Act. See 37 Comp. Gen. 822-23; 17 id. 566, 568 (1938).

Sincerely yours,

R. F. KELLER,  
Deputy Comptroller General  
of the United States.

#### SECTION-BY-SECTION ANALYSIS

*Section 1.*—This section provides that the Secretary of Agriculture is authorized to amend and make retroactive in their application USDA regulations pertaining to the computation of price support

payments under the National Wool Act of 1954. Under this section, the amount of such payments may, in the case of any rancher or farmer, be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to realize the amount provided for in the sales document, the lesser of (A) the net sales proceeds based on the price the rancher or farmer would have received had there been no default of payment under such document, or (B) the fair market value of the commodity concerned at the time of sale.

*Section 2.*—This section specifically authorizes the Secretary of Agriculture to reconsider any application filed for the payment of price support under the National Wool Act of 1954 with respect to any commodity marketed during the four marketing years 1969 through 1972. The section further authorizes the Secretary to make such payment adjustments as he determines fair and equitable on the basis of any amendment to regulations made under the authority of section 1.

#### COMMITTEE CONSIDERATION

The Subcommittee on Livestock and Grains held a public hearing on May 3, 1976, at which the Assistant Deputy Administrator for Programs, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, testified in support of the bill. A letter in support of the bill was also submitted at the hearing on behalf of the National Wool Growers Association. There was no opposition to the bill. At a business meeting held immediately following the public hearing, the Subcommittee members present voted unanimously to report the bill favorably to the full Committee on Agriculture without amendment.

The Committee on Agriculture took up the bill in a business session on May 6, 1976. After some discussion during which the Committee satisfied itself that any Wool Act payments made by the Department of Agriculture pursuant to this legislation would go exclusively to wool producers and not to the estate of any bankrupt marketing agency, the full Committee voted unanimously, in the presence of a quorum, to report the bill to the House with a recommendation that it do pass.

#### ADMINISTRATION POSITION

The Administration position in favor of S. 532 is set forth in the following statement submitted during the public hearings:

##### STATEMENT BY VICTOR A. SENECHAL, ASSISTANCE DEPUTY ADMINISTRATOR, PROGRAMS—ASCS

Mr. Chairman, Members of the Committee. My name is Victor Senechal. I am Assistant Deputy Administrator, Programs, ASCS. I am glad to appear before your Committee on behalf of the U.S. Department of Agriculture to discuss the Department's recommendations on S. 532.

The bill would authorize the Secretary to amend retroactively the Department's regulations for the Wool Payment Program to provide that in the case of any producer who failed to realize the full amount provided for in the sales document covering the sale of his wool during the years 1969-1972 that payment under the National Wool Act

may be computed on the basis of the lesser of (a) the net sales proceeds based on the price the producer would have received had there been no default of payment, or (b) the fair market value of the wool at the time of sale.

A promise to pay even though supported by a promissory note has not been considered in the past to constitute payment within the meaning of the Wool Payment Program regulations governing the computation of payments under the National Wool Act. During 1969 and 1970, about 50 wool producers delivered wool to a marketing agency under agreements whereby the producer (a) delivered his wool to the agency, (b) relinquished title of the wool, and (c) received a cash advance in partial payment. In a number of instances, the balance due the producer was paid by a promissory note. These notes were never paid and are now considered to be uncollectable. Because regulations then in effect, specifically excluded a promissory note as the equivalent of a payment, it was determined that the producers involved could only receive a payment under the Wool Payment Program on the basis of that part of the purchase price received in the form of cash advance.

This resulted in drastically reduced payments and considerable hardship for the producers involved. It is estimated that approximately \$150,000 would be required to pay the 50 producers involved in 5 States that were denied their full wool incentive payments.

Although regulations in effect at the time did not permit relief for the producers involved, regulations covering the Wool Payment Program have since been amended to provide for administrative discretion under specified circumstances to include such amounts as part of the net sales proceeds.

The Department recommends prompt passage of this bill, and would like to commend the Chairman for the Committee's prompt consideration of this Senate-passed legislation.

#### CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee submits the following cost estimates regarding costs to be incurred by the federal government during the current and the five subsequent fiscal years as the result of the enactment of this legislation. The Committee agrees with the Department of Agriculture and the Congressional Budget Office that total program costs should approximate \$150,000.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of S. 532 will have no inflationary impact on the national economy. To the contrary, by restoring the statutory incentive lost by these producers through no fault of their own during marketing years 1969 and 1970, the bill should help hold the line on inflation by encouraging these growers to remain in production.

## BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

## CONGRESSIONAL BUDGET OFFICE

## COST ESTIMATE

APRIL 12, 1976.

1. Bill Number: S. 532
2. Bill Title: Amendments to Regulations Pertaining to the Calculations of Price Support Payments Under the National Wool Act of 1954
3. Purpose of Bill:  
S. 532 would authorize the Secretary of Agriculture to amend retroactively the regulations governing the computation of price support payments made under the National Wool Act for the marketing years 1969 through 1972. The amended regulations would authorize payments to certain wool growers who failed to receive the full proceeds from their sale of wool because of defaults in payment by their marketing agency.

The price of wool is supported through payments authorized by the National Wool Act. The payments made in any year are determined by the differential between the average price received by all producers during the preceding year and the established support price. The rate of payment is the percentage required to bring the national average price received by producers up to the support price. Each producer's payment is calculated by applying this percentage factor to his own net proceeds from the sale of wool. The regulations governing the program specify that promissory notes or post-dated checks cannot be used in the calculation of receipts upon which the payment is based.

In 1969 and 1970, about 50 producers received promissory notes for their wool which were used in the calculation of support payments. Funds disbursed to these growers were later recovered by the federal government. S. 532 would compensate those producers for these losses with payments based on the lesser of the price that would have been received had there been no default, or the fair market value of the wool at the time of sale.

## 4. Cost Estimate:

Under this regulatory adjustment the compensatory payments would amount to about \$150,000, which would be paid out of budget authority already provided.

## 5. Basis of Estimate:

The payments would be made only to the 50 producers who suffered losses as a result of the default by a Colorado-based marketing agency. These producers were required to reimburse the federal government

for the support payments based on promissory notes. The number of producers involved and the amount of money recovered from each are recorded in the files of the Agricultural Stabilization and Conservation Service of the USDA. The \$150,000 cost estimate is based on this information.

6. Estimate Comparison: None.
7. Previous CBO Estimate: None.
8. Estimate Prepared By: Robert M. Gordon (225-5275)
9. Estimate Approved By:

JAMES L. BLUM,  
*Assistant Director  
for Budget Analysis.*

## OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by S. 532.

No specific oversight activities, other than the hearings accompanying the Committee's consideration of S. 532 and related bills were made by the Committee, within the definition of clause 2(b)(1) of Rule X of the House.

## CHANGES IN EXISTING LAW

S. 532 neither specifically amends nor repeals any statute or part thereof. Accordingly, clause 3 of Rule XIII of the Rules of the House of Representatives does not apply since no change is made in existing law.

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# Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

## An Act

To authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Agriculture is authorized to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order that the amount of such payments may, in the case of any rancher or farmer, be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to realize the amount provided for in the sales document, the lesser of the following: (A) the net sales proceeds based on the price the rancher or farmer would have received had there been no default of payment under such document, or (B) the fair market value of the commodity concerned at the time of sale.

SEC. 2. The Secretary of Agriculture is further authorized to reconsider any application filed for the payment of price support under the National Wool Act of 1954 with respect to any commodity marketed during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines fair and equitable on the basis of any amendment to regulations made under authority of the first section of this Act.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

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June 11, 1976

Dear Mr. Director:

The following bills were received at the White House on June 11th:

S.J. Res 168 ✓  
S. 532 ✓  
S. 1466 ✓  
S. 2760 ✓  
S. 3187 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D.C.