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*of* America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

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# House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. INGLIS of South Carolina].

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*September 27, 1996.*

I hereby designate the Honorable BOB INGLIS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are thankful, O God, that even when life seems crowded and cluttered and there are so many voices demanding attention, we can still hear Your still, small voice that calls and sustains us and makes us whole. We know that in the center of the winds of change there is the vision that You freely give—a vision of faith and hope and love—a faith that guides us in our decisions, a hope that sustains no matter what our circumstances and a love that transcends all the details of the day and allows us to receive the blessings of Your hand. In Your name, we pray. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri [Mr. TALENT] come forward and lead the House in the Pledge of Allegiance.

Mr. TALENT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3458. An act to increase, effective as of December 1, 1996, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message also announced that the Senate has passed bills of the following

**NOTICE**

A final issue of the Congressional Record for the 104th Congress will be published on October 21, 1996, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–220 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., through October 21. The final issue will be dated October 21, 1996 and will be delivered on October 23.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event, that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Record at Reporters.''

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

titles in which the concurrence of the House is requested:

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 2078. An act to authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildlife.

S. 2100. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SEPAKER pro tempore. The Chair announces he will entertain ten 1-minutes on each side.

## CONTRACT WITH AMERICA HAS CHANGED POLITICAL LANDSCAPE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, 2 years ago I signed the Contract With America. I am as proud of that decision today as I was then. I have been blessed and honored to have been part of history; to be part of a movement dedicated to a brighter and a more hope-filled future for America.

Our friends on the other side like to say we are running from the contract. I say horse feathers.

The Contract With America has changed the political landscape right here in Washington, DC. The days of tax and spend are history. No longer will Congress levy taxes on the people of this great country for inefficient and burdensome bureaucracy.

Mr. Speaker, 65 percent of the contract is now signed into law. We have changed Congress, we have cut spending and ended welfare, and most importantly, we have kept our promises.

## 2-YEAR ANNIVERSARY OF CONTRACT SIGNING

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, today is the Contract on America's birthday.

Two years ago today, Republicans went out to the west front of the Capitol and had a big celebration—with all the fancy trimmings. There was a nicely decorated stage, a large and lively crowd, TV cameras. And one by one, Republicans paraded across that stage to put their name on that contract.

Now, where I come from, whenever you have a birthday, you usually have a big celebration to go with it. But how can there be a party when we do not even know where the guest of honor is?

Where is the Contract on America?

Is it filed away somewhere in the Speaker's office? Is it stuffed inside one of those ice buckets that the Speaker keeps carrying around? Is it hidden underneath that unknown, unseen, ''won't-go-public'' ethics report?

But burying the contract away in somebody's desk is not going to make the American people forget what it was.

It was NEWT GINGRICH's plan to bankrupt Medicare and Medicaid, retreat from our bipartisan environmental success over the last 20 years, kill the cops-on-the-beat and gun programs that have cut crime rates in our cities, and put kids and education dead last instead of putting families first.

Happy birthday, Contract on America.

## TWO-THIRDS OF CONTRACT WITH AMERICA HAS BEEN SIGNED INTO LAW

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, this Republican-led 104th Congress has been one of the most productive ever. Not only has two-thirds of the contract been signed into law, we have also delivered health insurance reform, lobbying reform, food safety legislation, the Safe Drinking Water Act, a small business tax cut, and the list goes on and on.

In fact, President Clinton's acceptance speech at the Democrat National Convention took credit for many of these Republican-initiated issues, including the contract issues—welfare reform, line-item veto, long-term care insurance deduction, congressional accountability, the adoption tax credit, and the Congressional Accountability Act.

Mr. Speaker, the bottom line is this—the Republican majority has delivered commonsense policies for a better America. We have changed the way Washington works by placing power back in the people's hands. And if imitation is the most sincere form of flattery, then Bill Clinton must be throwing Republicans a big fat kiss.

## FAREWELL REFLECTIONS

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, Monday I returned from Rwanda and Sudan, and when you are on a plane for 16 hours you have time to reflect on your life.

I have had a variety of jobs during my life: WWII in a PX warehouse, later a garbage man, Army for 2 years, law for 35 years, State Senate, and now 8 years in Congress.

Congress has by far been the most exciting and challenging job during my life.

This is a unique job, a tremendous experience. Our authority is great—our responsibility is great. This House—this institution—must be protected. The Constitution must be protected. We cannot continue to look at this document as a loose leaf notebook that we cut and passed.

I now join the exclusive 10,000 graduates of the body—since the inception of the Constitution.

I am very proud to have been a Member of Congress.

I bid you farewell and Godspeed.

## CALLING ON THE PRESIDENT TO PROMISE NOT TO PARDON THE MCDOUGALS

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I believe the American people deserve a clear and unequivocal promise from the President that prior to or after the November 5 election he will not pardon Jim and Susan McDougal or anyone else connected with the Whitewater scandal.

Recent public comments have tended to give us the idea that the President may want to pardon people involved in this scandal. I would just call to his attention that this is not a conviction that was caused by his office. This was caused by people who let their greed get in the way of their good sense, who played loose with the law and with the taxpayer-protected funds that they were managing, all to the detriment of the American taxpayer and the hard-working, saving American citizens.

Mr. President, do not, do not pardon people who have been convicted of crimes. The American people will remember.

## CONGRESS IS AFRAID OF THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the 104th Congress has failed.

Even though the American people feel ripped off and taxed off, in 1997 the American taxpayer will still be guilty under the eyes of the law in a civil tax case and will still have to prove their innocence.

Shame.

Mr. Speaker, I am not just taking a slap at Republicans. The Democrats were no better.

It comes down to the fact, the major problem in America is today the people do not govern, today the institutions govern, and the Congress, in my opinion, is afraid to death of the Internal Revenue Service. I say to my colleagues, after all, you do not want the IRS to come snooping around, do you, judges and politicians?

The sad truth is the Congress of the United States has become nothing more than background music in a doctor's office when it comes to the Internal Revenue Service. Shame, Congress.

## THE BIRTH OF SARA MEADE INGLIS

(Mr. TALENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALENT. Mr. Speaker, it is a great pleasure for me to be here this morning because during our August recess a very significant event happened in the lives of one of our colleagues, and we did not have the opportunity to acknowledge it as a House because we were not in session.

Our good friend, and, Mr. Speaker, you know him well, the gentleman from South Carolina [Mr. INGLIS] and his wife, Mary Anne, had their fifth child on August 7, 1996. She is Sara Meade Inglis; they are going to call her Meade. She was 6 pounds 13 ounces. I am sure she has grown since then. She has a brother, Robert, and three sisters: Mary Ashton, McCullough, and Andrews. So our good friend and colleague, the gentleman from South Carolina [Mr. INGLIS] now has and his wife, Mary Anne, have one son and four daughters.

I am sure that the House joins me in wishing little Meade well and congratulating the Inglis family. There is no greater blessing in the life of any family than the birth of another child, and I am sure we all wish them health and happiness for many years.

## MR. SPEAKER, SHOW SOME PERSONAL RESPONSIBILITY

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, refresh my memory. Was not a big part of NEWT GINGRICH's so-called Contract With America personal responsibility?

Well, NEWT, here is your chance.

After 2 years of distortions, distractions and delays, you can finally show some personal responsibility.

The ethics committee has directed the special counsel to expand his investigation of you, to determine, in part, whether you failed to—quote—''provide accurate, reliable and complete information'' to him.

It is all about personal responsibility.

You like to preach to legal immigrants about it. You like to preach to low-income Americans about it. You like to preach to vulnerable mothers and children about it. Now it is time for you to show some personal responsibility of your own.

Since reasons to expand this investigation have been found, you should step down.

NEWT, you are fond of saying that you are a revolutionary. Why do you not show a revolutionary change in your behavior?

Have enough decency to do what you screamed that Jim Wright should do 8 years ago—stop the embarrassment to this institution, stop the embarrassment to this country—step aside as Speaker of the House.

## INTRODUCTION OF RESOLUTION CONDEMNING THE NORTH KOREANS

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, last Wednesday a North Korean submarine filled with armed commandos landed 60 miles into South Korean territory.

Upon infiltrating South Korea, the 26 North Korean espionage agents scattered into South Korea and have already killed 4 South Korean soldiers. Today, I am introducing a resolution condemning the North Koreans for this outrageous behavior.

Considering that we have 37,000 U.S. military personnel in South Korea helping to keep the peace, we cannot sit idly by as the Communist North continues to conduct these aggressive spy missions in the democratic South, our strong ally.

And yet, under the Clinton administration American taxpayer-funded aid to North Korea has grown faster than to any other country in Asia. President Clinton has even threatened to veto the Republican foreign operations bill because he says we are not giving enough aid to North Korea. Not enough?

Is this what Americans are subsidizing? Commando raids and military attacks on our own troops and our allies? I urge my colleagues to support my resolution.

## REPUBLICAN DAMAGE IN THE 104TH CONGRESS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, as the 104th Congress comes to a close, we look back on successes and failures, and I am proud to say, Mr. Speaker, that the Democratic Members can claim responsibility for some of the most impressive successes.

The minimum wage increase, it is a flagship of the Democratic agenda, and it focused on what American people really want. Next week American workers get the raise they deserve, a bipartisan success.

The Kennedy-Kassebaum health care bill came only after Democrats defended it against the House Republicans, who stonewalled for months.

Putting more money in people's pockets and providing employees with the option of portable health care are Democratic answers to Republicans' measures that have shaken Americans' confidence.

The 104th Congress began with an all-out onslaught on Medicare and education funding that the President and Democrats stopped cold.

The American people rightfully lost confidence in the Republican's ability to run Congress after two Government shutdowns and one looming next week. We can do much better. Americans cannot afford another Gingrich Congress.

We need to remember whom we represent, the hard-working Americans who want to better tomorrow, not a better yesterday.

□ 0915

## TRIBUTE TO S. SGT. HAMMETT L. BOWEN, JR.

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, in Vietnam in 1969, a platoon of men serving in the U.S. Army were advancing on a mission into enemy controlled territory when a crossfire of small arms erupted and grenades began exploding.

An enemy grenade was thrown directly at S. Sgt. Hammett L. Bowen, Jr., and his men just as Sergeant Brown shouted a warning. Fearlessly, Sergeant Bowen thrust himself on the grenade, absorbing the explosion and saving the lives of his fellow soldiers, but sacrificing his own.

For his heroic bravery, Sergeant Bowen, a La Grange, GA, native, was awarded the Congressional Medal of Honor. Hammett will also now be remembered by tens of thousands of travelers each year, when they travel Route 109 east in La Grange, now known as the Hammett L. Bowen, Jr. Memorial Highway.

I commend the Georgia Department of Transportation, as well as other State and local authorities for recognizing Hammett's sacrifice. As Americans, we owe our lives to the many men and women who serve our country, just as Staff Sergeant Bowen did, and who make it a safer and freer place in which all of us might live and prosper.

## ''OUR BIGGEST MISTAKE WAS BACKING OFF FROM THE GOVERNMENT SHUTDOWN,'' SAYS THE MAJORITY WHIP

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, the Republican majority, under the imperial Speaker, the gentleman from Georgia, NEWT GINGRICH, have become very upset when we look at their policies, and we call them and their policies extreme and radical. They get very upset.

Are they, really? I can read something that the majority whip has said. The gentleman from Texas, TOM DELAY, knows exactly when the GOP lost the momentum. ''Our biggest mistake was backing off from the Government shutdown.'' That is right, folks.

He says the biggest mistake they made in the 104th Congress was backing off of the Government shutdown.

''We should have stuck it out,'' he says, ''our calls were 400 to 5 in favor of the shutdown. The worst moment was November 19. I was cooking steaks for five or six Members at my condo.'' That is right, he is having steaks. Federal contractors and employees and all are eating peanut butter, but he was having steaks. ''The TV was on. All of a sudden there's NEWT and Dole and the President, and everybody is shaking hands and saying they've reached agreement to reopen the Government. I'll never forget it as long as I live.''

Radical? Extreme? Yes, the shoe fits.

## PAYBACK TIME?

(Ms. GREENE of Utah asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GREENE of Utah. Mr. Speaker, in February 1995, the Clinton administration settled a 212-page draft criminal complaint against the Laborers' International Union. The Justice Department listed some 80 criminal convictions of Laborers officials over a 20-year period. The convictions were for major felonies like racketeering, extortion, tax evasion, and attempted murder.

To reform the union, career prosecutors asked for appointment of an outside administrator. Instead, Clinton let Union President Arthur Coia off the hook, and told him to clean up the union in which he had—according to Justice—created a ''climate of fear and intimidation.''

Federal Election Commission records show that the Laborers gave the Democratic Party soft money contributions of $460,000, for the 18-month period ending in June, more than any other union, and more than all but seven other donors.

Could the connection be more obvious?

## SO MUCH FOR THE REPUBLICAN CONTROLLED 104TH CONGRESS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, the Speakership of the gentleman from Georgia, NEWT GINGRICH, like the 104th Congress and the Contract on America, are all beginning to unravel. The ethics probe has been dramatically expanded, and now the committee believes that the Speaker may have been lying to the outside counsel.

Even committee Republicans, who have seen all the evidence and who still refuse to release the report, supported the decision to expand the probe. Republicans obviously have decided to throw the gentleman from Georgia [Mr. GINGRICH] overboard, as long as they can postpone the bad news until after the election. Throw NEWT overboard, use their little gray buckets to bail themselves out with the American people.

The charges are very serious: Tax fraud, money laundering, corruption, and now, lying to the outside counsel. So much for personal responsibility, so much for a reform-minded Congress, and so much for the Republican-controlled 104th Congress.

## PUERTO RICO AS THE 51ST STATE?

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, have Members thought about Puerto Rico as the 51st State? That is what we are going to be voting on today.

Now the proponents are going to say, this is not for statehood, this is solely a plebiscite. They have had three plebiscites in Puerto Rico, and the Commonwealth has won every one. The rules are going to be structured so statehood finally has a chance to win. If I can set the rules, I can win any game.

This is a very serious issue. It is like the old Communist system, the Communists lost, lost, lost and when they finally won, no more elections, no more plebiscites. That is the way it is going to be here.

I hope the people take a look at this bill when it comes up today, and just not rush over into the sea like a bunch of lemmings. I have a question, too. How do the American people feel about this? When we add a State to the United States, I think that is a very serious question. I hope the people in this House today take a look at this bill and vote with their conscience.

## THE SPEAKER'S ICE BUCKETS AND WATER BOYS ARE ON THE WAY OUT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, why is Speaker GINGRICH still smiling over his ice bucket? It is true, he has collected many an ice bucket, and even though he has had all that ice to try to put that ethics report in deep freeze, he has not been successful. It is sizzling through.

Like any time when the ice begins to melt, it turns into dirty slush. What we find in this Congress is one Member after another who is still carrying around the slush, or the water, the water boys for NEWT on one issue after another, as they have done through this entire Congress.

After all, it was NEWT's water boys who carried pails like those I see Members carrying around Congress today who carried the water to shut down the Government and cost the taxpayers $1.5 billion. It was NEWT's water boys who wanted to cut student loans by over $20 billion. It was NEWT's water boys who turned over the writing of our water laws and our other environmental laws to the polluters, to sit right here in this Capitol and write those laws.

NEWT's water boys are still going, but not for much longer.

## THE DEMOCRATS' CHANGE OF HEART ABOUT THE NEED FOR A BALANCED BUDGET, AND CELEBRATING THE 2-YEAR ANNIVERSARY OF THE CONTRACT WITH AMERICA

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, as we draw this 104th Congress to a close, I think it is appropriate to remember where we were 2 years ago, before Republicans became a majority in this House. The Democrats were not talking about a balanced budget. In fact, the President's balanced budget at that time, 2 years ago, had a $200 billion deficit every year into the foreseeable future.

In 1995, the new Republican majority came in and insisted that Government do what Americans have to do in their personal family budgets—that being—balance the Federal budget. The Democrats, the President, did their focus groups, they took the polls. They decided, Americans do want a balanced budget. They think it is reasonable. Two years ago, nobody on the liberal side of the aisle was talking about a balanced budget, and now everybody is talking about it. That is progress.

The liberals and big Government advocates try to belittle this Republican Congress, and criticize the Contract With America. We are going to celebrate our 2-year anniversary of the Contract With America today. Let us just remember that most of the brag items of accomplishments that President Clinton mentioned in his acceptance speech were passed by the Republican-controlled 104th Congress.

Mr. Speaker, I include for the RECORD the Contract With America items signed into law in the last 2 years.

The material referred to is as follows:

The Contract With America has significantly contributed in making the 104th Republican-led Congress one of the most productiver ever. Of 75 Contract legislative provisions considered in the House, 49 (65 percent) have been enacted by statute or rules change, 20 (27 percent) have been vetoed by President Clinton, and 6 (8 percent) await Senate action. The bottom line: two-thirds of the Contract is now law.

CONTRACT MEASURES SIGNED INTO LAW

Congressional Accountability Act—Applies civil rights and job protection laws to Congress. (H.R. 1)

Congressional Reforms—Host of ''opening day'' reforms approved as part of House rules, including a one-third cut in committee staff (saving $45 million), term limits for the Speaker and committee chairmen, a ban on

committee proxy voting, a three-fifths vote requirement for tax increases, public and media access to committee meetings, and authorization for an audit of the House books.

Line-Item Veto—Gives the President line-item veto authority beginning January 1, 1997 to eliminate wasteful discretionary spending, targeted tax benefits, and new or increased entitlement programs. (H.R. 3136)

Mandatory Victim Restitution—Requires federal judges to order convicted criminals to pay restitution to their crime victims. (S. 735)

Effective Death Penalty Enforcement—Places reasonable limits on appeals filed by violent criminals seeking to overturn their convictions. (S. 735)

Criminal Alien Deportation—Improves current laws to make it easier for the government to deport criminal aliens. (S. 735)

Truth-In-Sentencing State Prison Grants—More than $400 million provided in FY '96 to help states build prisons, provided violent criminals serve at least 85 percent of their sentences. (H.R. 3019)

Local Government Law Enforcement Block Grants—$503 million provided in FY '96 to give local law enforcement officials greater flexibility in fighting violent crime in their communities. (H.R. 3019)

Sexual Crimes Against Children Prevention Act—Instructs the U.S. Sentencing Commission to increase the recommended penalties for making or trafficking in child pornography. (H.R. 1240)

National Security Revitalization—The FY '96 defense appropriations bill reversed Clinton's ''hollow'' military by restoring $7 billion in Clinton defense cuts and providing an additional $600 million for anti-missile defenses. (H.R. 2126)

Unfunded Mandates Reform—Ends intrusive federal mandates that require local governments (i.e., taxpayers) to pick up the costs. (H.R. 5)

Paperwork Reduction Act—Reduces federal reporting requirements by 40 percent over six years. (H.R. 830)

Regulatory Flexibility Act Amendments—Provides judicial review of the Regulatory Flexibility Act and allows expedited congressional review of new regulations costing more than $100 million. (H.R. 3136)

Small Business Tax Relief—Increases equipment expensing from $17,500 to $25,000 and clarifies the tax treatment of home office/product-sample storage costs. (H.R. 3448)

Securities Litigation Reform Act—Prevents class-action lawyers from abusing the rules to extort settlements from innocent companies whose predictions of corporate performance are not fulfilled. (H.R. 1058)

Personal Responsibility and Work Opportunity Act—Requires welfare recipients to work within 2 years or lose benefits, limits lifetime cash welfare to 5 years, gives states tools for reducing out-of-wedlock births, reforms the fast-growing food stamp program, and ends most welfare to non-citizens. (H.R. 3734)

Drug Abusers Collecting Welfare—Ends SSI payments to drug and alcohol abusers. (H.R. 3136)

Adoption Tax Credit—Allows up to a $5,000 tax credit to offset adoption expenses for families with adjusted gross incomes of less than $75,000 and prohibits adoption agencies from making placements based on race. (H.R. 3448)

Spousal IRAs—Increases from $250 to $2,000 the amount non-working spouses can contribute to IRAs. (H.R. 3448)

Social Security Earnings Limit—Phases in an increase of the earnings limit to $30,000 in 2002 for seniors who choose to work between ages 65 to 69. (H.R. 3136)

Long-Term Care Tax Incentives—Encourages more people to buy long-term care insurance and allows chronically or terminally ill individuals to receive life insurance benefits before death without a tax penalty. (H.R. 3103)

Housing for Older Person Act—Protects senior citizen communities from discrimination lawsuits by defining in law ''senior-only'' housing complexes. (H.R. 660)

CONTRACT MEASURES VETOED BY THE PRESIDENT

A Balanced Budget by 2002—The balanced budget amendment included in the Contract required a balanced budget in 2002. Falling short by one vote in the Senate, Congress approved the Balanced Budget Act to balance the budget in 7 years. (Vetoed 12/6/95)

Family Tax Cuts—$500 per-child tax cut, marriage penalty relief, $1,000 eldercare deduction, and American Dream Savings Accounts. (Vetoed 12/6/95)

Economic Growth Tax Cuts—Reductions in capital gains and inheritance taxes, among others. (Vetoed 12/6/95)

Lawsuit Abuse Reform—Reforms product liability laws to lower litigation costs to employers and end abuses by trial lawyers. (Vetoed 5/2/96)

Ballistic Missile Defense—Protects America's cities from accidental or terrorist nuclear attack (Vetoed 12/28/95)

U.N. Command of U.S. Troops—Prohibits the president from placing U.S. troops under foreign command. (Vetoed 12/28/95)

## THE AMERICAN PEOPLE CANNOT AFFORD ANOTHER GINGRICH CONGRESS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, these are the last hours of the Gingrich Congress. American families are breathing a sigh of relief that this extremist Congress is leaving town. Two years ago Republicans marched up Capitol Hill, taking over the people's House and shouting for revolution. But now the American people understand what they meant.

It meant $270 billion cuts in Medicare to pay for a tax break for the wealthiest Americans. It meant cutting student loans by $10 million to put college even further out of the reach of working middle-class families hoping for a shot at the American dream, and then exposing workers' pensions to raids by corporations, making retirement even less secure, rather than honoring a lifetime of hard work.

But the most amazing revelation of all comes from the House Republican whip, the gentleman from Texas, TOM DELAY, who says, ''We wouldn't change a thing.'' The American people cannot afford another Gingrich Congress.

## TIME FOR MEMBERS TO STOP PERSONAL DISPLAYS OF PARTISANSHIP AND GET ON WITH THE BUSINESS OF THE HOUSE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, one more time today we have seen a pathetic display from the Democrats, who for the last 2 weeks have been demanding that a report, that now we know did not exist at the time, be published. The report was published yesterday, and we now know what it says.

It says, signed by two Democrats and signed by the special counsel:

> It is important to understand that this action does not mean the subcommittee has at this point made any determination that there is reason to believe Representative GINGRICH committed any violation within the jurisdiction of this committee.

The fact of the matter is the Ethics Committee has asked for more time to look into other things. It does not say, as the gentleman from Michigan pointed out, it does not say anything about tax fraud. It does not say anything about corruption. It does not say anything about money laundering.

It says, ''This action does not mean the subcommittee has at this point made any determination that there is any reason to believe that Representative GINGRICH committed any violation within the jurisdiction of the committee.''

Mr. Speaker, it is time to stop the personal displays of partisanship and get on with the business of the House.

## THE GREATEST ACCOMPLISHMENTS OF THE 104TH CONGRESS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I was asked the other day, what is the greatest accomplishment of this past Congress? What came to mind was a big stop sign.

The greatest accomplishments of this Congress were stopping the extremist majority from ripping away at what the American family, the average family, needs. The greatest accomplishment of this Congress was stopping them from cutting and decimating Medicare. The greatest accomplishment of this Congress was stopping them from raping the environment. The greatest accomplishment of this Congress was stopping them from taking away the few rights that working people in America have.

Unfortunately, unfortunately, the great accomplishments of this Congress were not positive things that made the average family's life better, but were negative things: Stopping the extremist majority, the Gingrich majority, from doing things that would have helped the top few and hurt the rest of America.

Mr. Speaker, I am sure that most American families hope we will not have another 2 years of this. I am sure that most American families wish and pray that we can get back to doing certain things that will make their lives better in terms of their health and in terms of their pensions and in terms of their ability simply to pay the bills and raise their families.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. INGLIS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later in the day.

## HEALTH CENTERS CONSOLIDATION ACT OF 1996

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1044) to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

The Clerk read as follows:

S. 1044

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Health Centers Consolidation Act of 1996''.

**SEC. 2. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.**

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended to read as follows:

''Subpart I—Health Centers

**''SEC. 330. HEALTH CENTERS.**

''(a) DEFINITION OF HEALTH CENTER.—

''(1) IN GENERAL.—For purposes of this section, the term 'health center' means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

''(A) required primary health services (as defined in subsection (b)(1)); and

''(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the 'catchment area').

''(2) LIMITATION.—The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (g), (h), or (i).

''(b) DEFINITIONS.—For purposes of this section:

''(1) REQUIRED PRIMARY HEALTH SERVICES.—

''(A) IN GENERAL.—The term 'required primary health services' means—

''(i) basic health services which, for purposes of this section, shall consist of—

''(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

''(II) diagnostic laboratory and radiologic services;

''(III) preventive health services, including—

''(aa) prenatal and perinatal services;

''(bb) screening for breast and cervical cancer;

''(cc) well-child services;

''(dd) immunizations against vaccine-preventable diseases;

''(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

''(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

''(gg) voluntary family planning services; and

''(hh) preventive dental services;

''(IV) emergency medical services; and

''(V) pharmaceutical services as may be appropriate for particular centers;

''(ii) referrals to providers of medical services and other health-related services (including substance abuse and mental health services);

''(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services;

''(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

''(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

''(B) EXCEPTION.—With respect to a health center that receives a grant only under subsection (g), the Secretary, upon a showing of good cause, shall—

''(i) waive the requirement that the center provide all required primary health services under this paragraph; and

''(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

''(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the health center involved. Such term may include—

''(A) environmental health services, including—

''(i) the detection and alleviation of unhealthful conditions associated with water supply;

''(ii) sewage treatment;

''(iii) solid waste disposal;

''(iv) rodent and parasitic infestation;

''(v) field sanitation;

''(vi) housing; and

''(vii) other environmental factors related to health; and

''(B) in the case of health centers receiving grants under subsection (g), special occupation-related health services for migratory and seasonal agricultural workers, including—

''(i) screening for and control of infectious diseases, including parasitic diseases; and

''(ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

''(3) MEDICALLY UNDERSERVED POPULATIONS.—

''(A) IN GENERAL.—The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

''(B) CRITERIA.—In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

''(i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

''(ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

''(C) LIMITATION.—The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

''(i) the chief executive officer of such State;

''(ii) local officials in such State; and

''(iii) the organization, if any, which represents a majority of health centers in such State.

''(D) PERMISSIBLE DESIGNATION.—The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.

''(c) PLANNING GRANTS.—

''(1) IN GENERAL.—

''(A) CENTERS.—The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

''(i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;

''(ii) the design of a health center program for such population based on such assessment;

''(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project;

''(iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and

''(v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

''(B) COMPREHENSIVE SERVICE DELIVERY NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers

serve. Such a grant may only be made for such a center if—

''(i) the center has received grants under subsection (e)(1)(A) for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and

''(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

Any such grant may include the acquisition and lease of buildings and equipment which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans), and providing training and technical assistance related to the provision of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.

''(2) LIMITATION.—Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

''(d) MANAGED CARE LOAN GUARANTEE PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary shall establish a program under which the Secretary may, in accordance with this subsection and to the extent that appropriations are provided in advance for such program, guarantee the principal and interest on loans made by non-Federal lenders to health centers funded under this section for the costs of developing and operating managed care networks or plans.

''(B) USE OF FUNDS.—Loan funds guaranteed under this subsection may be used—

''(i) to establish reserves for the furnishing of services on a pre-paid basis; or

''(ii) for costs incurred by the center or centers, otherwise permitted under this section, as the Secretary determines are necessary to enable a center or centers to develop, operate, and own the network or plan.

''(C) PUBLICATION OF GUIDANCE.—Prior to considering an application submitted under this subsection, the Secretary shall publish guidelines to provide guidance on the implementation of this section. The Secretary shall make such guidelines available to the universe of parties affected under this subsection, distribute such guidelines to such parties upon the request of such parties, and provide a copy of such guidelines to the appropriate committees of Congress.

''(2) PROTECTION OF FINANCIAL INTERESTS.—

''(A) IN GENERAL.—The Secretary may not approve a loan guarantee for a project under this subsection unless the Secretary determines that—

''(i) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any center asset that is, or may be, needed by the center or centers involved to provide health services;

''(ii) the loan would not be available on reasonable terms and conditions without the guarantee under this subsection; and

''(iii) amounts appropriated for the program under this subsection are sufficient to provide loan guarantees under this subsection.

''(B) RECOVERY OF PAYMENTS.—

''(i) IN GENERAL.—The United States shall be entitled to recover from the applicant for a loan guarantee under this subsection the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining available to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this clause shall be credited as reimbursements to the financing account of the program.

''(ii) MODIFICATION OF TERMS AND CONDITIONS.—To the extent permitted by clause (iii) and subject to the requirements of section 504(e) of the Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this subsection (including terms and conditions imposed under clause (iv)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

''(iii) INCONTESTABILITY.—Any loan guarantee made by the Secretary under this subsection shall be incontestable—

''(I) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

''(II) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

''(iv) FURTHER TERMS AND CONDITIONS.—Guarantees of loans under this subsection shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

''(3) LOAN ORIGINATION FEES.—

''(A) IN GENERAL.—The Secretary shall collect a loan origination fee with respect to loans to be guaranteed under this subsection, except as provided in subparagraph (C).

''(B) AMOUNT.—The amount of a loan origination fee collected by the Secretary under subparagraph (A) shall be equal to the estimated long term cost of the loan guarantees involved to the Federal Government (excluding administrative costs), calculated on a net present value basis, after taking into account any appropriations that may be made for the purpose of offsetting such costs, and in accordance with the criteria used to award loan guarantees under this subsection.

''(C) WAIVER.—The Secretary may waive the loan origination fee for a health center applicant who demonstrates to the Secretary that the applicant will be unable to meet the conditions of the loan if the applicant incurs the additional cost of the fee.

''(4) DEFAULTS.—

''(A) IN GENERAL.—Subject to the requirements of the Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this subsection, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a health center or centers shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

''(B) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this subsection, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with paragraph (2)(A)(i).

''(5) LIMITATION.—Not more than one loan guarantee may be made under this subsection for the same network or plan, except that upon a showing of good cause the Secretary may make additional loan guarantees.

''(6) ANNUAL REPORT.—Not later than April 1, 1998, and each April 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning loan guarantees provided under this subsection. Such report shall include—

''(A) a description of the number, amount, and use of funds received under each loan guarantee provided under this subsection;

''(B) a description of any defaults with respect to such loans and an analysis of the reasons for such defaults, if any; and

''(C) a description of the steps that may have been taken by the Secretary to assist an entity in avoiding such a default.

''(7) PROGRAM EVALUATION.—Not later than June 30, 1999, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing an evaluation of the program authorized under this subsection. Such evaluation shall include a recommendation with respect to whether or not the loan guarantee program under this subsection should be continued and, if so, any modifications that should be made to such program.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

''(e) OPERATING GRANTS.—

''(1) AUTHORITY.—

''(A) IN GENERAL.—The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

''(B) ENTITIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—The Secretary may make grants, for a period of not to exceed 2-years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection (j)(3).

''(2) USE OF FUNDS.—The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring and leasing buildings and equipment (including the costs of amortizing the principal of, and paying interest on, loans), and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

''(3) CONSTRUCTION.—The Secretary may award grants which may be used to pay the costs associated with expanding and modernizing existing buildings or constructing new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) for projects approved prior to October 1, 1996.

''(4) LIMITATION.—Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

''(5) AMOUNT.—

''(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

''(i) State, local, and other operational funding provided to the center; and

''(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

''(B) PAYMENTS.—Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

''(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

''(f) INFANT MORTALITY GRANTS.—

''(1) IN GENERAL.—The Secretary may make grants to health centers for the purpose of assisting such centers in—

''(A) providing comprehensive health care and support services for the reduction of—

''(i) the incidence of infant mortality; and

''(ii) morbidity among children who are less than 3 years of age; and

''(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

''(2) PRIORITY.—In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

''(3) REQUIREMENTS.—The Secretary may make a grant under this subsection only if the health center involved agrees that—

''(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

''(B) such services will be continuous for each such recipient;

''(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

''(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

''(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

''(g) MIGRATORY AND SEASONAL AGRICULTURAL WORKERS.—

''(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of—

''(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

''(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (3) because of age or disability and members of the families of such individuals who are within such catchment area.

''(2) ENVIRONMENTAL CONCERNS.—The Secretary may enter into grants or contracts under this subsection with public and private entities to—

''(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migratory agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

''(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and members of their families are exposed.

''(3) DEFINITIONS.—For purposes of this subsection:

''(A) MIGRATORY AGRICULTURAL WORKER.—The term 'migratory agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

''(B) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

''(C) AGRICULTURE.—The term 'agriculture' means farming in all its branches, including—

''(i) cultivation and tillage of the soil;

''(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

''(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

''(h) HOMELESS POPULATION.—

''(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and children at risk of homelessness.

''(2) REQUIRED SERVICES.—In addition to required primary health services (as defined in subsection (b)(1)), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

''(3) SUPPLEMENT NOT SUPPLANT REQUIREMENT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

''(4) DEFINITIONS.—For purposes of this section:

''(A) HOMELESS INDIVIDUAL.—The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.

''(B) SUBSTANCE ABUSE.—The term 'substance abuse' has the same meaning given such term in section 534(4).

''(C) SUBSTANCE ABUSE SERVICES.—The term 'substance abuse services' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.

''(i) RESIDENTS OF PUBLIC HOUSING.—

''(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 3(b)(1) of the United States Housing Act of 1937) and individuals living in areas immediately accessible to such public housing.

''(2) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

''(3) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

''(A) has consulted with the residents in the preparation of the application for the grant; and

''(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

''(j) APPLICATIONS.—

''(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

''(2) DESCRIPTION OF NEED.—An application for a grant under subparagraph (A) or (B) of subsection (e)(1) for a health center shall include—

''(A) a description of the need for health services in the catchment area of the center;

''(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

''(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (e)(1), the Secretary may require as a condition to the approval of such application an assurance that the applicant will provide any

health service defined under paragraphs (1) and (2) of subsection (b) that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

''(3) REQUIREMENTS.—Except as provided in subsection (e)(1)(B), the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (e)(1) unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a)) and that—

''(A) the required primary health services of the center will be available and accessible in the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

''(B) the center has made and will continue to make every reasonable effort to establish and maintain collaborative relationships with other health care providers in the catchment area of the center;

''(C) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

''(D) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

''(E) the center—

''(i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; or

''(ii) has made or will make every reasonable effort to enter into such an arrangement;

''(F) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

''(G) the center—

''(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

''(ii) has made and will continue to make every reasonable effort—

''(I) to secure from patients payment for services in accordance with such schedules; and

''(II) to collect reimbursement for health services to persons described in subparagraph (F) on the basis of the full amount of fees and payments for such services without application of any discount; and

''(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

''(H) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act or an urban Indian organization under the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.)—

''(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

''(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

''(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (g), (h), (i), or (p);

''(I) the center has developed—

''(i) an overall plan and budget that meets the requirements of the Secretary; and

''(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

''(I) the costs of its operations;

''(II) the patterns of use of its services;

''(III) the availability, accessibility, and acceptability of its services; and

''(IV) such other matters relating to operations of the applicant as the Secretary may require;

''(J) the center will review periodically its catchment area to—

''(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

''(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

''(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

''(K) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

''(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

''(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

''(L) the center, has developed an ongoing referral relationship with one or more hospitals.

For purposes of subparagraph (H), the term 'public center' means a health center funded (or to be funded) through a grant under this section to a public agency.

''(4) APPROVAL OF NEW OR EXPANDED SERVICE APPLICATIONS.—The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (e)(1) for health centers which—

''(A) have not received a previous grant under such subsection; or

''(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

''(k) TECHNICAL AND OTHER ASSISTANCE.—The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (j)(2).

''(l) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d), there are authorized to be appropriated $802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

''(2) SPECIAL PROVISIONS.—

''(A) PUBLIC CENTERS.—The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (j)(3)) the governing boards of which (as described in subsection (j)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term 'public centers' shall not include health centers that receive grants pursuant to subsection (h) or (i).

''(B) DISTRIBUTION OF GRANTS.—

''(i) FISCAL YEAR 1997.—For fiscal year 1997, the Secretary, in awarding grants under this section shall ensure that the amounts made available under each of subsections (g), (h), and (i) in such fiscal year bears the same relationship to the total amount appropriated for such fiscal year under paragraph (1) as the amounts appropriated for fiscal year 1996 under each of sections 329, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) bears to the total amount appropriated under sections 329, 330, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) for such fiscal year.

''(ii) FISCAL YEARS 1998 AND 1999.—For each of the fiscal years 1998 and 1999, the Secretary, in awarding grants under this section shall ensure that the proportion of the amounts made available under each of subsections (g), (h), and (i) is equal to the proportion of amounts made available under each such subsection for the previous fiscal year, as such amounts relate to the total amounts appropriated for the previous fiscal year involved, increased or decreased by not more than 10 percent.

''(3) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs

of the targeted populations and the rationale for any substantial changes in the distribution of funds.

''(m) MEMORANDUM OF AGREEMENT.—In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

''(1) analyze the need for primary health services for medically underserved populations within such State;

''(2) assist in the planning and development of new health centers;

''(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

''(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

''(5) share information and data relevant to the operation of new and existing health centers.

''(n) RECORDS.—

''(1) IN GENERAL.—Each entity which receives a grant under subsection (e) shall establish and maintain such records as the Secretary shall require.

''(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

''(o) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to administer the programs authorized by this section to any office, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

''(p) SPECIAL CONSIDERATION.—In making grants under this section, the Secretary shall give special consideration to the unique needs of sparsely populated rural areas, including giving priority in the awarding of grants for new health centers under subsections (c) and (e), and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (j)(3)(G).

''(q) AUDITS.—

''(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

''(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

''(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

''(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

''(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

''(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for and audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

''(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.''.

**SEC. 3. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.**

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 2) is further amended by adding at the end thereof the following new section:

**''SEC. 330A. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.**

''(a) ADMINISTRATION.—The rural health services outreach demonstration grant program established under section 301 shall be administered by the Office of Rural Health Policy (of the Health Resources and Services Administration), in consultation with State rural health offices or other appropriate State governmental entities.

''(b) GRANTS.—Under the program referred to in subsection (a), the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.

''(c) ELIGIBLE NETWORKS.—

''(1) OUTREACH NETWORKS.—To be eligible to receive a grant under this section, an entity shall—

''(A) be a rural public or nonprofit private entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services; and

''(B) in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(i) a description of the activities which the applicant intends to carry out using amounts provided under the grant;

''(ii) a plan for continuing the project after Federal support is ended;

''(iii) a description of the manner in which the activities funded under the grant will meet health care needs of underserved rural populations within the State; and

''(iv) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network.

''(2) FOR-PROFIT ENTITIES.—An eligible network may include for-profit entities so long as the network grantee is a nonprofit entity.

''(3) TELEMEDICINE NETWORKS.—

''(A) IN GENERAL.—An entity that is a health care provider and a member of an existing or proposed telemedicine network, or an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network shall be eligible for a grant under this section.

''(B) REQUIREMENT.—A telemedicine network referred to in subparagraph (A) shall, at a minimum, be composed of—

''(i) a multispecialty entity that is located in an urban or rural area, which can provide 24-hour a day access to a range of specialty care; and

''(ii) at least two rural health care facilities, which may include rural hospitals, rural physician offices, rural health clinics, rural community health clinics, and rural nursing homes.

''(d) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applicant networks that include—

''(1) a majority of the health care providers serving in the area or region to be served by the network;

''(2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region;

''(3) outpatient mental health providers serving in the area or region; or

''(4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program, to improve access to and coordination of health care services.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts provided under grants awarded under this section shall be used—

''(A) for the planning and development of integrated self-sustaining health care networks; and

''(B) for the initial provision of services.

''(2) EXPENDITURES IN RURAL AREAS.—

''(A) IN GENERAL.—In awarding a grant under this section, the Secretary shall ensure that not less than 50 percent of the grant award is expended in a rural area or to provide services to residents of rural areas.

''(B) TELEMEDICINE NETWORKS.—An entity described in subsection (c)(3) may not use in excess of—

''(i) 40 percent of the amounts provided under a grant under this section to carry out activities under paragraph (3)(A)(iii); and

''(ii) 20 percent of the amounts provided under a grant under this section to pay for the indirect costs associated with carrying out the purposes of such grant.

''(3) TELEMEDICINE NETWORKS.—

''(A) IN GENERAL.—An entity described in subsection (c)(3), may use amounts provided under a grant under this section to—

''(i) demonstrate the use of telemedicine in facilitating the development of rural health care networks and for improving access to health care services for rural citizens;

''(ii) provide a baseline of information for a systematic evaluation of telemedicine systems serving rural areas;

''(iii) purchase or lease and install equipment; and

''(iv) operate the telemedicine system and evaluate the telemedicine system.

''(B) LIMITATIONS.—An entity described in subsection (c)(3), may not use amounts provided under a grant under this section—

''(i) to build or acquire real property;

''(ii) purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment); or

''(iii) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment;

''(f) TERM OF GRANTS.—Funding may not be provided to a network under this section for in excess of a 3-year period.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $36,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.''.

(b) TRANSITION.—The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.

**SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) in section 224(g)(4) (42 U.S.C. 233(g)(4)), by striking ''under'' and all that follows through the end thereof and inserting ''under section 330.'';

(2) in section 340C(a)(2) (42 U.S.C. 256c) by striking ''under'' and all that follows through the end thereof and inserting ''with assistance provided under section 330.''; and

(3) by repealing subparts V and VI of part D of title III (42 U.S.C. 256 et seq.).

(b) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in clauses (i) and (ii)(I) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A)(i) and (ii)(I)) by striking ''section 329, 330, or 340'' and inserting ''section 330 (other than subsection (h))''; and

(2) in clauses (i) and (ii)(II) of section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)(i) and (ii)(II)) by striking ''section 329, 330, 340, or 340A'' and inserting ''section 330''.

(c) REFERENCES.—Whenever any reference is made in any provision of law, regulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center.

(d) FTCA CLARIFICATION.—For purposes of section 224(k)(3) of the Public Health Service Act (42 U.S.C. 233(k)(3)), transfers from the fund described in such section for fiscal year 1996 shall be deemed to have occurred prior to December 31, 1995.

(e) ADDITIONAL AMENDMENTS.—After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act.

**SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall become effective on October 1, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from California [Mr. WAXMAN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, the health centers programs play a vital role in bringing community-based primary care to millions of Americans in underserved areas. Nationwide, over 2,400 health centers provide basic services to over 9 million persons.

S. 1044 consolidates the authority for the four health centers programs—community, migrant, homeless, and public housing and authorizes it through fiscal year 2001. Fiscal year 1997 is authorized at $802 million, the amount provided in the House Labor-HHS Appropriations bill. Consolidating these programs will eliminate duplication while maintaining their unique functions that have made them so effective.

The bill provides special definitions and provisions for the farm worker, homeless, and public housing health care programs. Total funding for health centers in fiscal year 1997 must be distributed so that each of these programs will receive a percentage of the overall funding equal to its percentage of funding in fiscal year 1996. For example, homeless health centers received 8.6 percent of the total amount provided to health centers so it will receive 8.6 percent in fiscal year 1997.

The bill clarifies the current authority to use funds for grants to assist health centers in developing networks and managed care plans, so that they can continue to become integrated into the evolving managed care environment. In addition, the bill authorizes a loan guarantee program to help centers obtain private sector financing to help with the initial phase of establishing a network.

There are also provisions to encourage the establishment of health centers in rural areas, including a provision authorizing the Secretary to give special consideration to the unique needs of sparsely populated rural areas. S. 1044 also helps to address the problems in rural areas by authorizing a rural health outreach, network development, and telemedicine grant program.

These health centers provide an invaluable service to many Americans who otherwise would be without health care. I urge my colleagues to join me in supporting this important legislation.

☐ 0930

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, S. 1044, which reaffirms our support for the Community and Migrant Health Centers programs and for those programs that provide health care for the homeless and people living in public housing. These are essential programs for unfortunately millions of Americans who have nowhere else to go for their health care needs.

I have a longer statement which I will put into the RECORD talking about the Community and Migrant Health Centers and the kinds of things that they do. I cannot imagine any controversy with this legislation. Whatever differences we might have on health care policy, we are united in agreeing that we ought to have funding for those clinics that provide health care for some of our neediest citizens and residents in this Nation.

Mr. Speaker, S. 1044 reaffirms our support for Community and Migrant Health Centers and for programs that provide health care for the homeless and for people who live in public housing. These excellent programs provide health care for millions of people who otherwise would have no access to care. Today, health centers provide care in more than 2,200 communities across the country, to more than 8 million people whose lives literally depend on this care.

Health centers provide high quality primary health care to the most vulnerable in our society: Struggling young families; poor children; and elderly people whose incomes or location close them off from other avenues to good, caring medical services. And health centers do this at incredibly low cost. They are not, and cannot be, the whole solution to our country's continuing need for affordable, quality health care for every American. However, they are doing a terrific job of filling a large and increasing need to care for the uninsured, the poor, and the geographically and medically isolated. They do this in every State in the United States.

This legislation recognizes the need to revise and modernize the authorities for the health centers programs. It adopts the administration's proposals to consolidate and simplify the process for awarding grants and operating the programs. The new single authority and consolidated funding will include all programs, whether community or migrant health centers or health care for the homeless or residents of public housing. I am pleased that S. 1044 maintains a focus on special populations and makes clear that the health centers programs must continue to meet the unique needs of homeless people, migrant farm workers, and others.

S. 1044 also authorizes a new loan guarantee program, to enable health centers to form or join integrated service networks, but at the same time retain their mission to provide high-quality care and a broad range of services to medically underserved people. To participate in such plans, health centers often are required to have capital in reserve, as well as to pay for costs associated with development of networks. The difficulty of obtaining capital has prevented many health centers from changing to accord with changes in the health care system.

Over the last several years, a few health centers have received small demonstration project grants to begin network development activity. The General Accounting Office has

evaluated this program and identified lack of capital as a significant problem. Some health centers have learned, for example, that investors may be willing to provide the needed capital, but only if the center relinquishes its autonomy and control. This could greatly disadvantage patients, who potentially could be placed at risk of not being able to receive the care and services the centers must provide.

The loan guarantee program of S. 1044 addresses this problem carefully. The program is subject to appropriations and to the Credit Reform Act, and loan origination fees are deposited in a special fund for this purpose. Thus, no loans would be guaranteed by the Government unless funds are available to cover the potential cost.

The Subcommittee on Health and Environment held a hearing on health centers' programs, and we heard about the need for this reauthorization and for the loan guarantee program. We also heard about the importance, in any consolidation effort, of maintaining a focus on the special populations now served in separate facilities and programs. S. 1044 accomplishes these goals.

Today, health centers are integral parts of communities they serve. Community participation in the policies and programs of the centers is an essential component of their operation. This legislation will ensure that continued involvement, and will also assist health centers to modernize their operations and their service delivery so they can be even more efficient and effective as the American health care system moves into the next century.

Mr. Speaker, this is good legislation, and I urge my colleagues to support it.

Mrs. LINCOLN. Mr. Speaker, I rise in strong support of the community health center reauthorization bill because I believe in continuing the tremendous work that is being performed in thousands of local communities by these health centers.

Community health centers have provided health care to low-income and elderly residents throughout the First District of Arkansas, which I represent. This area is extremely rural with very few hospitals and physicians available. Without the help of community health centers, my constituents would not receive the important primary health care services they need to maintain quality lives.

I would also like to call the Members' attention to one very important aspect of the health centers, one which makes them quite unique among health care providers—and that is their strong base in the communities they serve. For the past 30 years, community and migrant health centers have involved community members in the development, organization, and delivery of health care.

This experience plays out in a number of important ways, such as serving as a conduit of important information to and from the community on matters such as how to avoid common childhood injuries or potentially serious agricultural accidents, warnings about unsafe water supply sources or the emergence of an infectious disease in the area; serving as an ''anchor'' in the communities by helping to attract or retain other local businesses, including other physicians, diagnostic services, pharmacies or other health care providers; and providing meaningful employment and career opportunities for community residents.

Mr. Speaker, experience has shown that the greater the degree of community involvement in the health center, the greater the center's role and strength as a vital part of the community itself. I ask my colleagues to support the community health center reauthorization bill so that we can continue providing meaningful, quality care to our citizens.

Mr. DINGELL. Mr. Speaker, today the House has a signal opportunity to do the right thing for the American people. S. 1044, legislation to reauthorize the health centers program, gives us that chance. This is good legislation. But, more importantly, these are good programs; necessary programs; programs that care about people and help people.

Earlier in this Congress, we heard a lot about why and how this country should care for its vulnerable citizens—children, young mothers, low-income senior citizens, struggling middle-class working families. We disagreed strongly—and we still disagree—about the philosophy and policy this country must pursue to protect its people. Today, I hope, we will see no such disagreement, for today we will talk about programs that truly are ''motherhood and apple pie'' (made from Michigan apples, of course).

For many years, health centers have been the bastion and the fortress of high-quality health care for people who otherwise have no access to care. They have provided this care to every person, regardless of health insurance status or ability to pay for services. Health centers have developed with the communities they serve, working with the people in those communities and becoming active, supporting members of each community.

In my own 16th District of Michigan, we are proud and pleased that two health centers serve our people. The Family Medical Center in Temperance serves approximately 6,000 people, including migrant farm workers and their families. The Monway Family Health Center in Carleton serves about 4,500 people. These centers provide health care in rural areas, where geographic, financial, and other factors create a critical health care need. I have strongly supported these centers, because they have served the people well.

The legislation before us today reaffirms our support for health centers. It also advances the administration's proposal to consolidate some of the centers' authorities and to simplify the program administration. Wisely, it does this while retaining a special focus on populations such as homeless people and residents of public housing, so that the unique needs of these people are not overlooked in the future. The bill also authorizes a careful and limited loan guarantee program to allow health centers some flexibility in forming or participating in integrated health networks, so they can modernize with the changing health care system.

Health centers are important programs—a real example of Government working well, doing right, and functioning 100 percent in the public interest. They are a critical piece of the solution to the continuing question of how to provide good health care for all of our citizens. Health centers are increasingly challenged as the number of people without health insurance grows. We can help them meet these challenges by our continued support. However, as the health care system changes, the centers need to change as well, and we must assist them to make those changes. This legislation accomplishes both of those objectives.

Mr. Speaker, I support this bill and I urge my colleagues to support it.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I urge an ''aye'' vote on this proposal, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The question is on the motion offered by the gentleman from Florida [Mr. BILIRAKIS] that the House suspend the rules and pass the Senate bill, S. 1044.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1044.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

## ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF RULES

Mr. MICA. Mr. Speaker, pursuant to House Resolution 525, it is expected that House Concurrent Resolution 218 will be considered under suspension today.

The SPEAKER pro tempore. The gentleman from Florida is serving notice?

Mr. MICA. Yes, Mr. Speaker.

## NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION AUTHORIZATION FOR FISCAL YEARS 1998, 1999, 2000 AND 2001

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1577) to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000 and 2001.

The Clerk read as follows:

S. 1577

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION.**

Section 2504(f)(1) of title 44, United States Code, is amended—

(1) in subparagraph (F) by striking out ''and'' after the semicolon;

(2) in subparagraph (G) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(H) $10,000,000 for fiscal year 1998;

''(I) $10,000,000 for fiscal year 1999;

''(J) $10,000,000 for fiscal year 2000; and

''(K) $10,000,000 for fiscal year 2001.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MICA] and the gentlewoman from Florida [Mrs. THURMAN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the sponsor of H.R. 3625, the House version of this bill, I want to thank the distinguished Senator HATFIELD for his leadership on the bill before us. I would also like to thank Chairman CLINGER of the Committee on Government Reform and Oversight, Chairman ZELIFF of the Subcommittee on National Security, International Affairs, and Criminal Justice, and the gentlelady from Florida and ranking member of the subcommittee, Mrs. THURMAN for their support of this bill.

The National Historical Publications and Records Commission [NHPRC], established in 1934, is a Federal-State partnership program, administered by the national archives. The NHPRC is dedicated to promoting, preserving, and publishing records that document American history nationwide. No other Federal program has this mandate.

In cooperation with State historical records advisory boards, the NHPRC generates grants to solve archival problems, preserve valuable historical records, and ensure accessibility to non-Federal records. These NHPRC grants are enabling historians to collect, edit, and publish papers on major figures in American history such as Thomas Edison, Abraham Lincoln, Thomas Jefferson, and Martin Luther King. Thanks to the NHPRC, priceless historical documents previously lost to sight are becoming widely accessible.

The NHPRC's current 4-year authority expires at the end of fiscal year 1997, for which the appropriations ceiling is $10 million. S. 1577 reauthorizes the commission for another 4 years at the same appropriations ceiling previously authorized. Because administrative costs for the NHPRC's staff are absorbed by the National Archives, all funds authorized by S. 1577 will go directly to support non-Federal projects in the field. Matching grants, cost-sharing requirements, and private-sector fundraising provide on average $3 for every $1 granted by the NHPRC.

I urge my colleagues on both sides of the aisle to join in passing this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. THURMAN. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Florida [Mr. MICA] for bringing this bill before the House today.

The National Historical Publications and Records Commission is an important part of the efforts to preserve the documents which make up the history of our country for future generations. The reauthorization we are voting on today continues the Commission's authorization at the current level of $10 million for another 4 years.

The National Historical Publications and Records Commission helps State, local, and private institutions preserve non-Federal records, helps publish the papers of major figures in American History, and helps archivists and records managers improve their techniques, training, and ability to serve a range of information users.

This Commission is as dedicated to assuring that local and State records are afforded the same preservation as Federal records wherever possible.

The Commission has assisted in preserving the papers of Thomas Jefferson, Andrew Johnson, and Andrew Jackson, as well as the correspondence of James K. Polk. It has been an important force in preserving the papers of political figures, military leaders, scientists, diplomats, and numerous corporate and organizational records.

Nearly all of the grants provided by the National Historical Publications and Records Commission are matching grants. The local organization, be it a city library or a State archive, are required to pay a substantial portion of the project. This allows the Commission to support more projects, and it requires a strong local commitment for the project to go forward.

The Commission has given grants to historical societies, libraries and State and local institutions for the preservation of a broad range of materials. Since its inception, more than 500 organizations in all 50 States and the District of Columbia, as well as Puerto Rico, the Virgin Islands, and American Samoa have received grants.

In my State, the Commission has made grants to the Florida State Historical Records Advisory Board, the Florida Department of State, and several grants to the University of Florida in Gainesville.

The National Historical Publications and Records Commission plays a vital part in preserving the documents that make American history come alive at the national, State, and local level. This reauthorization allows the Commission to continue for another 4 years, and I urge my colleagues to vote for H.R. 3625.

Mr. Speaker, I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is not the most monumental piece to pass this Congress. There have been so many significant accomplishments of this Congress, passing the first balanced budget for the American people since 1969, passing line-item veto which I read about as a student in high school and talked about as a candidate for office years ago, changing our insurance and health care coverage so that people with prior disabilities and people who change or lose jobs could in fact be secure in the knowledge of being able to receive health coverage. Many other significant reforms have passed this Congress, including cutting the budget of the legislative branch of Government by a quarter of a billion dollars, doing away with 2,000 positions, doing away with the daily delivery of ice at a cost of over $400,000 and requiring 14 employees in the Congress, requiring an extra majority for passage of tax increases on the floor, ending the proxy voting which took place on a regular basis in the committee process. So many reforms that have taken place here.

This is not that kind of legislation, but it is a piece of legislation that is important to our children, to people who are interested in the great history of this country, of this Congress, our great Nation and its historic background, and it also shows what the Federal Government working in partnership with States and local governments and the private sector can do to make those documents available that outline the rich heritage and history of our Nation.

Mr. Speaker, I am very pleased to present this legislation and again want to thank the gentlewoman for her leadership. I have enjoyed working with her, I have enjoyed working with the gentleman from Pennsylvania [Mr. CLINGER], the chairman of our committee who is going to be leaving, and the gentlewoman for Illinois [Mrs. COLLINS], also, the ranking member of the full committee, who also was supportive of this legislation and many other reforms that came through the Committee on Government Reform and Oversight.

Mr. Speaker, again this is not a monumental piece of legislation but it is a significant piece of legislation and important that we pass on the rich heritage of this Nation to our children and do it in cooperation with many organizations and levels of government.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the Senate bill, S. 1577.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1577, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 0945

## WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3546) to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina.

The Clerk read as follows:

Page 1, after line 2 insert:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

Page 2, line 1, strike out ''SECTION 1'' and insert ''SEC. 101''.

Page 2, line 4, strike out ''SEC. 2'' and insert ''SEC. 102''.

Page 3, after line 7 insert:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

**SEC. 201. CORRECTIONS OF MAP.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the ''Long Pond Unit'') to exclude from the Unit the structures known as ''Lands End'', ''Beachwalk'', and ''Courtyard Villas'', including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development, between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled ''Coastal Barrier Resources System'' dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from California [Mr. MILLER] each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, on July 30 of this year, the House overwhelmingly adopted H.R. 3546, a bill introduced by our colleague, LINDSEY GRAHAM, to transfer the Walhalla National Fish Hatchery to the State of South Carolina.

This noncontroversial bill is nearly identical to measures the House has approved to transfer certain Federal fish hatcheries to non-Federal control.

This hatchery, which is about 78 acres, is currently being operated by the South Carolina Department of Natural Resources under a long-term agreement with the U.S. Fish and Wildlife Service. Without this agreement, the Service would have closed the hatchery because it is no longer an essential component of its nationwide stocking program.

The other body has now acted on H.R. 3546 and while they made no changes in the Walhalla provision, they did add a new title which makes technical changes to the Coastal Barrier Resources System.

In fact, they have specifically redrawn the boundaries of unit 01 in South Carolina to delete certain properties, known as Beachwalk, Courtyard Villas, and Lands End, from the System. It is my understanding that there were structures on these properties prior to the passage of the Coastal Barrier Improvement Act of 1990. It is, therefore, appropriate to correct this mistake and to remove this property from the System because it does not satisfy the criteria for inclusion.

Finally, I would advise my colleagues that the U.S. Fish and Wildlife Service has indicated they support this modification to the Coastal Barrier Resource System. This is the second time we have removed property from the System this year. In each instance, we have done so without undermining the fundamental goals of this important environmental law.

I urge a vote in favor of this legislation and I compliment LINDSEY GRAHAM for his outstanding leadership on behalf of his South Carolina constituents.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, we join in the support of this legislation on the Walhalla National Fish Hatchery Conveyance Act. The committee did report out the legislation, and we think it does make sense to allow for the transfer of this hatchery. We have no objections to the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I have not further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3546.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate amendments to H.R. 3546.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## NATIONAL UNDERGROUND RAILROAD FREEDOM CENTER

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4073) to authorize the National Park Service to coordinate programs with, provide technical assistance to, and enter into cooperative agreements with, the National Underground Railroad Freedom Center in Cincinnati, OH, and for other purposes.

The Clerk read as follows:

H.R. 4073

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

The Congress finds that—

(1) the story of the Underground Railroad, which links historical themes related to slavery, the desire for freedom, inter-racial cooperation, and the African-American experience, is unique and nationally significant;

(2) elements of the story of the Underground Railroad are not adequately represented and protected;

(3) an entity to interpret and preserve the story of the Underground Railroad is appropriate and necessary; and

(4) the National Underground Railroad Freedom Center in Cincinnati, Ohio, has been established to commemorate historic themes related to slavery, the desire for freedom, inter-racial cooperation, and the African-American experience and to relate these themes to the ongoing struggle for freedom among men, women, and children around the world.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to recognize the importance of the Underground Railroad, the sacrifices made by those in search of freedom from tyranny and oppression, and the sacrifices made by those who helped those individuals in search of freedom;

(2) to encourage and assist the National Underground Railroad Freedom Center in Cincinnati, Ohio, in becoming a principal interpretive center of the Underground Railroad experience in the United States; and

(3) to provide a role for the Federal Government in enhancing public understanding and appreciation of the Underground Railroad and in preserving the many resources of the Underground Railroad.

**SEC. 3. COORDINATION OF PROGRAMS; TECHNICAL ASSISTANCE; AFFILIATED STATUS.**

(a) COORDINATION OF PROGRAMS.—The Secretary of the Interior may coordinate the Underground Railroad interpretive programs of the National Park Service with the interpretive activities of the National Underground Railroad Freedom Center (in this Act referred to as the ''Center''), which is to be built in Cincinnati, Ohio, and is to be devoted to the story of the Underground Railroad.

(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to the Center in developing the interpretative programs of the Center.

(c) RELATIONSHIP TO NATIONAL PARK SERVICE.—The Secretary shall treat the Center as an affiliated area of the National Park System.

**SEC. 4. COOPERATIVE AGREEMENTS; PARTNERSHIP.**

(a) COOPERATIVE AGREEMENTS.—The Secretary of the Interior may enter into cooperative agreements with the State of Ohio, the city of Cincinnati, Ohio, and other public or private entities to provide technical assistance to the Center.

(b) PARTNERSHIP.—The National Park Service may work in partnership with the Center in the efforts of the Center to disseminate information on the Underground Railroad.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from California [Mr. MILLER] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, I rise in support of H.R. 4073, a bill introduced by our colleague, Mr. PORTMAN, to designate the National Underground Railroad Freedom Center in Cincinnati, OH as an affiliated area of the National Park System.

The Underground Railroad was perhaps the most dramatic protest action against slavery in U.S. history. It was a clandestine operation that began during the colonial period, later became part of organized abolitionist activity in the 19th century, and reached its peak in the period 1830–1865. The story of the Underground Railroad is one of individual sacrifice and heroism in the efforts of enslaved people to reach freedom from bondage.

In 1990, Congress passed Public Law 101–628 which directed the National Park Service to conduct a study of the Underground Railroad to determine methods for commemorating and interpreting the Underground Railroad. In February of this year, the administration transmitted their study to Congress. Among other things, the study concluded that a variety of partnership approaches would be most appropriate for the protection and interpretation of the Underground Railroad.

One of the main routes of the Underground Railroad went through western Tennessee, central Kentucky and Ohio and into Canada. Along this route, Cincinnati was a key stopover. A private foundation in Cincinnati has already raised substantial funds to develop an interpretive center. H.R. 4073 authorizes the National Park Service to provide technical assistance to the Underground Railroad Freedom Center in Cincinnati, as an affiliated area of the National Park Service, yet result in no increased expenditure.

This is a good bill and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to this legislation. While the goals are laudable in terms of recognizing our historic and cultural experience with regards to slavery and emancipation, we do not know the role of Cincinnati, OH, and its role in that history.

In fact, this has been the subject of extensive studies by the National Park System, and the fact is while there are many areas that have been touched by this phenomena of the Underground Railroad and the emancipation of American minorities and the African-American in this Nation in that incident, there is, as far as I know, no fabric that exists in Cincinnati. There is no reason for this legislation at this point.

I think one of the major problems, with the legislation that is before us, Mr. Speaker, is that there have not been hearings, to my knowledge, on this subject in the House this session or in the past. This merely tries to build a center, construct a site, which would attract people.

I just do not understand the basis and rationale on which this legislation is before the House. I first learned of it on reading the suspension calendar today.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, the gentleman just mentioned a point. My understanding in this legislation is that this legislation was introduced just 2 weeks ago, and obviously we have not had hearings nor markups on this bill. Yet what we are doing is we are committing the resources of the National Park System to assist and to help operate what is an interpretive center in Cincinnati, and yet the center has not been built. We do not know the extent of those obligations, and we are creating something now called an affiliated area.

The gentleman on the other side of the aisle has very often spoken in the committee and on the floor about the continued spreading of the resources of the National Park Service, given their budgetary problems and the backlogs and all of the other issues they are confronted with, and here we are being asked to commit to something that for the moment does not exist, may never exist, but if it does exist, we do not know the extent of the commitment to which we are asking.

Mr. Speaker, I just think that the gentleman is correct in opposing this legislation, since we do not even quite yet understand what the center is going to do. We appreciate they want to be affiliated with the historical events of the underground railroad, which is a proud moment to a sad situation in this country, but to just take this shot in the dark and commit us and commit the National Park Service without any discussion of what this truly means I think would be a mistake, and I thank the gentleman for yielding.

□ 1000

Mr. VENTO. Mr. Speaker, I thank the ranking member for his comments.

I understand that the study was completed in February 1996 but that it identified a number of Underground Railroad sites in Ohio but did not identify Cincinnati. The point is that this is basically an open-end authorization for the Park Service to go in and agree to cooperate in a variety of ways, including construction, operation, and maintenance funding. This could result in obligations which would be in the tens of millions of dollars over a period of years, in fact, this legislation will result in facilitating this funding.

I think this issue, I am sure that there are many, whether Cincinnati should be the central nexus of where this takes place, or other areas would be, I think is an open question. We know of the Underground Railroad activities at a time in Pennsylvania and in many other of the central Eastern States. So I do not know the justification for this or the rationale.

I do not think we have had the benefit of reviewing the study in an open way in terms of questioning what is happening. I do not know the suitability, as I said, I do not know if there is any fabric. I regret I arrived on the floor late, but I do not know of any fabric that exists that would be accorded the type of recognition that guide the Park Service with regard to cultural and national resources.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentleman makes a very important point, and I hope our colleagues are listening, because this is, in theory, as the gentleman from Utah says, this is based upon a study that was done. But when we look at the study authorized by this Congress to discuss this issue, they come up with a list of high potential candidates for interpretation in association with the national parks.

They come up with Farmington, CT, the First Church of Christ; they come up with Sumatra, FL, which was Fort Gadsden; they come up with St. Augustine, FL, which was the Castillo de San Marcos National Monument, they come up with the Levi Coffin House, which is in Fountain City, IN; the Bishop Paul Quinn House in Richmond, IN; Harriet Tubman's birthplace, which is Bucktown, MD; Harriet Tubman Home for the Aged in Auburn, NY; the John Rankin House in Ripley, Union Township, OH; the John Parker House in Ripley, OH; the Mother Bethel African Methodist Episcopal Church in Philadelphia. PA; the Stono River Slave Rebellion site in Rantowles, SC; the Nat Turner Slave Revolt Historic District in Courtland, VA; the Rokeby House in Ferrisburg, VT.

Nowwhere is Cincinnati, OH, suggested by this report, that this would be the proper place to deal with the interpretation aspects of commemorating the underground railroad or in association with the National Park Service.

I think we have got to take that into consideration, and that is why we

would have preferred that we had a hearing in the committee. We could discuss this. We could list this. If the gentleman wanted to, he could suggest Cincinnati, OH, and we could bounce that off of the Park Service. But the fact of the matter is, as one goes through this report, there is more evidence that Canton may had more to do with this or Oberlin, if you will but not Cincinnati at this point, or at least not in this report.

I would hope that the gentleman will withdraw bill before we head off in this direction and commit the National Park Service to this effort. Again, I would say to my colleagues, there were some 380 sites that were suggested, and then that was distilled down to 42 different sites. With all due respect, they are not in Cincinnati, OH.

If we are going to keep the historical integrity and respect to the fact that we went out and funded a very large and detailed study, and now we are going to decide on the day before we adjourn that we are just going to put this in Cincinnati, OH, without any hearings, it may become in Cincinnati. Maybe there is a case that can be made, maybe the missed something. But the fact of the matter is, it should not be done on suspension and should not be done without hearings.

I thank the gentleman for yielding to me and for his opposition to this.

Mr. VENTO. Mr. Speaker, reclaiming my time, I appreciate the ranking member yielding me time, and I want to give the others that are opposed to this some time.

I want to stipulate that I do not disagree with the goals in terms of recognition of the underground railroad, but we need to have a plan. We need to follow and use the information from the study.

I understand that the gentleman from California is talking about the historic fabric that is in place. It does not necessarily reflect what the role of Cincinnati was, and the issue here is that we need to know what the level of this commitment is and how we are going to relate to the other sites.

I think we need to provide the Park Service with more direction in this particular instance other than simply saying we are going to let you go and agree to an affiliated area in Ohio, which will not be part of the Park Service but could represent significant dollars and amounts that are invested in it.

We should be doing partnerships like this, but my suggestion is, if Cincinnati wants to go ahead and construct an interpretive center in this and do work in this, I commend them. I think that is great. They may have rich history in the underground railroad. But the history as far as I know, as represented by the gentleman from California, that there is not fabric there, we do not know what the nature is, how it will be tied together with the other elements.

We know there are many other competing proposals. To try to come in and award Cincinnati the type of recognition that this bill would do and directing the Park Service in this way, I think is, to say the least, premature. To do it this late, without hearings or without understanding, I would hope that we would not do this at this time. Therefore, I oppose the bill.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Again in the discussion of the historical sites, even in Ohio there is Toledo and Sandusky and Oberlin and Seville and Cleveland and Plainfield and Ashtabula and Jefferson and Wooster and Homeworth, Millersburg, Loudonville, McKay, Hayesville, Ashland, Savannah, Mt. Vernon, Utica, and Zanesville.

Mr. VENTO. Mr. Speaker, reclaiming my time, I think the issue here is one of suitability of this particular location as the visitor center that relates to all the other type of historic fabric and experience, in terms of our experience in terms of emancipation and the whole phenomenon that dealt with slavery.

I think that this is a very important topic, one that we should sit down and I think that we can come to agreement on. I am very pleased as a matter of fact to see that there is this type of interest on both sides of the aisle in terms of this issue. So it should not break down in this way. This is an issue where we can come to agreement.

But at this point I strongly oppose taking this action today and directing the Park Service to do this type of activity, and I would hope my colleagues would agree. This, as I said, could be tens of millions of dollars of commitment and the wrong direction for our policy.

Mr. MILLER of California. Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I appreciate the gentleman yielding me this time. I am a little surprised by the discussion. I wanted to come out and clarify a few points. I apologize I was not out here earlier. I did not know it was to be on the floor. I would hope that other supporters of this legislation, including the gentleman from Ohio, LOU STOKES, the gentleman from Georgia, JOHN LEWIS, the gentleman from Louisiana, BILL JEFFERSON, the Ohio delegation in its entirety and others, will be able to come out on the floor to talk on it also.

I want to go over, if I could, some of the background for the purposes of the gentleman from California and the gentleman from Minnesota just to give them a little more understanding of where we are and how we got here, and they try to address some of the concerns raised by the gentleman from Minnesota [Mr. VENTO].

This is bipartisan. This does not require any Federal funds, as the gentlemen know. It is an authorization simply for the Park Service to work with a private group that has been working with the Park Service in any case for the past couple of years.

This group has indeed moved forward in a very constructive way, bringing in all elements of our community, as well as the entire country in terms of underground railroad experience, to come up with an Underground Railroad Freedom Center, which would be an interpretive center. This would not be the kind of more traditional museum one might think of, but instead would commemorate the underground railroad experience across the country, at all the sites the gentleman from California [Mr. MILLER] mentioned, including the sites in the greater Cincinnati area that he mentioned.

The Ripley, OH, sites happen to be in my district that the gentleman mentioned, and Cincinnati does have a rich heritage with regard to the underground railroad.

I just am amazed this Congress would oppose this type of activity. We are not asking for any money or any commitment from this Congress in terms of the tens of millions of dollars Mr. VENTO talked about. We are talking about a wonderful partnership between the Park Service and the private sector to be able to move forward with this project, for which in the private sector has already been raised over $400,000.

It is clearly the No. 1 project of this kind in the country. It is an event in our history that must be commemorated. I think it is an outrage it has not been commemorated. And I think it would be a slap in the face to these efforts and exactly the wrong way to go for us as a Congress now to say we are not even going to allow the Park Service to enjoy this affiliate status which requires no funding with this group that has done so much, because I think it would discourage them.

Let me say also that this is in Cincinnati for two important reasons. One is, frankly, Cincinnati is way out front on it; but, second, Cincinnati does have a rich history and tradition with regard to the underground railroad. In fact, slaves from as far away as New Orleans and so on equated Cincinnati with the word ''freedom'' because it was such a center for this. The Harriet Beecher Stowe Home, of course, is in Cincinnati. Harriet Beecher Stowe is from Cincinnati.

There is a lot of underground railroad archeological evidence in the Cincinnati area, including the sites, again, that Mr. MILLER talked about in Ripley, OH, the Rankin House, the John Parker House, and so on.

Let me also say that the Park Service has been working with us for over a year on this project. I know Mr. MILLER reads carefully all the correspondence he gets from the Park Service and the acknowledgment letter that came with the report that he mentioned earlier specifically talks about Cincinnati, and let me quote from it.

This is from the Park Service in February of this year, when they submitted the statutorily required report on the underground railroad.

We are especially encouraged to see that the private sector already has expressed a strong interest in these concepts, as evidenced by substantial progress in planning for an Underground Railroad freedom center to be developed by private, State and local funding sources in Cincinnati, Ohio. The Park Service foresees the possibility of collaborating with this organization in the future to implement some of the goals of this report.

This is signed by George Frampton, Assistant Secretary for Fish and Wildlife and Parks, Assistant Secretary of the Department of the Interior.

Again, we have worked carefully with the Park Service, not only in terms of this development of the underground railroad freedom center in Cincinnati, we have raised over $400,000 locally, all from private sources, not 1 Government dollar; and, importantly, we have worked closely with the National Park Service in coming up with this legislation.

So I do not know what more to say. I think it would be exactly the wrong thing for this Congress not to at least acknowledge the good work these folks have done. And these are people from all around the country. Their national advisory group includes people who are from all the areas, I think, that Mr. MILLER talked about. They have a lot of academic support from various places around the country.

Again, if we look at the cosponsorship of this, it includes people who have been involved in this issue in the past. I hope that the gentleman from Georgia, JOHN LEWIS, the gentleman from Ohio, LOU STOKES, and others will be able to come down to the floor; I happened to be in another meeting when I heard about this, to be able to also talk on behalf of this.

Mr. VENTO, I think maybe that answers some of your questions, I hope it does. But if the gentleman would like me to yield, maybe there are some other more specific ones.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. Well, Mr. Speaker, I thank the gentleman for his time, but I think the gentleman has not answered the question.

Our problem is that we cannot conduct a hearing on the House floor after we get no notification until we see this on the schedule this morning. That is where I am coming from.

After chairing and working on these subjects for years, after putting these studies in place to get the information back, I have no idea of the validity of whether or not the gentleman is relating to what is in the study. That is where we are.

It is not a question of the recognition of the underground railroad here. It is a question of why we are going to give this designation or symbolic recognition to this community. If there is no Federal money in it, they can go ahead and we can deal with this type of legislation later. In fact, I think the Park Service can give technical assistance without authorization.

But there is money in this bill. It is more than a symbolic act in terms of what is proposed to occur here. As I attributed it, as I said, I know there is not much fabric here. Obviously, I understand what the interpretive center is, but I do not know why this, of all locations, should be the location. I do not know that it is recommended in the study.

Mr. PORTMAN. Mr. Speaker, reclaiming my time just for a moment. The gentleman was involved in the study, and I commend him for that. I had thought that, perhaps, because he is in constant communication with the Park Service, that maybe he knew more about this. They have been working with us for at least a solid year, not only on the concepts of Cincinnati, where we have looked to them for guidance all along the way, but also this specific legislation.

Let me say that if this private sector group were to move forward without additional technical assistance and without additional guidance from the Park Service, then the very goals that are outlined in that report might not be followed as closely as the gentleman might like or I might like. I think this is a way, in fact, to bring to fruition the kinds of things that the gentleman has been supporting.

All it says is that there will be an affiliate status with the Park Service. There is no money in the bill. It is an authorization to allow the Park Service to enter into some sort of a technical assistance, some sort of a guidance relationship with this group in Cincinnati that has done so much work.

□ 1015

Again, it is a national group. If you look at the members of the board, they are a national advisory group. This is a group that was brought together, academic experts and so on. I think what is going to happen is they are going to go ahead. They are going to move ahead. They have already raised over $400,000. They brought in the best experts from around the country to give them advice, did a feasibility study. They are going to move ahead.

Let us be sure they move ahead with the advice of the Park Service, since the Park Service, because of the gentleman's good work, put so much time and effort into this report. I, too, wish there could be a hearing. I would love if there could be a hearing. There cannot be at this point. Yet we have this group moving ahead.

I think this is the least we can do, to instead of slapping them and saying ''We discourage what you are doing,'' is to encourage what they are up to. I apologize for not communicating better with the gentleman in advance. I would have thought the Park Service would have done so. I hope that following this discussion we will be able to pass this legislation and then work more closely together.

Mr. VENTO. Mr. Speaker, if the gentleman will continue to yield, if the funding could be limited to technical assistance, the issue here is that he is going to, he is suggesting that the Park Service may enter into an affiliated status with this. They may not. I think that is the wrong way to legislate.

We ought to have had hearings on this. It should not be anything that is controversial, but we have no idea right now. If the gentleman would limit his funding to merely technical assistance, but there is all sorts of coordination of program costs. The partnership issue, in other words, is implying that there are going to be construction dollars and other types of assistance that are provided.

Mr. PORTMAN. Mr. Speaker, I do not see anything in the legislation that has anything to do with construction or anything beyond an affiliate status that can be worked out over time. Congress would always have the ability to come in an further fund this relationship.

Mr. VENTO. Mr. Speaker, it provides cooperative agreements to operate it. It provides operating expenses.

Mr. PORTMAN. Reclaiming my time, it does not provide operating expenses.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, in good faith, this is the problem: We once had a little tiny authorization for Steamtown and now we could not stop it with a gun. It is costing us millions and millions of dollars. It is a little bit of an operation.

Once this project is authorized, unfortunately, the history we have is that the best intentioned groups eventually want some Federal participation, subsidy, however you want to call it. This authorizes operating agreements. That is how we got the Kennedy Center. Pretty soon we were running the whole Kennedy Center, and it was supposed to be done by private individuals. The gentleman from Utah knows this is the history. We start out with a couple of sentences and we end up spending millions.

Mr. PORTMAN. Mr. Speaker, reclaiming my time, I would love to hear from the gentleman from California and the gentleman from Utah, who have much more experience than I do, but it is very clear in this legislation, this involves no Federal funding. Congress could come back at a later date and decide that is appropriate.

This involves a lot of private sector activity from around the country to support this effort. We should be encouraging that. This is exactly the kind of creative partnership that I think Mr. MILLER and others who have

been involved with the National Park Service have been trying to encourage.

I would like to yield to the chairman and see how he would compare this to other projects. I think the analogies that have been made are not right. We are not asking for Federal funds. We encourage a private sector effort and allowing this report that Mr. VENTO and others worked so hard on to become implemented through an interpretive center which commemorates the Underground Railroad experience throughout the country.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. CHABOT]. This is in his particular district.

Mr. CHABOT. Mr. Speaker, I rise in strong support of this legislation to assist in the establishment of the National Underground Railroad Freedom Center in Cincinnati. And I applaud my good friend, Mr. PORTMAN, for his outstanding work in helping to make this wonderful idea a reality.

Cincinnati is the ideal location for a center commemorating the Underground Railroad and the brave men and women who risked their lives for the cause of freedom. As a large city located at the boundary line between slave and free States before the Civil War, Cincinnati became a major depot of the Underground Railroad. For many, many men, women, and children fleeing the evil bonds of slavery, Cincinnati meant freedom.

As a life-long Cincinnatian, I am tremendously proud that the Queen City served as a major center of organization for the abolitionist movement. The city was a hub of organizations working to end slavery and to assist the escape to freedom of former slaves. We have a great tradition in Cincinnati of standing up against tyranny and government oppression and fighting for individual liberty. Such notable figures as antislavery author Harriet Beecher Stowe, Liberty Party nominee James Birney, Republican Party organizer and later Supreme Court Justice Salmon P. Chase, and many other historic opponents of slavery made their homes in Cincinnati.

The people of Cincinnati enthusiastically support the National Underground Railroad Freedom Center. The community has mobilized behind this important project to create a center that honors the Underground Railroad, and that educates today's generations about the great failings and the great heroism of our past. H.R. 4073 is an important bill, and I am proud to join with my friend, Mr. PORTMAN, in urging its passage.

The SPEAKER pro tempore (Mr. KINGSTON). Without objection, the gentleman from Minnesota [Mr. VENTO], is recognized to control the remainder of the time.

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. I understand that there is some misunderstanding with regard to what some of the phrases in this legislation mean. As you go through it, on page 3, line 16, it talks about the National Park Service can work with and do interpretive activities. That is, of course, interpretive activities is what goes on at the site in terms of operating activities and expenses. That is how that will translate, that we can make a commitment to fund such activity.

Clearly, what happens in the appropriation process is dollars get placed into such sites, designated very often for some of these types of activities, for developing the various types of materials that might be at that site. I mean, in essence what are doing is taking and committing the Park Service to this type of activity. I just think it is worthy of a hearing. It is worthy of a better understanding of what is basically a very, very important topic. We should not be in the last day of the session bringing up legislation. Without a clear understanding of the consequences—we should look before we jump.

Whatever the intention or misunderstandings are, I was not aware of what was being presented here, and others were not on this side of the aisle aware.

I am not surprised that there are both Democrat and Republican sponsors to something of this nature, but the fact is I think some of us have to speak up to what is going to be the expansion and expenditure with regard to the Park Service. I see no limitations in this bill in terms of what the Park Service expenditures will be.

''Interpretive activities'' is an open phrase. There is no limitation in terms of dollars in this bill. Technical assistance is another, interpretive programs: ''The Secretary may provide technical assistance and interpretive programs to the center.'' These can cost literally millions of dollars.

We have a center at Harper's Ferry that has to develop some of those interpretive programs, some of those materials. This is a very expensive and worthwhile effort to do, but it is one that is very costly and undefined in the measure before us, the denial of cost is misleading.

The relationship, of course, we are giving the Park Service ''Arrowhead'' to this particular site in Cincinnati. That, too, I think is an important piece of symbolism that should not be given without proper consideration by the committee to this one site.

The fact is that the Secretary can deal with the technical assistance without this legislation. They can provide some of the technical help. They do not need authorization legislation for that. But to in fact designate this as an affiliated area, we have to look back in the statutes and see what that means. What that has come to mean is that operating expenditures can be made at those sites. We try to resist it, but the history is that operating expenditures can be made at such sites based on the contractual, cooperative language in this measure.

Again, of course, it talks about cooperative agreements with regard to technical assistance and to the function of the public or private entities. We do not even know who the entity is in this instance that we are going to deal with. In other words, I assume that there is a nonprofit group. I assume that it may be the city. But no one has stipulated that and the legislation is silent. But the fact is that we anticipate cooperative agreements. That will, of course, commit the Park Service to certain activities, as well as, I assume, those private parties.

This is something that is worthy of a much closer look. I do not see the urgency in terms of acting on this today. If they are going to go ahead with it, if it has the type of merit and follows the thematic lines and outline of the study that was presented to us in February 1996, I do not think that there is a problem in terms of this being refined and defined more exactly as to the NPS role.

We are talking about partnerships. We are talking about cooperative agreements. We are talking about technical assistance. We are talking about interpretive activities. We are talking about interpretive programs and affiliation and giving the recognition to this specific site. These are rather significant charges and direction that we are giving to the Park Service, at least on a discretionary basis. And, frankly, I do not think that we ought to do that without having a better idea of the parameters of what is being involved in terms of dollars and resource commitment. And most importantly how this fits with the topic and themes within the literature and other sites.

This is a very important topic. We have the benefit of the study. We ought to use it. We ought to have an open hearing on it. That has not occurred to date. Therefore, I resist and will oppose this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, let me try to address the concerns once more and be very clear.

This does not involve Federal funding. If we look at this legislation very carefully, it is all discretionary. The Secretary may coordinate, may enter into cooperative agreements and may work in partnership. It is all discretionary.

It is ironic to me that we are going to sit here in Congress and oppose something that in fact will keep that good report from collecting dust on the shelf. This is something that will move the report forward.

Here you have a private sector group representing the entire country, working on a coordinated basis with sites around the country. They want to set up an interpretive center, not a museum, to commemorate this experience in America's history that should have been commemorated a long time ago.

All we are saying is, we want affiliated status to get the Park Service to work with us to provide technical support. It is ironic that we would be saying, no, we are going to stop this, it is not appropriate.

I think it is a real shame. I think it is the kind of thing we should be doing. It is a private-sector effort to work in partnership with Government, not involving taxpayer funds. If Congress determines down the line other areas maybe should get that affiliated status, that is fine, too. They do not want Federal funds. That is what is so great about this. It is noncontroversial.

I was led to believe that this was going to be noncontroversial in the committee, that we had minority-majority support. I was surprised to find out that that was not true. I just think it is exactly the kind of thing we ought to be promoting. I think it is a great effort. I think it is exactly the sort of thing that this Congress ought to be encouraging.

I am sorry that the gentleman from Georgia, Mr. JOHN LEWIS, cosponsor of this legislation, was not aware of this; the gentleman from Ohio, LOU STOKES, and so many other Members of this Congress who are strongly supportive of this effort cannot be here to join with us today, to encourage this and to say that this is exactly the way we ought to be going in this Congress in terms of providing for strong public-private partnerships.

Mr. VENTO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the fact that is misunderstood here is while this may all be discretionary in the bill based on the status of the language, the fact is that the history of this has been that in the Committee on Appropriations they will place money into the appropriation designated for various sites. That is how we end up with hundreds of thousands of dollars and millions of dollars being spent on some of these sites which are not designated or are outside the authorizing gambit of the committee.

So it is the opportunity and responsibility of the authorizing committee, the Committee on Resources that has charged the Park Service to do these studies, to use the information and to come back and try to guide the policy path with regard to resources, culturally important issues, as the Underground Railroad. We cannot wrap this up and hide the fact that we are proposing today an open-ended expenditure from the Federal treasury and authorizing the appropriators to in fact appropriate money, and in fact providing under technical assistance, where there is an open dollar amount that is given each year for the Park Service to use. So there are Federal dollars that are going to flow—taxpayer fund and we should be guided by sound policy.

No question, this is an important topic and issue in our culture and history. That is why I am on my feet debating this policy path. I think that it is a topic that the committee ought to have dealt with, rather than getting up here at the last minute and putting something on the table and, in fact, pushing dollars in a direction without a well defined policy.

I commend the folks in Cincinnati for their work, but there is no indication or case being made here as to the suitability of this site, as to the interpretation that is going to be taking place there as to the feasibility of this particular area. Many locations around the Nation may already be doing this activity or others may be better candidates.

We need to ask the same questions of affiliated areas that we would be asking of any type of park unit that is developed, in terms of operating expenses, technical assistance down the road. We do not have those answers today, only good intentions and misunderstandings.

This is basically an open-ended authority for the appropriators to put money into—a specific community. If my colleagues on the authorizing committee want to know how things get to be where they are, off track and out of sync, they just have to look at bills like this that are enacted open ended and out of control.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

□ 1030

Mr. YOUNG of Alaska. Mr. Speaker, I listen to the gentleman from Minnesota and the gentleman from California, and it amazes me how anyone on that side can oppose this great project the gentleman from Ohio [Mr. PORTMAN] has brought to the floor, the underground railroad, part of our history. How can they protest against this? I cannot believe it when this is totally discretionary, totally discretionary. It is one of the few bills I have ever seen that really is so totally discretionary. It is up to the Secretary absolutely and not even the Congress. We just give him the authority to really do this job if he wishes to do so.

Now I am a little bit concerned because as my colleagues know, I heard some comments on this floor as if this is the first time this has ever happened? Please. The gentleman from Minnesota, when he was a chairman of the subcommittee, I saw this happen time after time, and all the great merits, open ended. I see bills open ended. I do not know how many hundreds of bills, under his leadership, passed were open ended.

One of the reasons, I would suggest respectfully, a lot of the areas were made into parks were open ended, and the cost to the taxpayer was tremendous. But this bill, and very frankly the gentleman from Ohio [Mr. PORTMAN] has done a tremendous job, actually gives so much discretion to the Secretary whether it should be or should not be done, whether the study should go forth.

And please do not insult the underground railroad and the activity in the Congress by opposing, for whatever reason I do not know. This is a good bill. I want to compliment the gentleman. He has done an excellent job.

Let us just go ahead and move it. We have spent 20 minutes on this. I came here a little late because of the great traffic around Washington, DC, and I began to listen to this, and what a charade and waste of time when this bill should have been up and passed out of this House.

Recognize the importance of this great historical moment; that is all I am asking. And if it was the first time, I might be a little more concerned. I see the staff talking to them now, whispering in their ear as they usually do. I love these staff whispering in their ear. They really made great strides.

This issue should be passed on. Let us go on to something more important.

Mr. VENTO. Mr. Speaker, I yield myself the balance of my time.

I would say that it is true; I have worked on hundreds of bills in the past, and I will tell my colleagues every one of those bills that I worked on had a hearing, and I did not act in those years that I did so on any affiliated area, none were designated and I tell my colleagues, I also acted to inform and be certain that the minority was aware of my actions and measures. They may not always have agreed, but they had reasonable notice of hearings and action on the issues. This bill has not had hearing. It is not the issue of the underground railroad, which my colleagues would like to make the issue; that is not the issue here.

The issue here is how we are going to deal with this extraordinarily important topic in a positive reasonable way and give it the type of recognition and status that it deserves in terms of hearings and a proper policy path for the park and the Park Service and the citizens of Cincinnati. They deserve that. They deserve that hearing. They did not get it.

Members of Congress should understand what the degree of involvement is going to be and how we are going to deal with this overall policy and issue rather than simply passing something here without necessarily a good understanding or a policy path as to where we are going. This is indeed the tail wagging the dog.

This is the wrong way to do business, but unfortunately it has characterized our committee too often during this 104th Congress.

I would just suggest that this bill because of that, not because of the topic, the topic is a wonderful topic that ought to be part of our cultural and is part of our cultural history and part of the Park Service and part of its cultural and historic preservation roles.

That is why we authorized the study. What we are asking the advocates to do, to use the information that we have available to us and pick the best policy path rather than one that simply happens to be expedient because we are in a hurry to be out of here at the end of the fiscal year.

This is wrong, and this bill should be defeated for that reason, certainly not because of the subject matter.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 4073.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 4073, the bill just passed.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from Utah?

There was no objection.

## INDIAN HEALTH CARE IMPROVEMENT TECHNICAL CORRECTIONS ACT OF 1996

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 544) providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 3378.

The Clerk read as follows:

H. RES. 544

*Resolved*, That upon adoption of this resolution the bill (H.R. 3378) to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same are hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate to the text of the bill, insert the following:

**SECTION 1. SHORT TITLE; REFERENCE.**

(a) SHORT TITLE.—Tthis Act may be cited as the ''Indian Health Care Improvement Technical Corrections Act of 1996''.

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act.

**SEC. 2. TECHNICAL CORRECTIONS IN THE INDIAN HEALTH CARE IMPROVEMENT ACT.**

(a) DEFINITION OF HEALTH PROFESSION.—Section 4(n) (25 U.S.C. 1603(n)) is amended)—

(1) by inserting ''allopathic medicine,'' before ''family medicine''; and

(2) by striking ''and allied health professions'' and inserting ''an allied health profession, or any other health profession''.

(b) INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.—Section 204(b) of the Indian Health Care Improvement Act (25 U.S.C. 1613a(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the matter preceding clause (i) and inserting the following:

''(3)(A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—'';

(ii) by striking ''or'' at the end of clause (iii); and

(iii) by striking the period at the end of clause (iv) and inserting ''; or'';

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

''(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

''(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

''(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).'';

(D) in subparagraph (C), as so redesignated, by striking ''prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A)'' and inserting ''described in subparagraph (A) by service in a program specified in that subparagraph''; and

(E) in subparagraph (D), as so redesignated—

(i) by striking ''Subject to subparagraph (B),'' and inserting ''Subject to subparagraph (C),''; and

(ii) by striking ''prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m)'' and inserting ''described in subparagraph (A)'';

(2) in paragraph (4)—

(A) in subparagraph (B), by striking the matter preceding clause (i) and inserting the following:

''(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—''; and

(B) in subparagraph (C), by striking ''(42 U.S.C. 254m(g)(1)(B))'' and inserting ''(42 U.S.C. 254l(g)(1)(B))''; and

(3) in paragraph (5), by adding at the end the following new subparagraphs:

''(C) Upon the death of an individual who received an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

''(i) it is not possible for the recipient to meet that obligation or make that payment;

''(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

''(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

''(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

''(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.''.

(c) CALIFORNIA CONTRACT HEALTH SERVICE DEMONSTRATION PROGRAM.—Section 211(g) (25 U.S.C. 1621j(g)) is amended by striking ''1993, 1994, 1995, 1996, and 1997'' and inserting ''1996 through 2000''.

(d) EXTENSION OF CERTAIN DEMONSTRATION PROGRAM.—Section 405(c)(2) (25 U.S.C. 1645(c)(2)) is amended by striking ''September 30, 1996'' and inserting ''September 30, 1998''.

(e) GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER.—Section 706(d) (25 U.S.C. 1665e(d)) is amended to read as follows:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b).''.

(f) SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROGRAM.—Section 711(h) (25 U.S.C. 1665j(h)) is amended by striking ''1993, 1994, 1995, 1996, and 1997'' and inserting ''1996 through 2000''.

(3) HOME AND COMMUNITY-BASED CARE DEMONSTRATION PROGRAM.—Section 821(i) (25 U.S.C. 1680k(i)) is amended by striking ''1993, 1994, 1995, 1996, and 1997'' and inserting ''1996 through 2000''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] and the gentleman from American Samoa [Mr. FALEOMAVAEGA] each will control 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. YOUNG of Alaska. Mr. Speaker, H.R. 3378 was passed by the House earlier this year, sent to the other body, amended by the other body and sent

back to us for further action. The other body amended the bill to make technical amendments to certain provisions in the Health Care Improvement Act and authorized several Indian Health care demonstration programs, the year 2000.

Mr. Speaker, I include for the RECORD a letter dated September 25 from Chairman THOMAS J. BLILEY, Jr. This letter explains the support of the gentleman from Virginia [Mr. BLILEY] for 3378, as amended.

The letter referred to follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
*Washington, DC, September 25, 1996.*

Hon. DON YOUNG,
*Chairman, Committee on Resources,*
*U.S. House of Representatives,*
*Washington, DC.*

DEAR MR. CHAIRMAN: The Senate recently passed an amended version of H.R. 3378, a bill to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors. I remain concerned about the implications of passing this measure, but appreciate your interest in having it move forward, since the projects would otherwise expire September 30, 1996.

It is my understanding that the Committee on Resources would like to bring the measure up for Floor consideration, with an amendment negotiated among the House Committee on Commerce, the House Committee on Resources, and the Senate Committee on Indian Affairs. Based on our agreement to drop section 2(b)(1)(A)(iv), and to include in the record of the debate the statement regarding scholarship paybacks, the Committee on Commerce will not object to Floor consideration of H.R. 3378.

By participating in this process of expending consideration of H.R. 3378, this Committee does not waive its jurisdictional interest in the matter. Although I understand a conference of this measure is unlikely, I reserve the right to seek conferees on issues within the jurisdiction of the Commerce Committee during any House-Senate conference that may be convened.

I want to thank you and your staff for your cooperation in this process. I would appreciate your including this letter as part of the record during consideration of this bill by the House.

Sincerely,
THOMAS J. BLILEY, Jr., *Chairman.*

Mr. Speaker, in conclusion I note that the managers have amended the other body's amendment to delete certain language which we feel is unnecessary.

Mr. Speaker, H.R. 3378 is an important piece of legislation which has been admitted and then readmitted. It is a good bill, and I urge my colleagues to give it full support.

Mr. Speaker, H.R. 3378 was passed by this House earlier this year, sent to the other body, amended by the other body, and sent back to us for further action.

The other body amended the bill to make technical amendments to certain provisions of the Indian Health Care Improvement Act and to reauthorize several Indian health care demonstration programs through the year 2000.

Among the technical amendments to the Indian Health Care Improvement Act made by the other body was legislation which clarifies that the Secretary may waive or modify the service obligation requirements, under the Indian health scholarship program, in a case of extreme hardship or for other good cause.

In the past, the Secretary has granted a small number of such waivers, in accord with National Health Service Corps regulations. This change clarifies that this authority may be exercised specifically for the Indian health service scholarship program.

Other than for severe hardship circumstances, such waivers have been considered in particular in cases where service has been performed by Indian health scholarship awardees in certain recruitment and training programs in academic institutions. In these cases, an individual scholarship awardee has served in a significant capacity in a program, funded by the Indian Health Service, designed to attract and retain American Indian and Alaska Native students in health professions training.

In recognition of the enormous need for such recruitment and retention activities, it has been decided in a small number of cases that such service can be substituted, in whole or in part, for direct provision of health care.

The managers emphasize that the primary purpose for the Indian health scholarship program is to increase the number of individuals providing direct health care to American Indian and Alaska Native people in areas and at facilities where access to health care is difficult or limited. Thus, service in such a capacity should remain the principal way that scholarship payback obligations are fulfilled.

However, the managers recognize the importance of stronger, more targeted, and more aggressive recruitment and retention of American Indian and Alaska Native students into health care training, and that such efforts may be enhanced by having an Indian health scholarship recipient serve in such a program.

When the major duties and responsibilities of an individual, who already has received training through an Indian health scholarship, are the recruitment and training of Indian health professionals, that individual may be contributing to the purpose of the scholarship program through increasing the number of available health care providers, even though that individual is not providing health care personally.

Thus, there may be a small number of cases where such service is a good cause to waive or offset the scholarship service obligation.

It has come to the attention of the managers that both the Indian Health Service and a number of tribal organizations have identified the need for greater flexibility in assessing payback obligations to best serve the health care needs of Indian people.

The managers emphasize, in granting this additional flexibility to the Secretary, that they expect this avenue of fulfilling scholarship obligations to be limited.

Most Indian health scholarship recipients will fulfill their service obligations by providing direct health care, and the Secretary is expected to exercise significant caution and considerable judgment is using this new authority.

It must not be forgotten that direct health care service to Indian people, in addition to successfully having completed a health professions program, is a key component contributing to any individual's ability to recruit students.

In conclusion, I note that the managers have amended the other body's amendment to delete certain language which we feel is unnecessary.

Mr. Speaker, H.R. 3378 is an important piece of legislation which has been amended and then reamended. It is a good bill and I urge my colleagues to give it their full support.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FALEOMAVAEGA asked and was given permission to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, H.R. 3378, under suspension of the rules last month, was properly discharged by the Committee on Commerce, and of course it was passed by this committee. We are again amending the provisions of H.R. 3378 in the process of sending it back to the Senate.

Mr. Speaker, H.R. 3378 extends for 2 years a demonstration project authorized in section 405 of the Indian Health Care Improvement Act that allows four Indian hospitals to bill HCFA directly for Medicaid reimbursement rather than go through the Indian Health Service, which will save them time and money.

The Senate renamed our bill the Indian Health Care Improvement Act Technical Corrections Act of 1996 and added six new provisions. Five were noncontroversial, and one of these provisions Mr. Speaker, includes alleopathic medicine within the act's definition of health professions; the second amendment also extended the California Contract Health Services Demonstration Project through the year 2000. Another amendment also extends the funding through the year 2000 and authorizes the appropriation of such sums as necessary to fund the Gallup Alcohol and Substance Abuse Treatment Center. Furthermore, Mr. Speaker, the amendments also extend funding through the year 2000 for the Substance Abuse Counselor Education Program; another amendment continues funding for the year 2000 for the home and community-based care demonstration program.

The sixth amendment, Mr. Speaker, alters the requirements of the Indian Health Care Service Professional Scholarship Program. The amendment allows scholarship recipients to meet their service obligations by serving as an academic institution where the recipient's primary responsibility is the recruitment of other Indian medical students. The amendment also allows the Secretary to waive obligations for extreme hardships or for other good cause. The amendment also allows for release of a recipient's obligation for bankruptcy and cancels a recipient's obligation upon death.

Mr. Speaker, we in the Committee on Commerce had a problem with the portion of the amendment that allows scholarship recipients to pay back their debt by working in an academic setting where their primary responsibility is the recruitment of more Indians. The problem is that Indians do not have enough medical care on their reservations, and this amendment offers somewhat of a loophole for scholarship recipients to avoid working on reservations by living and working at universities.

Mr. Speaker, after reviewing these hardship cases of health professionals who thought that they were getting credit for doing recruitment, we agree those cases were better dealt with on a case-by-case basis under a Secretarial waiver authority rather than by a large loophole. The amendments grant the Secretary waiver authority for hardship and good cause, so we all agreed to strike the academic recruitment language from the bill, and the managers state their concerns on the floor.

Mr. Speaker, with the above concerns discussed earlier relative to the legislation, I support the amendments that we have now agreed to with the other side, and I ask my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I will compliment the gentleman on the statement. He and I worked very closely on these issues in committee, and he is a great friend of Alaska natives and most people involved in American native group.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers at this time. I urge the adoption of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and agree to the resolution, House Resolution 544.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

## SUSTAINABLE FISHERIES ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 39) to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Clerk read as follows:

S. 39

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Sustainable Fisheries Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**TITLE I—CONSERVATION AND MANAGEMENT**

**SEC. 101. FINDINGS; PURPOSES; POLICY.**

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

''(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.'';

(2) by inserting ''to facilitate long-term protection of essential fish habitats,'' in subsection (a)(6) after ''conservation,'';

(3) by adding at the end of subsection (a) the following:

''(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

''(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.'';

(4) by striking ''principles;'' in subsection (b)(3) and inserting ''principles, including the promotion of catch and release programs in recreational fishing;'';

(5) by striking ''and'' after the semicolon at the end of subsection (b)(5);

(6) by striking ''development.'' in subsection (b)(6) and inserting ''development in a non-wasteful manner; and'';

(7) by adding at the end of subsection (b) the following:

''(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.'';

(8) in subsection (c)(3)—

(A) by striking ''promotes'' and inserting ''considers''; and

(B) by inserting ''minimize bycatch and'' after ''practical measures that'';

(9) striking ''and'' at the end of paragraph (c)(5);

(10) striking the period at the end of paragraph (c)(6) and inserting ''; and''; and

(11) adding at the end of subsection (c) a new paragraph as follows:

''(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.''.

**SEC. 102. DEFINITIONS.**

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (5) through (35) respectively, and inserting after paragraph (1) the following:

''(2) The term 'bycatch' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released

alive under a recreational catch and release fishery management program.

''(3) The term 'charter fishing' means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

''(4) The term 'commercial fishing' means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.'';

(2) in paragraph (7) (as redesignated)—

(A) by striking ''COELENTERATA'' from the heading of the list of corals and inserting ''CNIDARIA''; and

(B) in the list appearing under the heading ''CRUSTACEA'', by striking ''Deep-sea Red Crab—Geryon quinquedens'' and inserting ''Deep-sea Red Crab—Chaceon quinquedens'';

(3) by redesignating paragraphs (9) through (35) (as redesignated) as paragraphs (11) through (37), respectively, and inserting after paragraph (8) (as redesignated) the following:

''(9) The term 'economic discards' means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

''(10) The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.'';

(4) by redesignating paragraphs (16) through (37) (as redesignated) as paragraphs (17) through (38), respectively, and inserting after paragraph (15) (as redesignated) the following:

''(16) The term 'fishing community' means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.'';

(5) by redesignating paragraphs (21) through (38) (as redesignated) as paragraphs (22) through (39), respectively, and inserting after paragraph (20) (as redesignated) the following:

''(21) The term 'individual fishing quota' means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).'';

(6) by striking ''of one and one-half miles'' in paragraph (23) (as redesignated) and inserting ''of two and one-half kilometers'';

(7) by striking paragraph (28) (as redesignated), and inserting the following:

''(28) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

''(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

''(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

''(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.'';

(8) by redesignating paragraphs (29) through (39) (as redesignated) as paragraphs (31) through (41), respectively, and inserting after paragraph (28) (as redesignated) the following:

''(29) The terms 'overfishing' and 'overfished' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

''(30) The term 'Pacific Insular Area' means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.'';

(9) by redesignating paragraphs (32) through (41) (as redesignated) as paragraphs (34) through (43), respectively, and inserting after paragraph (31) (as redesignated) the following:

''(32) The term 'recreational fishing' means fishing for sport or pleasure.

''(33) The term 'regulatory discards' means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.'';

(10) by redesignating paragraphs (36) through (43) (as redesignated) as paragraphs (37) through (44), respectively, and inserting after paragraph (35) (as redesignated) the following:

''(36) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.'';

(11) by striking ''for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(g) has been implemented'' in paragraph (42) (as redesignated) and inserting ''regulated under this Act''; and

(12) by redesignating paragraph (44) (as redesignated) as paragraph (45), and inserting after paragraph (43) the following:

''(44) The term 'vessel subject to the jurisdiction of the United States' has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).''.

**SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

The Act is amended by inserting after section 3 (16 U.S.C. 1802) the following:

**''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums:

''(1) $147,000,000 for fiscal year 1996;

''(2) $151,000,000 for fiscal year 1997;

''(3) $155,000,000 for fiscal year 1998; and

''(4) $159,000,000 for fiscal year 1999.''.

**SEC. 104. HIGHLY MIGRATORY SPECIES.**

Section 102 (16 U.S.C. 1812) is amended by striking ''promoting the objective of optimum utilization'' and inserting ''shall promote the achievement of optimum yield''.

**SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.**

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

''(2) is not prohibited under subsection (f); and'';

(2) by striking ''(i)'' in subsection (c)(2)(D) and inserting ''(h)'';

(3) by striking subsection (f);

(4) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively;

(5) in paragraph (2) of subsection (h) (as redesignated), redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and insert after subparagraph (A) the following:

''(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program that is at least equal in effectiveness to the program established by the Secretary;''; and

(6) in subsection (i) (as redesignated) by striking''305'' and inserting''304''.

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding before the period at the end of subsection (c) ''or section 204(e)'';

(2) by adding at the end the following:

''(h) BYCATCH REDUCTION AGREEMENTS.—

''(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

''(2) An international agreement negotiated under this subsection shall be—

''(A) consistent with the policies and purposes of this Act; and

''(B) subject to approval by Congress under section 203.

''(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.''.

(c) PERIOD FOR CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) by striking ''GOVERNING'' in the section heading;

(2) by striking ''agreement'' each place it appears in subsection (a) and inserting ''agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement'';

(3) by striking ''60 calendar days of continuous session of the Congress'' in subsection (a) and inserting ''120 days (excluding any days in a period for which the Congress is adjourned sine die)'';

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) by striking ''agreement'' in subsection (c)(2)(A), as redesignated, and inserting ''agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement''.

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.—Section 204 (16 U.S.C. 1824) is amended—

(1) by inserting ''or subsection (d)'' in the first sentence of subsection (b)(7) after ''under paragraph (6)'';

(2) by striking ''the regulations promulgated to implement any such plan'' in subsection (b)(7)(A) and inserting ''any applicable federal or State fishing regulations'';

(3) by inserting ''or subsection (d)'' in subsection (b)(7)(D) after ''paragraph (6)(B)''; and

(4) by adding at the end the following:

''(d) TRANSSHIPMENT PERMITS.—

''(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

''(A) submits an application which is approved by the Secretary under paragraph (3); and

''(B) pays a fee imposed under paragraph (7).

''(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

''(3) APPROVAL OF APPLICATION.—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

''(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

''(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

''(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

''(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

''(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

''(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

''(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7), which shall be complied with by the owner and operator of the vessel for which the permit is issued.

''(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

''(e) PACIFIC INSULAR AREAS.—

''(1) NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.—The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

''(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

''(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.

''(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

''(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

''(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

''(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this Act;

''(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

''(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

''(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

''(3) PERMITS FOR FOREIGN FISHING.—

''(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

''(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

''(4) MARINE CONSERVATION PLANS.—

''(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

''(i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 201(h);

''(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

''(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

''(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

''(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

''(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

''(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

''(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreemeent may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

''(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

''(A) to carry out the purposes of this subsection;

''(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

''(C) to implement a marine conservation plan developed and approved under paragraph (4).

''(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

''(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

''(B) the Secretary of State for mutually agreed upon travel expenses for no more than 2 federal representatives incurred as a direct result of complying with paragraph (1)(B); and

''(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.

''(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).''.

(e) ATLANTIC HERRING TRANSSHIPMENT.—Within 30 days of receiving an application, the Secretary shall, under Section 204(d) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, issue permits to up to fourteen Canadian transport vessels that are not equipped for fish harvesting or processing, for the transshipment, within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State, of Atlantic herring harvested by United States fishermen within the area described and used solely in sardine processing. In issuing a permit pursuant to this subsection, the Secretary shall provide a waiver under section 201(h)(2)(C) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, provided that such vessels comply with Federal or State monitoring and reporting requirements for the Atlantic herring fishery, including the stationing of United States observers aboard such vessels, if necessary.

(f) LARGE SCALE DRIFTNET FISHING.—Section 206 (16 U.S.C. 1826) is amended—

(1) in subsection (e), by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively; and

(2) in subsection (f), by striking ''(e)(6),'' and inserting ''(e)(4),''.

(g) RUSSIAN FISHING IN THE BERING SEA.—No later than September 30, 1997, the North Pacific Fishery Management Council, in consultation with the North Pacific and Bering Sea Advisory Body, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing the institutional structures in Russia pertaining to stock assessment, management, and enforcement for fishery harvests in the Bering Sea, and recommendations for improving coordination between the United States and Russia for managing and conserving Bering Sea fishery resources of mutual concern.

**SEC. 106. NATIONAL STANDARDS.**

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking ''promote'' and inserting ''consider''.

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

''(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

''(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

''(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.''.

**SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.**

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting ''(1)'' after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking ''section 304(f)(3)'' wherever it appears and inserting ''paragraph (3)'';

(4) in paragraph (1)(B), as amended—

(A) by striking ''and Virginia'' and inserting ''Virginia, and North Carolina'';

(B) by inserting ''North Carolina, and'' after ''except'';

(C) by striking ''19'' and inserting ''21''; and

(D) by striking ''12'' and inserting ''13'';

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

''(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).'';

(6) by indenting the sentence at the end thereof and inserting ''(2)'' before ''Each Council''; and

(7) by adding at the end the following:

''(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.''.

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking ''subsection (b)(2)'' in paragraphs (1)(C) and (3), and inserting in both places ''paragraphs (2) and (5)'';

(2) by striking the last sentence in paragraph (3) and inserting the following: ''Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.''; and

(3) by striking paragraph (5) and inserting after paragraph (4) the following:

''(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

''(B) Representation shall be rotated among the tribes taking into consideration—

''(i) the qualifications of the individuals on the list referred to in subparagraph (A),

''(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

''(iii) the geographic area in which the tribe of the representative is located.

''(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

''(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

''(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

''(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).''.

(c) Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(1) by striking ''each Council,'' and inserting ''each Council who are required to be appointed by the Secretary and''; and

(2) by striking ''shall, until January 1, 1992,'' and all that follows through ''GS-16'' and inserting ''shall receive compensation at the daily rate for GS-15, step 7''.

(d) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

''(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.''.

(e) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

''(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist

of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

''(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

''(B) other interested persons.''.

(f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);'';

(2) in paragraph (2)—

(A) by striking ''section 204(b)(4)(C),'' in paragraph (2) and inserting ''section 204(b)(4)(C) or section 204(d),'';

(B) by striking ''304(c)(2)'' and inserting ''304(c)(4)''; and

(3) by striking ''304(f)(3) ''in paragraph (5) and inserting ''subsection (a)(3)''.

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(h) Section 302(i), as redesignated, is amended—

(1) by striking ''of the Councils'' in paragraph (1) and inserting ''established under subsection (g)'';

(2) by striking ''of a Council:'' in paragraph (2) and inserting ''established under subsection (g):'';

(3) by striking ''Council's'' in paragraph (2)(C);

(4) by adding the following at the end of paragraph (2)(C): ''The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.'';

(5) by adding the following at the end of paragraph (2)(D): ''All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.'';

(6) by striking paragraph (2)(E) and inserting:

''(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.'';

(7) by striking ''by the Council'' the first place it appears in paragraph (2)(F);

(8) by inserting ''or the Secretary, as appropriate'' in paragraph (2)(F) after ''of the Council''; and

(9) by striking ''303(d)'' each place it appears in paragraph (2)(F) and inserting ''402(b)''; and

(10) by striking ''303(d)'' in paragraph (4) and inserting ''402(b)''.

(i) Section 302(j), as redesignated, is amended—

(1) by inserting ''and Recusal'' after ''Interest'' in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

''(1) For the purposes of this subsection—

''(A) the term 'affected individual' means an individual who—

''(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

''(ii) is a voting member of a Council appointed—

''(I) under subsection (b)(2); or

''(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

''(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).'';

(3) by striking ''(1)(A)'' in paragraph (3)(A) and inserting ''(1)(A)(i)'';

(4) by striking ''(1)(B) or (C)'' in paragraph (3)(B) and inserting ''(1)(A)(ii)'';

(5) by striking ''(1)(B) or (C)'' in paragraph (4) and inserting ''(1)(A)(ii)'';

(6)(A) by striking ''and'' at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word ''and''; and

(C) by adding at the end of paragraph (5) the following:

''(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.'';

(7) by striking ''(1)(B) or (C)'' in paragraph (6) and inserting ''(1)(A)(ii)'';

(8) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

''(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

''(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

''(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

''(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

''(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

''(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).''; and

(9) by striking ''(1)(B) or (C)'' in paragraph (8), as redesignated, and inserting ''(1)(A)(ii)''.

**SEC. 108. FISHERY MANAGEMENT PLANS.**

(a) REQUIRED PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting ''and rebuild overfished stocks'' after ''overfishing'';

(2) by inserting ''commercial, recreational, and charter fishing in'' in paragraph (5) after ''with respect to'';

(3) by striking paragraph (7) and inserting the following:

''(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;'';

(4) by striking ''and'' at the end of paragraph (8);

(5) by inserting ''and fishing communities'' after ''fisheries'' in paragraph (9)(A);

(6) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(7) by adding at the end the following:

''(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

''(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

''(A) minimize bycatch; and

''(B) minimize the mortality of bycatch which cannot be avoided;

''(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

''(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

''(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and

equitably among the commercial, recreational, and charter fishing sectors in the fishery.''.

(b) IMPLEMENTATION.—Not later than 24 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section.

(c) DISCRETIONARY PROVISIONS.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

''(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

''(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

''(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;'';

(2) by striking ''system for limiting access to'' in paragraph (6) and inserting ''limited access system for'';

(3) by striking ''fishery'' in subparagraph (E) of paragraph (6) and inserting ''fishery and any affected fishing communities'';

(4) by inserting ''one or more'' in paragraph (8) after ''require that'';

(5) by striking ''and'' at the end of paragraph (9);

(6) by redesignating paragraph (10) as paragraph (12); and

(7) by inserting after paragraph (9) the following:

''(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

''(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and''.

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

''(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

''(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

''(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.''.

(e) INDIVIDUAL FISHING QUOTAS.—Subsection 303 (16 U.S.C. 1853) is amended further by striking subsections (d), (e), and (f), and inserting the following:

''(d) INDIVIDUAL FISHING QUOTAS.—

''(1)(A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

''(B) Any fishery management plan, plan amendment, or regulation approved by the Secretary on or after January 4, 1995, which creates any new individual fishing quota program shall be repealed and immediately returned by the Secretary to the appropriate Council and shall not be resubmitted, reapproved, or implemented during the moratorium set forth in subparagraph (A).

''(2)(A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

''(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

''(3) An individual fishing quota or other limited access system authorization—

''(A) shall be considered a permit for the purposes of sections 307, 308, and 309;

''(B) may be revoked or limited at any time in accordance with this Act;

''(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

''(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested.

''(4)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the—

''(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and

''(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

''(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

''(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program—

''(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas;

''(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

''(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.''.

(f) INDIVIDUAL FISHING QUOTA REPORT.— (1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include recommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

(A) the effects of limiting or prohibiting the transferability of such quotas;

(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c)) from holding individual fishing quotas;

(C) the impact of limiting the duration of individual fishing quota programs;

(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas;

(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs;

(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

(J) the value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation; and

(K) such other matters as the National Academy of Sciences deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on

the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, of the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report.

(6) Section 210 of Public Law 104-134 is hereby repealed.

(g) NORTH PACIFIC LOAN PROGRAM.—(1) By not later than October 1, 1997 the North Pacific Fishery Management Council shall recommend to the Secretary of Commerce a program which uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(2)(A) For the purposes of this subsection, the phrase ''fishermen who fish from small vessels'' in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any U.S. commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase ''entry level fishermen'' in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

(h) COMMUNITY DEVELOPMENT QUOTA REPORT.—Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

(1) evaluate the extent to which such programs have met the objective of providing communities with the means to develop ongoing commercial fishing activities;

(2) evaluate the manner and extent to which such programs have resulted in the communities and residents—

(A) receiving employment opportunities in commercial fishing and processing; and

(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

(5) recommend a proposed schedule for accomplishing the developmental purposes of community development quotas; and

(6) address such other matters as the National Academy of Sciences deems appropriate.

(i) EXISTING QUOTA PLANS.—Nothing in this Act or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

**SEC. 109. ACTION BY THE SECRETARY.**

(a) SECRETARIAL REVIEW OF PLANS AND REGULATIONS.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

''(a) REVIEW OF PLANS.—

''(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

''(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

''(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(2) In undertaking the review required under paragraph (1), the Secretary shall—

''(A) take into account the information, views, and comments received from interested persons;

''(B) consult with the Secretary of State with respect to foreign fishing; and

''(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

''(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

''(A) the applicable law with which the plan or amendment is inconsistent;

''(B) the nature of such inconsistencies; and

''(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

''(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

''(5) For purposes of this subsection and subsection (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

''(b) REVIEW OF REGULATIONS.—

''(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

''(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

''(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

''(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

''(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.''.

(b) PREPARATION BY THE SECRETARY.—Section 304(c) (16 U.S.C. 1854(c)) is amended—

(1) by striking the subsection heading and inserting ''PREPARATION AND REVIEW OF SECRETARIAL PLANS'';

(2) by striking ''or'' at the end of paragraph (1)(A);

(3) by striking all that follows ''further revised plan'' in paragraph (1) and inserting ''or amendment; or'';

(4) by inserting after subparagraph (1)(B), as amended, the following new subparagraph:

''(C) the Secretary is given authority to prepare such plan or amendment under this section.'';

(5) by striking paragraph (2) and inserting:

''(2) In preparing any plan or amendment under this subsection, the Secretary shall—

''(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

''(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.'';

(6) by inserting ''for a fishery under the authority of a Council'' after ''paragraph (1)'' in paragraph (3);

(7) by striking ''system described in section 303(b)(6)'' in paragraph (3) and inserting ''system, including any individual fishing quota program''; and

(8) by inserting after paragraph (3) the following new paragraphs:

''(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

''(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

''(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

''(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

''(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.''.

(c) INDIVIDUAL FISHING QUOTA AND COMMUNITY DEVELOPMENT QUOTA FEES.—Section 304(d) (16 U.S.C. 1854(d)) is amended—

(1) by inserting ''(1)'' immediately before the first sentence; and

(2) by inserting the at the end the following:

''(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any—

''(i) individual fishing quota program; and

''(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

''(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

''(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B), except that the portion of any such fees reserved under section 303(d)(4)(A) shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 504(b)(1) of the Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

''(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.''.

(d) DELAY OF FEES.—Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.

(e) OVERFISHING.—Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:

''(e) REBUILDING OVERFISHED FISHERIES.—

''(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

''(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

''(3) Within one year of an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

''(A) to end overfishing in the fishery and to rebuild affected stocks of fish; or

''(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

''(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

''(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

''(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

''(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

''(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

''(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

''(5) If, within the one-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

''(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

''(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

''(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

''(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.''.

(f) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—Section 304(f) is amended by striking paragraph (3).

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

''(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—(1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

''(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

''(B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

''(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

''(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

''(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

''(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

''(G) ensure that conservation and management measures under this subsection—

''(i) promote international conservation of the affected fishery;

''(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

''(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

''(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

''(2) CERTAIN FISH EXCLUDED FROM 'BYCATCH' DEFINITION.—Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.''.

(h) COMPREHENSIVE MANAGEMENT SYSTEM FOR ATLANTIC PELAGIC LONGLINE FISHERY.—(1) The Secretary of Commerce shall—

(A) establish an advisory panel under section 302(g)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species;

(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

(2) Based on the study under paragraph (1)(D) and consistent with the requirements of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.

(i) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—Section 304, as amended, is further amended by adding at the end the following:

''(h) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.''.

(j) AMERICAN LOBSTER FISHERY.—Section 304(h) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, shall not apply to the American Lobster Fishery Management Plan.

**SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.**

(a) Section 305 (18 U.S.C. 1855) is amended—

(1) by striking the title and subsection (a);

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting the following before subsection (c):

**''SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.**

''(a) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

''(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries —

''(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and

''(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.

''(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).

''(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

''(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

''(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.

''(6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

''(b) FISH HABITAT.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

''(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

''(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

''(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

''(2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.

''(3) Each Council—

''(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

''(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

''(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat

identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

''(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.''.

(b) Section 305(c) (16 U.S.C. 1855(c) is amended—

(1) in the heading by striking ''ACTIONS'' and inserting ''ACTIONS AND INTERIM MEASURES'';

(2) in paragraphs (1) and (2)—

(A) by striking ''involving'' and inserting ''or that interim measures are needed to reduce overfishing for''; and

(B) by inserting ''or interim measures'' after ''emergency regulations''; and

(C) by inserting ''or overfishing'' after ''emergency''; and

(3) in paragraph (3)—

(A) by inserting ''or interim measure'' after ''emergency regulation'' each place such term appears;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (D); and

(D) by inserting after subparagraph (A) the following:

''(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

''(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and''.

(c) Section 305(e) is amended—

(1) by striking ''12291, dated February 17, 1981,'' and inserting ''12866, dated September 30, 1993,''; and

(2) by striking ''subsection (c) or section 304(a) and (b)'' and inserting ''subsections (a), (b), and (c) of section 304''.

(d) Section 305, as amended, is further amended by adding at the end the following:

''(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

''(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

''(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

''(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

''(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

''(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

''(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits established under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

''(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

''(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

''(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

''(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-federal entities to administer the central registry system.

''(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

''(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, 'security interest' shall include security interests, assignments, liens and other encumbrances of whatever kind.

''(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

''(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

''(i) administering the central registry system; and

''(ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.''.

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.

**SEC. 111. PACIFIC COMMUNITY FISHERIES.**

(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT QUOTA PROGRAM.—Section 305, as amended, is amended further by adding at the end:

''(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

''(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

''(B) To be eligible to participate in the western Alaska community development quota program under subparagraph (A) a community shall—

''(i) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

''(ii) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

''(iii) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

''(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to be a Native village;

''(v) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea or waters surrounding the Aleutian Islands; and

''(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless

the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

''(C)(i) Prior to October 1, 2001, the North Pacific Council may not submit to the Secretary any fishery management plan, plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not approved a percentage of the total allowable catch for allocation to such community development quota program. The expiration of any plan, amendment, or regulation that meets the requirements of clause (ii) prior to October 1, 2001, shall not be construed to prohibit the Council from submitting a revision or extension of such plan, amendment, or regulation to the Secretary if such revision or extension complies with the other requirements of this paragraph.

''(ii) With respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

''(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

''(II) was approved by the North Pacific Council prior to October 1, 1995;

the Secretary shall, except as provided in clause (iii) and after approval of such plan, amendment, or regulation under section 304, allocate to the program the percentage of the total allowable catch described in such plan, amendment, or regulation. Prior to October 1, 2001, the percentage submitted by the Council and approved by the Secretary for any such plan, amendment, or regulation shall be no greater than the percentage approved by the Council for such fishery prior to October 1, 1995.

''(iii) The Secretary shall phase in the percentage for community development quotas approved in 1995 by the North Pacific Council for the Bering Sea crab fisheries as follows:

''(I) 3.5 percent of the total allowable catch of each such fishery for 1998 shall be allocated to the western Alaska community development quota program;

''(II) 5 percent of the total allowable catch of each such fishery for 1999 shall be allocated to the western Alaska community development quota program; and

''(III) 7.5 percent of the total allowable catch of each such fishery for 2000 and thereafter shall be allocated to the western Alaska community development quota program, unless the North Pacific Council submits and the Secretary approves a percentage that is no greater than 7.5 percent of the total allowable catch of each such fishery for 2001 or the North Pacific Council submits and the Secretary approves any other percentage on or after October 1, 2001.

''(D) This paragraph shall not be construed to require the North Pacific Council to resubmit, or the Secretary to reapprove, any fishery management plan or plan amendment approved by the North Pacific Council prior to October 1, 1995, that includes a community development quota program, or any regulations to implement such plan or amendment.

''(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

''(B) To be eligible to participate in the western Pacific community development program, a community shall—

''(i) be located within the Western Pacific Regional Fishery Management Area;

''(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

''(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

''(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

''(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

''(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

''(D) For the purposes of this subsection 'Western Pacific Regional Fishery Management Area' means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

''(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

''(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

''(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.''.

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary of Commerce and the Secretary of the Interior are authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing not less than three and not more than five fishery demonstration projects to foster and promote traditional indigenous fishing practices. The total amount of grants awarded under this subsection shall not exceed $500,000 in each fiscal year.

(2) Demonstration projects funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

(C) involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary of Commerce, shall establish an advisory panel under section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) to evaluate, determine the relative merits of, and annually rank applications for such grants. The panel shall consist of not more than 8 individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

(B) If the Secretary of Commerce or the Secretary of the Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons therefor.

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall mean a community eligible to participate under section 305(i)(2)(B) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

**SEC. 112. STATE JURISDICTION.**

(a) Paragraph (3) of section 306(a) (16 U.S.C. 1856(a)) is amended to read as follows:

''(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

''(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable federal fishing regulations for the fishery in which the vessel is operating.

''(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

''(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.''.

(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

''(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).''.

(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking ''(4)(C); and'' in subparagraph (A) and inserting ''(4)(C) or has received a permit under section 204(d);'';

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word ''and''; and

(3) by inserting after subparagraph (B) the following:

''(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.''.

(d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—(1) Subject to the provisions of this subsection and notwithstanding section 306(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(a)), the States of Washington, Oregon, and California may each enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (Cancer magister) for which there is no fishery management plan implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) Any law or regulation promulgated under this subsection shall apply equally to vessels operating in the exclusive economic zone and adjacent State waters and shall be limited to—

(A) establishment of season opening and closing dates, including presoak dates for crab pots;

(B) setting of minimum sizes and crab meat recovery rates;

(C) restrictions on the retention of crab of a certain sex; and

(D) closure of areas or pot limitations to meet the harvest requirements arising under the jurisdiction of United States v. Washington, subproceeding 89-3.

(3) With respect to the States of Washington, Oregon, and California—

(A) any State law limiting entry to a fishery subject to regulation under this subsection may not be enforced against a vessel that is operating in the exclusive economic zone off that State and is not registered under the law of that State, if the vessel is otherwise legally fishing in the exclusive economic zone, except that State laws regulating landings may be enforced; and

(B) no vessel may harvest or process fish which is subject to regulation under this subsection unless under an appropriate State permit or pursuant to a Federal court order.

(4) The authority provided under this subsection to regulate the Dungeness crab fishery shall terminate on October 1, 1999, or when a fishery management plan is implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for such fishery, whichever date is earlier.

(5) Nothing in this subsection shall reduce the authority of any State, as such authority existed on July 1, 1996, to regulate fishing, fish processing, or landing of fish.

(6)(A) It is the sense of Congress that the Pacific Fishery Management Council, at the earliest practicable date, should develop and submit to the Secretary fishery management plans for shellfish fisheries conducted in the geographic area of authority of the Council, especially Dungeness crab, which are not subject to a fishery management plan on the date of enactment of this Act.

(B) Not later than December 1, 1997, the Pacific Fishery Management Council shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives describing the progress in developing the fishery management plans referred to in subparagraph (A) and any impediments to such progress.

**SEC. 113. PROHIBITED ACTS.**

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended—

(1) by striking ''plan,'' and inserting ''plan''; and

(2) by inserting before the semicolon the following: '', or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)''.

(b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended—

(1) by striking ''knowingly steal or without authorization, to'' and inserting ''to steal or attempt to steal or to negligently and without authorization''; and

(2) by striking ''gear, or attempt to do so;'' and insert ''gear;''.

(c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

''(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;''.

(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (M);

(2) by striking ''pollock.'' in subparagraph (N) and inserting ''pollock; or''; and

(3) by adding at the end the following:

''(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A).''.

(e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

''(A) in fishing within the boundaries of any State, except—

''(i) recreational fishing permitted under section 201(i);

''(ii) fish processing permitted under section 306(c); or

''(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);''.

(f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended—

(1) by striking ''(j)'' and inserting ''(i)''; and

(2) by striking ''204(b) or (c)'' and inserting ''204(b), (c), or (d)''.

(g) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

''(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;''.

(h) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting ''or within the boundaries of any State'' after ''zone''.

**SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.**

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking ''ability to pay,'' and adding at the end the following new sentence: ''In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, provided that the information is served on the Secretary at least 30 days prior to an administrative hearing.''.

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: ''Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.''.

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from ''or (C) any'' through ''overdue,'' and inserting the following: ''(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue,''.

(d) Section 310(e) (16 U.S.C. 1860(e)) is amended by adding at the end the following new paragraph:

''(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.''.

**SEC. 115. ENFORCEMENT.**

(a) The second sentence of section 311(d) (16 U.S.C. 1861(d)) is amended—

(1) by striking ''Guam, any Commonwealth, territory, or'' and inserting ''Guam or any''; and

(2) by inserting a comma before the period and the following: ''and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands''.

(b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking ''fishery'' each place it appears and inserting ''marine'';

(2) by inserting ''of not less than 20 percent of the penalty collected or $20,000, whichever is the lesser amount,'' after ''reward'' in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

''(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and''.

(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

''(2) Any person found in an administrative or judicial proceeding to have violated this

Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.''.

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (h) , and by inserting the following after subsection (f):

''(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.''.

(e) Section 311 (16 U.S.C. 1861), as amended by subsection (d), is amended by striking ''201(b), (c),'' in subsection (i)(1), as redesignated, and inserting ''201(b) or (c), or section 204(d),''.

**SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.**

(a) Section 312 is amended to read as follows:

**''SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.**

''(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

''(A) natural causes;

''(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

''(C) undetermined causes.

''(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

''(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

''(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

''(b) FISHING CAPACITY REDUCTION PROGRAM.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that the program—

''(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

''(B) is consistent with the federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

''(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

''(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

''(C) is cost-effective and capable of repaying any debt obligation incurred under section 1111 of title XI of the Merchant Marine Act, 1936.

''(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

''(A) the owner of a fishing vessel, if such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing, and if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the owner relinquishes any claim associated with the vessel and permit that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established; or

''(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

''(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

''(4) The Secretary shall consult, as appropriate, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

''(c) PROGRAM FUNDING.—(1) The program may be funded by any combination of amounts—

''(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A); the Saltonstall-Kennedy Act);

''(B) appropriated for the purposes of this section;

''(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

''(D) provided from any State or other public sources or private or non-profit organizations.

''(2) All funds for the program, including any fees established under subsection (d), shall be paid into the fishing capacity reduction fund established under section 1111 of title XI of the Merchant Marine Act, 1936.

''(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, at the request of the appropriate Council, may conduct a referendum on such system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

''(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

''(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

''(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

''(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

''(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

''(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

''(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

''(D) be in effect only until such time as the debt obligation has been fully paid.

''(e) IMPLEMENTATION PLAN.—(1) The Secretary, in consultation with the appropriate Council or State and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period an implementation plan, including proposed regulations, for each program. The implementation plan shall—

''(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and

''(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

''(2) During the 60-day public comment period—

''(A) the Secretary shall conduct a public hearing in each State affected by the program; and

''(B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.

''(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council or State, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.''.

(b) STUDY OF FEDERAL INVESTMENT.—The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within 2 years of the date of enactment of this Act on the role of the Federal Government in—

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(2) otherwise influencing the aggregate capital investments in fisheries.

(c) Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c3(b)(1)(A)) is amended—

(1) by striking ''and'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting a semicolon and the word ''and''; and

(3) by adding at the end the following new clause:

''(iv) to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act; and''.

**SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.**

(a) NORTH PACIFIC FISHERIES CONSERVATION.—Section 313 (16 U.S.C. 1862) is amended—

(1) by striking ''RESEARCH PLAN'' in the section heading and inserting ''CONSERVATION'';

(2) in subsection (a) by striking ''North Pacific Fishery Management Council'' and inserting ''North Pacific Council''; and

(3) by adding at the end the following:

''(f) BYCATCH REDUCTION.—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

''(g) BYCATCH REDUCTION INCENTIVES.—(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed $25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

''(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, provided that—

''(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

''(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

''(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

''(h) CATCH MEASUREMENT.—(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

''(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

''(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

''(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.''.

(b) NORTHWEST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking ''1997'' in subsection (a)(4) and inserting ''1999''.

## TITLE II—FISHERY MONITORING AND RESEARCH

**SEC. 201. CHANGE OF TITLE.**

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

**''TITLE IV—FISHERY MONITORING AND RESEARCH''.**

**SEC. 202. REGISTRATION AND INFORMATION MANAGEMENT.**

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

**''SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.**

''(a) STANDARDIZED FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

''(1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

''(2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;

''(3) avoid duplication of existing state, tribal, or federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

''(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

''(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

''(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

''(7) minimize the paperwork required for vessels registered under the system;

''(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

''(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information ) which may be necessary to meet the goals of the proposed system; and

''(10) include procedures necessary to ensure—

''(A) the confidentiality of information collected under this section in accordance with section 402(b); and

''(B) the timely release or availability to the public of information collected under this section consistent with section 402(b).

''(b) FISHING VESSEL REGISTRATION.—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

''(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

''(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

''(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

''(c) FISHERY INFORMATION.—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

''(1) the number of vessels participating in the fishery including charter fishing vessels;

''(2) the time period in which the fishery occurs;

''(3) the approximate geographic location or official reporting area where the fishery occurs;

''(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and

''(5) other information required under subsection 303(a)(5) or requested by the Council under section 402 .

''(d) USE OF REGISTRATION.—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

''(e) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

''(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

''(2) any proposed regulations or legislation necessary to implement the proposal.

''(f) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

''(1) any modifications made after comment and consultation;

''(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and

''(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

''(g) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include recreational fishing vessels into a national fishing vessel registration and information collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.''.

**SEC. 203. INFORMATION COLLECTION.**

Section 402 is amended to read as follows:

**''SEC. 402. INFORMATION COLLECTION.**

''(a) COUNCIL REQUESTS.—If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

''(b) CONFIDENTIALITY OF INFORMATION.—(1) Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

''(A) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

''(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

''(C) when required by court order;

''(D) when such information is used to verify catch under an individual fishing quota program;

''(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or

''(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

''(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E) .

''(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

''(2) The Secretary may not require the submission of a federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

''(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

''(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

''(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

''(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

''(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

''(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

''(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

''(C) may permit fish harvested during such survey to count towards a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

''(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.''.

**SEC. 204. OBSERVERS.**

Section 403 is amended to read as follows:

**''SEC. 403. OBSERVERS.**

''(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

''(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

''(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

''(b) TRAINING.—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

''(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

''(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

''(3) ensure that an observer has received adequate training in basic vessel safety; and

''(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

''(c) OBSERVER STATUS.—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).''.

**SEC. 205. FISHERIES RESEARCH.**

Section 404 is amended to read as follows:

**''SEC. 404. FISHERIES RESEARCH.**

''(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire

knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

''(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

''(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

''(2) indicate goals and timetables for the program described in paragraph (1);

''(3) provide a role for commercial fishermen in such research, including involvement in field testing;

''(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

''(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

''(c) AREAS OF RESEARCH.—Areas of research are as follows:

''(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

''(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

''(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

''(4) Information management research, including the development of a fishery information base and an information management system under section 401 that will permit the full use of information in the support of effective fishery conservation and management.

''(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.''.

**SEC. 206. INCIDENTAL HARVEST RESEARCH.**

Section 405 is amended to read as follows:

**''SEC. 405. INCIDENTAL HARVEST RESEARCH.**

''(a) COLLECTION OF INFORMATION.—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

''(b) IDENTIFICATION OF STOCK.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

''(c) COLLECTION AND ASSESSMENT OF SPECIFIC STOCK INFORMATION.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

''(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

''(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

''(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

''(d) BYCATCH REDUCTION PROGRAM.—Not later than 12 months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

''(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

''(2) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

''(3) assess whether it is practicable to utilize bycatch which is not avoidable.

''(e) REPORT TO CONGRESS.—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

''(f) IMPLEMENTATION CRITERIA.—To the extent practicable, any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

''(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

''(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.''.

**SEC. 207. MISCELLANEOUS RESEARCH.**

(a) FISHERIES SYSTEMS RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

**''SEC. 406. FISHERIES SYSTEMS RESEARCH.**

''(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

''(b) PANEL MEMBERSHIP.—The advisory panel shall consist of not more than 20 individuals and include—

''(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

''(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

''(c) RECOMMENDATIONS.—Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

''(d) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

''(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

''(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

''(3) such other information as may be appropriate.

''(e) PROCEDURAL MATTER.—The advisory panel established under this section shall be deemed an advisory panel under section 302(g).''.

(b) GULF OF MEXICO RED SNAPPER RESEARCH.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section:

**''SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.**

''(a) INDEPENDENT PEER REVIEW.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

''(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

''(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

''(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

''(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

''(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

''(A) participate in the peer review under this subsection; and

''(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

''(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the

Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act.

''(b) PROHIBITION.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2000, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

''(c) REFERENDUM.—

''(1) On or after October 1, 2000, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

''(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weight votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

''(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

''(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

''(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

''(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

''(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.''.

**SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.**

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determinations of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term ''bycatch'' has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act, as amended by section 102 of this Act.

**SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.**

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESSMENTS.**

The National Academy of Sciences, in consultation with regionally recognized fishery experts, shall conduct a peer review of Canadian and United States stock assessments, information collection methodologies, biological assumptions and projections, and other relevant scientific information used as the basis for conservation and management in the Northeast multispecies fishery. The National Academy of Sciences shall submit the results of such review to the Congress and the Secretary of Commerce no later than March 1, 1997.

**SEC. 211. CLERICAL AMENDMENTS.**

The table of contents is amended by striking the matter relating to title IV and inserting the following:



## TITLE III—FISHERIES FINANCING

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''Fisheries Financing Act''.

**SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.**

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking ''or'' at the end of subsection (a)(5);

(2) by striking the period at the end of subsection (a)(6) and inserting a semicolon and ''or'';

(3) by adding at the end of subsection (a) the following:

''(7) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).''; and

(4) by striking ''paragraph (6)'' in the last sentence of subsection (a) and inserting ''paragraphs (6) and (7)''; and

(5) by striking ''equal to'' in the third proviso of subsection (b)(2) and inserting ''not to exceed''.

(b) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased harvesting capacity within the United States exclusive economic zone.

**SEC. 303. FISHERIES FINANCING AND CAPACITY REDUCTION.**

(a) CAPACITY REDUCTION AND FINANCING AUTHORITY.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

''Sec. 1111. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

''(b) Any debt obligation guaranteed under this section shall—

''(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

''(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

''(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

''(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

''(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

''(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

''(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the 'fund'). Within the fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

''(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section; provided that funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

''(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

''(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

''(e) For the purposes of this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act.

''SEC. 1112. (a) Notwithstanding any other provision of this title, all obligations involving any fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this title after the date of enactment of the Sustainable Fisheries Act shall be direct loan obligations, for which the Secretary shall be the obligee, rather than obligations issued to obligees other than the Secretary and guaranteed by the Secretary. All direct loan obligations under this section shall be treated in the same manner and to the same extent as obligations guaranteed under this title except with respect to provisions of this title which by their nature can only be applied to obligations guaranteed under this title.

''(b) Notwithstanding any other provisions of this title, the annual rate of interest which obligors shall pay on direct loan obligations under this section shall be fixed at two percent of the principal amount of such obligations outstanding plus such additional percent as the Secretary shall be obligated to pay as the interest cost of borrowing from the United States Treasury the funds with which to make such direct loans.''.

## TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

### SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.

(a) FISHERIES INFORMATION COLLECTION AND ANALYSIS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $51,800,000 for fiscal year 1997, and $52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis, and dissemination of scientific information necessary for the management of living marine resources and associated marine habitat.

(b) FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.— There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $29,028,000 for fiscal year 1997, and $29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $27,932,000 for fiscal year 1997, and $28,226,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to, ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) by striking ''1992 and 1993'' and inserting ''1997 and 1998'';

(2) by striking ''establish'' and inserting ''operate'';

(3) by striking ''306'' and inserting ''307''; and

(4) by striking ''1991'' and inserting ''1992''.

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

(f) NEW ENGLAND HEALTH PLAN.—The Secretary of Commerce is authorized to provide up to $2,000,000 from previously appropriated funds to Caritas Christi for the implementation of a health care plan for fishermen in New England if Caritas Christi submits such plan to the Secretary no later than January 1, 1997, and the Secretary, in consultation with the Secretary of Health and Human Services, approves such plan.

### SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

''(1) $3,400,000 for fiscal year 1996;

''(2) $3,900,000 for fiscal year 1997;

''(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.'';

(2) by striking ''$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995,'' in subsection (c) and inserting ''$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000,''.

(b) NEW ENGLAND REPORT.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended by adding at the end the following new paragraph:

''(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides:

''(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

''(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;

''(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

''(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.''.

### SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

''SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

''(A) $4,000,000 for fiscal year 1997; and

''(B) $4,250,000 for each of fiscal years 1998, 1999, and 2000.

''(2) Sums appropriated under this subsection are authorized to remain available until expended.

''(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.''.

### SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting ''and'' after the semicolon in subparagraph (A);

(2) by striking ''States; and'' in subparagraph (B) and inserting ''States.''; and

(3) by striking subparagraph (C).

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking ''necessary to support'' and inserting ''compatible with''.

(c) AMERICAN LOBSTER MANAGEMENT.—Section 809 (16 U.S.C. 5108) and section 810 of such Act are redesignated as sections 811 and 812, respectively, and the following new sections are inserted at the end of section 808:

### ''SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.

''(a) PERMITS.—Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American Lobster in the following areas designated as federal waters, if such fishing is conducted in such waters in accordance with all other applicable federal and state regulations:

''(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;

''(2) east of Monhegan Island in the area located west of the line 43° 44′ 00″ N, 69° 15′ 05″ W and 43° 48′ 10″ N, 69° 08′ 01″ W;

''(3) south of Vinalhaven in the area located west of the line 43° 52′ 21″ N, 68° 39′ 54″ W and 43° 48′ 10″ N, 69° 08′ 01″ W; and

''(4) south of Bois Bubert Island in the area located north of the line 44° 19′ 15″ N, 67° 49′ 30″ W and 44° 23′ 45″ N, 67° 40′ 33″ W.

''(b) ENFORCEMENT.—The exemption from federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

### ''SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

''(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section

804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

''(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

''(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

''(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

''(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 810 of such Act, as amended by this Act, is amended further by striking ''1996.'' and inserting ''1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.''.

**SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.**

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'', approved March 9, 1992 (Public Law 102-251; 106 Stat. 66) hereinafter referred to as the ''FGB Act'', section 301(b) of that Act (adding a definition of the term ''special areas'') shall take effect on the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed.

(2) Section 304 of the FGB Act is repealed.

(3) Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

''(15) The term 'waters under the jurisdiction of the United States' means—

''(A) the territorial sea of the United States;

''(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

''(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.''.

**SEC. 406. AMENDMENTS TO THE FISHERIES ACT.**

Section 309(b) of the Fisheries Act of 1995 (Public Law 104-43) is amended by striking ''July 1, 1996'' and inserting ''July 1, 1997''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] and the gentleman from Massachusetts [Mr. STUDDS] each will control 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of House passage of S. 39, the Sustainable Fisheries Act.

This legislation reauthorizes the Magnuson Fishery Conservation and Management Act of 1976 through fiscal year 1999. Mr. Speaker, as I am sure you are aware, the Magnuson Act was enacted in 1976 in direct response to the depletion of U.S. fishery resources by foreign vessels. The Magnuson Act expanded U.S. jurisdiction over fishery resources to 200 miles. The act also included provisions intended to encourage the development of a domestic fishing industry.

The Magnuson Act created eight regional fishery management councils to manage the fishery resources within their geographic area. This means the councils were charged with determining the appropriate level of harvest to maximize the benefit to the Nation, while still protecting the long-term sustainability of the stocks.

These councils are in the difficult position of balancing the often competing interests of commercial and recreational fishermen, and the often competing gear groups within the commercial industry.

It is important to note that this legislation maintains and supports the current regional fishery management councils system. This legislation does include some reforms of the council process and requires new disclosure rules to deal with the perception of conflict of interest on the councils.

Mr. Speaker, the House passed H.R. 39, the Fishery Conservation and Management Amendments of 1995, on October 18, 1995, by a vote of 388 to 37. I appreciate all of the hard work that members of the Resources Committee put into H.R. 39, and I especially appreciate the bipartisan nature of the entire process. I want to thank Mr. MILLER, the ranking member of the full committee, Mr. STUDDS, the ranking subcommittee member, and Mr. SAXTON, the subcommittee chairman for their dedication to creating a very good bill.

Mr. Speaker, while S. 39 is similar to H.R. 39, in my opinion the House-passed bill is a much stronger bill. However, in the waning days of this Congress, we are in a position of accepting a weaker bill or accomplishing nothing for fisheries conservation and management.

As Members are aware, the other body was negotiating the package until S. 39 was actually taken up on the Senate Floor. Because of the constant negotiations, the authors of the bill in the other body may have left a number of provisions unclear. I want to take this opportunity to clarify in legislative history the intent of several provisions in the bill. I have attached these clarifications to my statement.

Mr. Speaker, while I would prefer having more time to conference with the Senate on a number of provisions in this legislation, this appears to be the best deal we can get under the circumstances. Having said that, I would like to highlight a number of the major themes of H.R. 39 also contained in S. 39, including: Provisions for the reduction of bycatch; for the identification and prevention of overfishing; for the protection of habitat necessary for the continued reproduction and long-term health of important commercial and recreational fisheries; and buyout provisions to reduce the harvesting capacity in overfished fisheries.

Mr. Speaker, this legislation does a number of important things to better fisheries management in the Federal Exclusive Economic Zone [EEZ].

First, the bill recognizes that bycatch is one of the most pressing problems facing the continuation of sustainable fisheries, and one of the most crucial challenges facing fisheries managers today. In 1993, in the North Pacific alone, more than 740 million pounds of fish were discarded. This is clearly unacceptable.

This legislation creates a new national standard that requires all fishery management plans and regulations to include conservation and management measures to minimize bycatch to the extent practicable. In the event that bycatch cannot be avoided, plans and regulations should include efforts to minimize the mortality of bycatch to the extent practicable. While these provisions are not as strong as those in the House-passed bill, this is still a major step forward.

The legislation also creates a new system for the identification and prevention of overfished fisheries. It is crucial that the management agencies within the Federal Government be proactive in protecting fisheries rather than attempting to address overfished stocks after they are in a crisis situation. This legislation requires that the Secretary report annually on the status of fisheries and identify any fisheries which are over fished or approaching an overfished condition. The Regional Councils are then required to take steps to address any overfished fishery and include measures for rebuilding the overfished stocks.

Mr. Speaker, these are just a few of the main provisions of S. 39 which will

help to maintain a viable fishing industry through sustainable fishing measures. While not as strong as H.R. 39, this bill is a step in the right direction for sound fishery conservation and management.

Mr. Speaker, I have been approached by a number of Members who support passage of this legislation, but share my concern about specific provisions which may need to be modified next year. Despite the number of misgivings I have about this bill, in my opinion, this bill is better than the alternative—no bill at all. A number of Members of the other body have threatened to kill this bill if the House makes any changes. I regret that they have taken that position and regret that the House is in a position of having to accept a bill which is not as good as the House-passed bill.

Mr. Speaker, while I support passage of this legislation and urge all Members to do so, I also realize there may be some problems with the legislation which will need to be addressed in the next Congress. I am committed to working with Members next year to address outstanding concerns.

If we had a few weeks or months left in this Congress, I would urge all Members to join me in sending the Senate a better bill than the one they have sent us. Unfortunately, we do not have that luxury.

While most of the affected industry groups and the environmental community would like to see some minor modifications to this bill, a reluctant groundswell has urged the House to accept this legislation rather than lose all that we have worked so hard for.

I urge all Members to support passage of S. 39 and send this important piece fishery management and conservation legislation to the President for his signature.

Mr. Speaker, in their efforts to achieve consensus on S. 39, the authors of the bill in the other body accidentally left unclear some of the provisions in the bill. In order to avoid confusion on the part of those affected by these provisions—including the National Marine Fisheries Service, the regional councils, and the seafood industry—I will take this opportunity to clarify in legislative history the intent of these parts of the bill.

Section 105(d) of S. 39 amends section 204 of the act in a manner similar to the House-passed bill by allowing permits to be issued for transshipment of fish. The Senate added a requirement that permit applications be forwarded to affected States and that the Secretary consult with the appropriate Marine Fisheries Commission. Since the Marine Fisheries Commissions are composed of individual States, it is obvious that the consultation requirement was meant to extend to any individual affected State that received a copy of the permit. Although this is inferred, rather than written directly, it is the intent of this provision that States, as well as commissions and councils, be consulted.

Section 106 of S. 39 establishes a new national standard regarding bycatch which is similar to the new national standard established in the House-passed bill. The application of this new standard is expanded in section 108(a)(7) of S. 39, which describes new required provisions for fishery management plans. Both the standard and the required provision make clear that bycatch be avoided where practicable, and the mortality of unavoidable bycatch be minimized where practicable. The use of the term ''to the extent practicable'' was chosen deliberately by both the Senate and the House. Both bodies recognize that bycatch can occur in any fishery, and that complete avoidance of mortality is impossible. Councils should make reasonable efforts in their management plans to prevent bycatch and minimize its mortality. However, it is not the intent of the Congress that the councils ban a type of fishing gear or a type of fishing in order to comply with this standard. ''Practicable'' requires an analysis of the cost of imposing a management action; the Congress does not intend that this provision will be used to allocate among fishing gear groups, nor to impose costs on fishermen and processors that cannot be reasonably met.

Section 107 of S. 39 adds an additional seat on the Pacific Fishery Management Council that is to be filled by a member of an Indian tribe with Federally recognized fishing rights. The Senate neglected to define this term, believing that its meaning is obvious. Unfortunately, a recent court ruling in U.S. District Court in the Western District of Washington regarding a subproceeding of United States versus Washington, which is under appeal, has clouded the previously clear meaning of this term as upheld by the Supreme Court. In order to avoid confusion in the definition of a term that has been clear for nearly 20 years, I want to make clear that is the intent of the Congress that the term ''Federally recognized fishing rights'' as used in regard to the Magnuson Fishery Conservation and Management Act, means a treaty fishing right that has been finally approved by the courts under the process defined in section 19(g) of the final court order under United States versus Washington, and the approval is not subject to further appeal.

Section 107(h) of S. 39 amends section 302(l) of the Magnuson Fishery Conservation and Management Act by providing additional procedures for the operation of Regional Fishery Management Councils. Specifically, it requires individuals testifying before, or providing information to, a Council to disclose their background and interest in the matter at hand. This provision was included in the House passed bill. The Senate added an additional sentence to make sure that valid data is provided to the councils. Unfortunately, this sentence could be interpreted as precluding a fisherman, processor, or member of the public from providing information based on their own experiences. Clearly, this was not the intent of the authors of the bill. The council system was established specifically to allow public input into the fisheries management process. It is clearly the intent of the Congress that this provision is not meant to require a fisherman, processor, or member of the public to fully document every statement made in a letter to a council by providing fish tickets, landing receipts, processing records, or similar information.

Section 109(3)(6) of S. 39 amends section 304(c)(3) of the Magnuson Fishery Conservation and Management Act regarding the authority of the Secretary to propose a limited entry system under a fishery management plan or amendment prepared by the Secretary. The amendment is purely technical in nature and is not intended to modify the requirement that the Secretary obtain approval of a council before a limited entry system is put in place. In other words, the Secretary has no authority to prepare a plan for a fishery managed by a State or a Marine Fishery Commission and include a limited entry system in the plan without obtaining approval of the council within whose area of jurisdiction that fishery exists.

Section 109(e) of S. 39 includes new provisions regarding overfishing and rebuilding overfished stocks that are essentially the same as those included in the House passed bill. Both the House and the Senate noted that exceptions could be made to the time required for rebuilding. While the House was more specific in its list of exceptions, the Senate incorporated all of the House exceptions under the phrase ''other environmental conditions.'' It is the intent of this section that the phrase ''other environmental conditions'' includes factors beyond the control of the rebuilding program.

The rebuilding provisions of section 109(e) also require the Secretary to prepare a plan or plan amendment if the council takes no action within 1 year. The Senate language as drafted is unclear on the time frame for Secretarial action. The intent of the Senate provision is that the Secretary take action within 9 months of the end of the period provided for council action.

Section 110(d) of S. 39 amends section 305 of the Magnuson Fishery Conservation and Management Act by adding a new subsection (h) providing for a limited entry permit lien registry system. While establishment of the lien registry system by the Secretary is mandatory, participation in the system by limited access permit holders is not. It is the intent of the Congress that any permit holder registering a permit with the system comply with the requirements of this section, including paying any applicable fees. However, it is not the intent of the Congress that all permit holders register with the system; this is a discretionary action that each permit holder must decide to take after weighing the costs and benefits of participating in the system.

Section 111(a) of S. 39 amends section 305 of the Magnuson Act by adding a new subsection to require the North Pacific Fishery Management Council and the Secretary of Commerce to consolidate the western Alaska community development quota programs that the council and the Secretary presently are implementing. Of co-equal importance, subsection (i)(1)(A) also requires the council and the Secretary to allocate to the single program a percentage of the total allowable catch—and with respect to crab fisheries a percentage of the guideline harvest level—of each Bering Sea fishery.

I am pleased that in drafting subsection 305(i)(1)(A) and (B) the Senate incorporated the text of paragraphs (1) and (2) of the amendment to section 313 of the Magnuson Act that is contained in section 14 of H.R. 39.

In that regard, when the western Alaska community development quota program was considered by the Resources Committee, I and other members of the committee gave serious consideration to including a provision which would have mandated the North Pacific

Fishery Management Council and the Secretary to annually allocate specific percentages of the total allowable catches and guideline harvest levels of each Bering Sea fishery to the western Alaska community development quota program, so that the percentages allocated are large enough to enable participating communities and organizations to accomplish the economic, social, developmental, and other objectives that implementation of the program is intended to achieve.

However, we did not do so. Instead, H.R. 39 assigned the council and the Secretary the important task of deciding the percentage of the total allowable catch and guideline harvest level of each Bering Sea fishery that should be allocated to the western Alaska community development quota program. However, in recommending section 14 of H.R. 39 to the House, it was the intent of the Resources Committee—and by accepting the text of that portion of H.R. 39 it is the intent of the Senate—that, with respect to each Bering Sea fishery, the percentage allocated by the council and the Secretary shall be large enough to enable communities participating in the program to accomplish the program's objectives, and particularly the objective of establishing a sustainable local economy in each participating community.

It is of particular importance to note that the North Pacific Fishery Management Council previously has allocated a least 7.5 percent of the total allowable catches and guideline harvest levels of Bering Sea pollock, sablefish, other groundfish species, halibut, and all crab species to the three community development quota programs.

It is important to note the reason the House and Senate versions of the Sustainable Fisheries Act both mandate the establishment and implementation of the western Alaska community development quota program. In 1976 Congress, speaking through section 301(a)(4)(A) of the Magnuson Act, established as the policy of the Nation the regulatory principle that fishery management councils and the Secretary shall allocate commercial fishing privileges in the exclusive economic zone among U.S. fishermen in a manner that is fair and equitable to all such fishermen.

Unfortunately, throughout the 1980's the North Pacific Fishery Management Council and the Secretary's regulation of commercial fishing in the Alaska portion of the EEZ did not allocate fishing privileges in a manner that was fair and equitable to the Eskimo and Aleut fishermen who live in 55 Native villages located from the northern coast of the Aleutian Islands north along the coast of western Alaska to the Seward Peninsula, as well as on the Pribilof Islands. To alleviate that regulatory omission, in 1991 the North Pacific Fishery Management Council established a western Alaska community development quota program for pullock, after which it established a second program for halibut and sablefish, and in June 1995 recommended to the Secretary the establishment of a third program for all other Bering Sea groundfish species, as well as all Bering Sea crab species.

When S. 39 was debated on the Senate floor Senator Inouye, the former chairman of the Committee on Indian Affairs and one of the Nation's steadfast champions of Alaska Native and other Native American rights, explained to the Senate the history of the western Alaska community development quota program and the important objectives the Senate intends implementation of the program to achieve. I would like to associate myself with the remarks of Senator INOUYE. I also would like to associate myself with the remarks of Senator TED STEVENS, Alaska's senior Senator and the sponsor both of S. 39 and of the amendment in the nature of a substitute that the Senate adopted. As Senator STEVENS rightly reminded the Senate, the intended beneficiaries of the western Alaska community development quota program are Native Americans for whose economic and social well-being Congress, the Secretary of Commerce has a well-recognized fiduciary responsibility. As Senator STEVENS explained:

> The community development quotas are based in part on the authority of Congress to regulate the commerce of the Indian tribes. The communities of the west coast of Alaska are predominately Alaska Native people. They were there and fishing a long time before anyone else came on the fishing scene. As a matter of fact, there were no factory trawlers off Alaska from the State of Washington until about 9 years ago. . . . We are allocating a portion of the fisheries to the communities involved that are historic Native communities along our coast.

In addition to directing the House's attention to the history and policy objectives of the western Alaska community development quota programs that the enactment of S. 39 will consolidate, I also would like to explain the manner in which the new subsection 305(i)(1) is intended to affect the North Pacific Fishery Management Council and the Secretary of Commerce's implementation of the program.

Subsection (i)(1)(C) prohibits the North Pacific Fishery Management Council between the date of enactment of the Sustainable Fisheries Act and October 1, 2001, submitting to the Secretary a fishery management plan for a Bering Sea fishery, or an amendment to a fishery management plan for a Bering Sea fishery, or a regulation whose promulgation will implement a plan or an amendment if the Secretary's approval of the plan or plan amendment or promulgation of the regulation will allocate a percentage of the total allowable catch or guideline harvest level of a Bering Sea fishery to the western Alaska community development quota program. However, the aforementioned prohibition does not apply to the submission of a plan or plan amendment or regulation whose approval or promulgation will allocate a percentage of the total allowable catch or guideline harvest level of a Bering Sea fishery for which prior to October 1, 1995 the Council approved the allocation of a percentage of the catch or guideline harvest level to a western Alaska community development quota program. Bering Sea fisheries not subject to the aforementioned prohibition include the pollock, halibut, sablefish, crab, and other groundfish fisheries.

It also is the intent of subsection (i)(1)(C) that the expiration in 1998 of the amendment to the Bering Sea and Aleutian Islands Area groundfish fishery management plan that made the initial allocation of pollock to a western Alaska community development quota program not subject pollock to the prohibition on Council authority that subparagraph (C) imposes.

Subparagraph (C) also prohibits the Council from submitting and prohibits the Secretary from approving and implementing between the date of enactment of the Sustainable Fisheries Act and October 1, 2001, a fishery management plan or an amendment to a fishery management plan that allocates a percentage of the total allowable catch or guideline harvest level of a Bering Sea fishery to the western Alaska community development quota program that is greater than the percentage of the catch or guideline harvest level that the Council approved for allocation to a western Alaska community development quota program prior to October 1, 1995. For example, prior to October 1, 2001, no more than 7.5 percent of the total allowable catches and guideline harvest levels of Bering Sea pollock and of each Bering Sea crab species may be allocated to the program.

In June 1995 the North Pacific Management Council recommended to the Secretary that he approve and implement the allocation of 7.5 percent of the guideline harvest levels of each Bering Sea crab species and 7.5 percent of the total allowable catch of each Bering Sea groundfish species—other than pollock and sablefish—to a western Alaska community development quota program for those species. Rather than approving and implementing the immediate allocation of 7.5 percent for Bering Sea crab species, subsection (i)(1)(C)(iii) requires the Secretary to phase in his implementation of the Council's recommendation for crab species by in 1998 allocating to the western Alaska community development quota program 3.5 percent of the guideline harvest level of each crab species, by in 1999 allocating 5 percent of the guideline harvest level of each crab species to the program, and by in 2000 allocating 7.5 percent of the guideline harvest level of each crab species to the program, after which without further action by either the Council or the Secretary 7.5 percent of the guideline harvest level of each crab species will each year be allocated to the program unless in 2001, the Council submits and the Secretary approves and implements a percentage for a particular crab species that is less than 7.5 percent, or unless during a year subsequent to October 1, 2001, the Council submits and the Secretary approves and implements a percentage for a particular crab species that is a percentage that is either less than or more than 7.5 percent.

Finally, subsection (i)(1)(D) eliminates the necessity for the North Pacific Fishery Management Council and the Secretary to implement subsection (i)(1)(A) by the Council resubmitting or the Secretary reapproving a fishery management plan or an amendment to a plan that contains an allocation of the total allowable catch or guideline harvest level of a Bering Sea fishery to the western Alaska community development quota program, if the plan or amendment in which the allocation is contained was approved by the Council prior to October 1, 1995. For example, as a consequence of subparagraph (D), the Council is not required to resubmit to the Secretary the plan amendment it approved in June 1995 in order for the Secretary to implement the phase in of the percentage allocation of the guideline harvest level for Bering Sea crab species established by subparagraph (C)(iii). Similarly, in 1998 and during each year thereafter the Secretary shall continue to allocate 7.5 percent of the total allowable catch of Bering Sea pollock to the western Alaska community development quota program notwithstanding the expiration of the plan amendment in which the allocation initially was made, unless prior to October 1, 2001, the council submits and the Secretary approves and implements an amendment to the Bering Sea and Aleutian

Islands area groundfish fishery management plan that allocates a percentage that is less than 7.5 percent, or unless subsequent to October 1, 2001, the council submits and the Secretary approves and implements an amendment to such plan that allocates a percentage that is either less than or more than 7.5 percent.

The enactment of section 111(a) of S. 39 will provide the North Pacific Fishery Management Council and the Secretary of Commerce the statutory tools required to improve the efficiency of their implementation of the western Alaska community development quota program. And the enactment of section 111(a) will codify Congress strong support for the council and the Secretary's innovative effort to provide fishermen and other residents of Native villages on the coast of the Bering Sea a fair and equitable opportunity to participate in Bering Sea fisheries that prior to the creation of the western Alaska community development quota program was long overdue.

Section 112(d) of S. 39 provides interim authority for limited State management of the Dungeness crab fishery in the exclusive economic zone adjacent to the States of Washington, Oregon, and California. This authority is provided only to ensure conservation of the crab resource outside of State waters; it is not intended to provide allocation authority to the States, nor to have an allocative effect on vessels based on size or State of registry. This is underscored by the provisions of section 112(d)(3), that make clear that State limited entry programs cannot be enforced against vessels of another State when those vessels are operating in the exclusive economic zone.

Section 112(d)(2) also specifically limits the type of State authority allowed, providing the States only with authority that is generally agreed to now on a voluntary basis. This includes conservation-based rules on season opening and closing dates, minimum crab sizes, and requirements to release female crabs. This section also allows the State of Washington to impose area closures and limits on the number of pots that can be fished, but only if these are necessary to meet the requirements of a court-imposed mandate. It is not the intent that this gives the State of Washington authority to impose allocative regulations such as a ban on the practice of ''longlining'' pots—that is, fishing with pots that are connected to each other by a line. A ban on longlining would constitute an impermissible allocation regulation not required by the courts and is not allowed under the provisions of this section.

Finally, the Congress strongly encourages the Pacific Fishery Management Council to develop a fishery management plan for the Dungeness crab fishery, in order to avoid future allocation fights of this nature.

Section 113(c) establishes a new prohibited action that is punishable as a criminal offense. Again, the Senate language is vague on its face and requires clarification. The use of the adverb ''forcibly'' in the beginning of the new subparagraph added by this amendment should be construed to apply to all physical actions listed in the subparagraph, including assaulting, resisting, opposing, impeding, intimidating, sexually harassing, and interfering. Since forcible bribery cannot occur, the adverb is to be read as modifying only the other verbs in this subparagraph.

Section 116(a) of S. 39 establishes a mechanism for an industry-funded buyback program. Among other provisions, this section requires industry contributions—if required—to be deducted by the first ex-vessel fish purchaser. This requirement could impose an unwarranted burden on a seafood processor who stands to receive no benefit from a buyback program. The intent of the Congress is that a deduction system be designed that imposes no unnecessary paperwork or financial burden on the fish purchaser collecting the deductions.

Section 203 of S. 39 modifies existing data collection requirements and establishes a new data collection program. It should be noted that—as a new provision of law—this section takes precedence over prior enacted law. The Office of Management and Budget has from time to time imposed rules interpreting the Paperwork Reduction Act to apply to collection of social, economic, and scientific data under the Magnuson Fishery Conservation and Management Act. Notwithstanding the goals of the Paperwork Reduction Act, these interpretations have resulted in an increased burden for data collectors and data providers alike. It is clearly the intent of Congress that the data collection provisions enacted in this bill are not to be interpreted as requiring Paperwork Reduction Act review or agency approval under that Act.

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Mr. SAXTON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Speaker, I will ask the chairman of the committee to engage in a colloquy regarding the definition of the term ''recreational fishery'' in the Senate bill.

Mr. Speaker, the Senate bill appears to define recreational fishing, at least it appears to define it to some people, as fishing for sport or pleasure, but makes no mention of fishing for personal consumption.

My understanding of the definition is that it is not in any way intended to preclude a recreational angler from consuming the fish which he or she catches.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman from New Jersey [Mr. SAXTON], is right. He has brought this to my attention. The definition in no way denies the recreational fishermen the pleasure of eating their catch, as long as the fish was caught during the appropriate season and met any State or Federal regulations, including size restriction, and other appropriate landing laws.

My staff has contacted the National Marine Fisheries Service and their interpretation is the same as mine and the same as the gentleman's, that this definition does not preclude the recreational fisherman from consuming his or her catch if it meets the appropriate State and Federal rules.

Mr. SAXTON. Mr. Speaker, it is my intention to introduce legislation in the coming Congress to clarify that recreational fishing indeed does include harvesting fish for personal consumption.

I thank the chairman for his leadership, and I look forward to working to remedy this deficiency.

Mr. YOUNG of Alaska. Mr. Speaker, again I want to thank the gentleman from New Jersey [Mr. SAXTON].

It is funny how these things happen, if the gentleman will just bear with me. It was never the intent, we never thought it was interpreted that way, that the guy who catches the fish cannot eat them. That would not affect me because I do not catch a whole lot, but I would suggest respectfully that is not the intention.

Mr. SAXTON. Mr. Speaker, with that understanding, I rise in support of House passage of S. 39, the Sustainable Fisheries Act.

The House passed H.R. 39, the Fisheries Conservation and Management Amendments of 1995 by a vote of 388 to 37 almost a full year ago. We in the House worked in a bipartisan fashion to craft a strong conservation measure that was fair and equitable to all fishing sectors.

Mr. Speaker, the chairman of the committee, along with the gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS], and I know that fish do not respect the artificial boundaries imposed upon them, nor do they care which party is in power.

All fisheries measures are by definition bipartisan, which is one of the reasons it is such a pleasure to chair the Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources. I thank each of my colleagues for taking into consideration the unique needs of the mid-Atlantic fishermen throughout the negotiations on H.R. 39.

It was a great bill, and I cannot pretend to be as pleased about the passage of S. 39 as I was our bill. I firmly believe the House bill was far stronger and more comprehensive and made far more sense than the bill we are currently passing. So I concur with Chairman YOUNG that it is necessary to accept the hastily assembled Senate bill, because a weaker bill that does provide some new fisheries and conservation and management guidance is better than nothing at all. However, I intend to work closely with the chairman in the coming Congress to fix the deficiencies in this bill.

Having said that, I request that all Members vote ''aye'' today.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with mixed emotions to support the passage of this bill. The Magnuson Act was the first substantive piece of legislation I coauthored when I came to Congress in 1973, the same year the gentleman from Alaska came. So it is somewhat fitting that it will also be one of the last bills in my career here.

Mr. Speaker, the original Magnuson Act took 4 years of effort and negotiations, but finally, in 1976, H.R. 200 became law. At the time, the gentleman may recall, and those who are old enough to remember, it was intended to be an interim measure that would

stay in place until the Law of the Sea was ratified. Instead, it has become the cornerstone of fisheries management in the United States.

A year ago when the House began consideration to reauthorize the act, it was clear very major changes were needed. Despite numerous efforts to improve the law over the past two decades, the sad reality is that the act did not prevent the current crisis in New England groundfish stocks, a crisis for the conservation of both fish stocks and fishing families.

Working together last year with the gentleman from Alaska [Mr. YOUNG], and the gentleman from California, [Mr. MILLER], and others, we passed a strong bipartisan bill that addressed problems of overfishing, of bycatch, and of habitat degradation that faced fishermen in New England and around the country. It had the support of the environmental community and much of the industry.

Now, a year later, and in the last waning hours of this Congress, our colleagues in the Senate instead have sent back to us a bill that also contains provisions that I find, some of them, of serious concern. The bill before us today would, for instance, authorize the Secretary to buy back fishing permits; allow nations in violation of the International Whaling Commission to fish in some U.S. waters; and make possible the future giveaway of Individual Transferable Quotas, so-called ITQ's, at public expense.

Regretfully, we will not be given the chance to correct these flaws, and we are obliged to choose, as has been said moments ago, between this bill and no bill at all. While I do not believe it had to be this way, that we could have been given the opportunity to resolve differences and issues of concern to our constituents, I will support S. 39 at this time.

Despite these shortcomings, the bill also includes many long overdue conservation measures critical for fish and fishermen. Most significantly, it will finally require the Council and the Secretary to maintain fishing at biologically sustainable levels. In addition, they will be required to rebuild fisheries which have collapsed, and to take new steps to protect fisheries habitat.

As was the case in 1976, when foreign vessels were plying our shores and we passed the first act, the fisheries from Maine to Alaska need these new protections and they need them now. The crisis in New England, unfortunately, clearly demonstrates that.

Finally, on a personal note, I would like to add that I have had no greater privilege over the past 24 years than representing the hardworking fishing families of southeastern Massachusetts. In 1921 in his Maritime History of Massachusetts, Samuel Elliott Morrison admired our fisherman as ''a tough but nervous, tenacious but restless race * * * eternally torn between a passion for righteousness and a desire to get on in the world.''

It was with deep respect for fishermen across America, from New England to the gulf and north Pacific, that I coauthored the first Magnuson Act in 1973. It is for those fishermen that I support this bill today.

May I also add, Mr. Speaker, that there seems to be an impression in the other body that, notwithstanding article I of the Constitution, we have a unicameral legislature around here. The gentleman from Alaska will recall that time and time again, as we have shared leadership on the previous Committee on Merchant Marine and Fisheries, and in the current Congress, we have done our work in diligent fashion, had hearings, markups, debates on the floor, amended bills, considered bills, sent them to the Senate where they resided for a year, and they would come back here in the waning hours of a Congress, essentially labeled take it or leave it, so we are forced again and again to deal with a product that is solely the product of the other body, and does not reflect the very good, very conscientious, very nonpartisan, and serious work of this committee and this Congress.

It ought not to be that way. That flies in the face of the clear constitutional intent for a bicameral legislature. I salute the gentleman from Alaska and the gentleman from New Jersey for pointing that out as clearly as they have.

Finally, Mr. Speaker, I would like to pay my personal respects to the gentleman from Alaska, with whom I have served for more years than either he or I would like to acknowledge. His beard was of a different hue when we first got here. In fact, I do not think he had a beard when we first got here. Actually, we will not discuss hair any longer, it is a very sensitive topic.

I want to say to the gentleman, I had thought that he would choose this opportunity to move to send this bill back to the Senate with an amendment renaming the act, something we have discussed many years, many years, but it seems to me only fitting that at this time in my career, and relatively late in the gentleman's career, that at long last we should have at least one fishery statute named the Young-Studds Act. So I hope the gentleman will take advantage of that opportunity.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I suggest respectfully, I have great respect for the gentleman from Massachusetts [Mr. STUDDS], and his efforts in the fisheries field. As many times as he has mentioned the subject, I think this bill will probably get that name through attrition more than anything else.

But I will say again that the gentleman from Massachusetts, it may be the last time he works on this floor on this type of legislation, and that I do thank him for his love for the sea and the fishermen he has served with, and the sense that he and I had a great deal in common with regard to the oceans. I believe we have worked well.

I cannot agree with him more about the actions of the Senate. I will defend my senior Senator. We worked on the bill, and of course they were threatened with, you know, holds and blocks, et cetera. This is not what I would have liked to have done, but it is the best thing we can do for our oceans today.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MILLER], the distinguished ranking member of the committee.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I reluctantly oppose the passage of S. 39, the Sustainable Fisheries Act.

Like many other Members of the House, I had hoped to be able to give this bill my unqualified support, or to amend it in the same bipartisan spirit with which we initially passed our bill in the House, and send it back to the other body. The process by which this product arrives on the floor today, however, has not allowed the Members of the House, who passed a different—and stronger—bill to play any significant role in the formulation of the bill now before us.

As most Members are aware, the chairman of the Resources Committee and I rarely see eye to eye on natural resource management issues. The reauthorization of the Magnuson Act, however, proved to be a departure from the norm.

Last year, we worked together to pass a strong, bipartisan bill that had broad support from the fishing industry, the environmental community, and the administration. We passed that bill by a 10-to-1 margin, and then waited for the other body to act so that we could work out our differences in conference.

As everyone knows, it has been a long wait. In fact, it took a year for the bill to finally be returned to us last week. To no one's surprise, it was returned in a much altered state. Even worse, the legislation has been presented to us, in the closing days of the Congress, as a take it or leave it proposition. Members in the other body flatly stated that ''Any unilateral changes to the legislation by the House would be the death knell to the bill.'' So, we are given a choice between this bill, which ignores many of the provisions overwhelmingly supported by the Members of this body, or no bill, which would allow the overfishing that now plagues many of our fisheries to continue.

There are provisions in this bill that improve on the status quo of fisheries management, including measures to

address overfishing, habitat protection, and Fishery Management Council reform.

There are, however, also many provisions that are bad for the fish and bad for the fishing communities. The result is a bill that comes with qualified support: This is the best we are going to get.

In fact, it is difficult to find strong support for the bill. Many in the industry have concerns about the bill. Fishermen and fish processors from California, who were strong supporters of the House-passed bill, have told me they would prefer no bill to the enactment of S. 39. The environmental community's support is generally qualified and hardly overwhelming, and many Members in this body retain concerns about provisions that were added without debate or the knowledge of those most affected in the industry.

Let me mention several provisions of concern to me that were never debated in the House at all, or where the House position was essentially ignored in S. 39.

BUYING BACK A PUBLIC RESOURCE AT THE TAXPAYERS' EXPENSE

S. 39 authorizes the Secretary to buy back fishing permits in biologically depressed fisheries as a means of reducing fishing effort. Those permits are issued for free or for a nominal administrative cost. As a result of this Senate provision, the taxpayer could be paying to reclaim a permit—issued for free—when the industry itself was responsible for the decline of the stocks. Given that there are already administrative and regulatory methods for reclaiming permits, this provision establishes an unnecessary precedent whereby Government would compensate industry for conservation measures necessary to restore a public natural resource.

PROTECTION FOR FISHING COMMUNITIES HAS BEEN IGNORED

The House bill contained important measures to protect small family fishermen. S. 39 turns these protections on their head, defining fishing communities far too broadly. Some have gone as far as to suggest that the provisions in the Senate bill are actually worse than the status quo for the small fishermen, and would prefer to see the provisions stricken altogether.

THE GIVE AWAY OF A PUBLIC RESOURCE WILL CONTINUE

The House bill contained clear provisions to prevent the sale for private profit of individual fishing quotas issued for free. While S. 39 includes a moratorium on new quota programs, it does nothing to address the continued give away that will occur when the moratorium is over. This is bad for the taxpayer and bad for the small fishermen who will be unable to compete with large, corporate interests. The result will be a rip-off of the taxpayers, and the continued concentration of the fishing industry into the hands of those who can pay the most.

WHALING

Under long established domestic law, foreign nations wishing to fish in U.S. waters are prohibited from doing so, or are penalized, if they are out of compliance with the International Whaling Commission [IWC]. This bill would allow countries that wish to fish in the waters of U.S. Pacific Insular Areas to do so regardless of whether they comply with the IWC. Let us be clear about what this means: Japan, which consistently flaunts IWC policies for protecting whales, will now be permitted to fish for tuna and other valuable fisheries in the waters off United States territories. Once again, we are told that those who ignore not only our environmental protection policies, but those subscribed to by dozens of other nations as well, will be granted special privileges in trade and economic relations.

BYCATCH

At the beginning of this debate, bycatch reduction was identified as a top priority for environmentalists, industry, and the chairman, Mr. YOUNG. To that end, the House passed a bill mandating strong bycatch reduction measures. S. 39 weakened those provisions.

Mr. Speaker, it should come as no surprise to the other body that we have concerns about these and other provisions in the bill. House staff from both parties made every effort to convey these concerns to their Senate counterparts, but the majority of our concerns were dismissed as being outside the brokered Senate deal, or simply were not addressed.

It is unlikely that the Senate is going to comprehend the message that the House must be granted a coequal role in preparing legislation that affects our constituents if we simply roll over and play dead when presented with an ultimatum. This bill is just not good enough. We were consulted little in its drafting, and our concerns were ignored. There are legitimate problems in the way it affects coastal communities, the environment, marine mammal protection, and the taxpayers.

At some point, when we are told—with our backs to the legislative wall—''This is a take-it-or-leave-it offer''—the House will have to find the courage to leave it, and hope that by standing up for our institution and for our constituents, we improve the likelihood for better legislation. Unfortunately, that was not done in this case, and so I cannot support either this legislation or the process that produced it.

□ 1100

Mr. Speaker, the gentleman from Alaska and the gentleman from Massachusetts have worked hard on this legislation, and I have enjoyed working with them on this matter along with the gentleman from New Jersey [Mr. SAXTON].

Finally, let me just say that this is probably the last bill I will work on with the gentleman from Massachusetts [Mr. STUDDS]. His service in this Congress has become synonymous with concern about our oceans, about our fisheries, about the fishermen and their families. His efforts over the years have provided many improvements not only to the environment, to the habitat, to the fisheries but to those families. He has tried his darnedest to see whether or not we could sustain those families in this endeavor, to sustain an American fishing industry, to sustain what it means to the culture of many of these people, to our communities and to regions of this country.

I thank him for that, because this was a shambles before he got involved and the devastation would have continued without his involvement. I thank him for that effort. I also thank him for his service in this Congress. As many have said already on this floor, he is clearly one of our brightest, most articulate and committed Members to ever serve in this House. It has been a pleasure that I have been able to serve so many years with him and I thank him for his public service.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Maine [Mr. LONGLEY], a great committee member.

Mr. LONGLEY. Mr. Speaker, I want to thank Chairman YOUNG and Chairman SAXTON of the Subcommittee on Fisheries, Wildlife and Oceans. In every single instance on matters pertaining to fisheries in Maine, the waters off the State of Maine, in the gulf of Maine, they have been extremely supportive of issues of concern to us.

I also want to thank the gentleman from Massachusetts [Mr. STUDDS]. It has been a pleasure to work with him again on issues relating to fisheries.

I have to say honestly from the standpoint of Maine, we are very pleased with the provisions of the legislation that are now before us. That is not to say that we could not have hoped for something better, but on a very practical and fundamental level, we feel comfortable that we have made important changes to the Magnuson Act which will enhance the fisheries off the coast of Maine.

Specifically, two issues that we think are improvements are improved language relating to the consideration of habitat, in the evaluation of each fishery, as well as provisions relating to bycatch.

In an effort to be practical with respect to the actual difficulties that the fishermen experience in attempting to harvest their resource, we are particularly pleased at the incorporation of the bulk buyout program. We believe that this is a concrete, positive step in the direction of reducing fishing vessel capacity in limited-access fisheries that will allow for better conservation of the resource over the long term.

Some other provisions of the legislation that have particular benefit to the

State of Maine include a change in jurisdiction relative to pockets of Federal waters that are surrounded on three sides by State water. In this case, in certain situations we will be seeing the State assert more jurisdiction over Federal waters off the coast of Maine.

This is particularly important because, as I visited the fishing ports along the coast of Maine, one point has become abundantly clear, and that is, to the extent that the State officials and the fishermen on the State level have had an enhanced ability to act in the management of and control of the resource, generally those resources are doing significantly better than the resources that are being managed federally.

Again, that is not to suggest that one jurisdiction has any greater or solitary responsibility as opposed to any of the others. Each jurisdiction must work hand in hand with each other. But again, as I said, by favoring State jurisdiction over waters that potentially could be in either Federal or State jurisdiction, I believe that we are acting to protect the resources off the coast of Maine.

Furthermore, there is a provision in the bill that is going to allow the continuation of the practice of transporting herring at sea by Maine harvesters. Again, given the fluctuation in harvest with the seasons and the location of the herring, this is an important consideration both for herring fishermen as well as for those who are concerned with bait.

Finally, there is a provision that I think we should all be ecstatic about, and that is, there has been a practice that has developed in Federal waters off the coast of Maine for a number of years where dragging for lobsters has occurred, and that is to say that fishing has not occurred in the traditional method of lobster pot but in the manner of a wholesale destruction of the floor of the ocean.

Senator SNOWE's amendment to the bill, which I think is a singular accomplishment, will restrict dragging for lobsters off the coast of Maine. This is going to help protect Maine's lobster fishery by restricting this wasteful and destructive practice.

Furthermore, her amendment is going to require the National Academy of Sciences to conduct independent peer review on the science on which the management of New England groundfish fishery is based.

As we all know, amendment 7 is having and is going to continue to have an enormous impact on thousands of Maine and New England fishing families. These small businesses deserve the reassurance of sound science before we restrict their livelihood. On balance, as I indicated, we are very pleased with the content of this legislation.

I spoke this morning with Commissioner Robin Alden of the Maine Department of Marine Resources. She is very pleased that it is coming to the floor today. That is not to say that the legislation is perfect, but at least from the vantage of my State and my district, we have made a concrete, positive step forward in a direction that will help ensure the continuation of a valuable resource in a State that has a tradition of fishing off the oceans that goes back almost 390 years to when we were first settled in 1607 at Popham Beach.

Again, Mr. Speaker, I appreciate the opportunity to address the provisions of this legislation. Again, I want to thank Chairman YOUNG of the Resources Committee as well as Chairman JIM SAXTON of the Subcommittee on Fisheries, Wildlife and Oceans for their extra efforts to pay attention to the issues that affect the fishermen off the coast of Maine and their consideration of these issues in this legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to join the gentleman from California [Mr. MILLER] and also the gentleman from Massachusetts [Mr. STUDDS] in expressing concern over the take it or leave it process that has been offered essentially by the Senate in bringing this bill to the floor.

I believe, because there was no conference, there was no opportunity to negotiate, if you will, a compromise or conference bill, that is why there are many problems with this legislation, including the one that my colleague the gentleman from New Jersey [Mr. SAXTON] mentioned with the definition of recreational fishermen.

I just wanted to say on that topic that in my State, many of the recreational fishermen are very concerned about the definition. The term in the bill, recreational fishing, is defined as, ''fishing for sport or pleasure,'' and does not account for the importance of personal consumption nor the significance upon which sectors of the recreational fishing community sell, barter, or trade fish. For decades, fishermen of all social classes have engaged in these practices, which have not been shown to be deleterious to fisheries resources.

I am very pleased to see the colloquy that the chairman and the gentleman from New Jersey [Mr. SAXTON] entered into basically making it clear that it was not the intent of Congress to exclude these fundamental historical characteristics of the recreational fishing industry. I hope that NMFS, or the National Marine Fisheries Service, gets it.

What the fishermen are afraid of is that when we do allocations, they will not get their quota, that the recreational guys will be told, ''You can just catch and release, you can't keep your fish.'' But I think that that colloquy between the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Alaska [Mr. YOUNG] hopefully will put that to rest.

If anybody from NMFS comes to me at some point in the future in their rulemaking and says that we are going to somehow negatively impact recreational fishermen because of that definition, I will go back to that colloquy that was entered into today.

I also want to point out that I will be cosponsoring, I mentioned to the gentleman from New Jersey [Mr. SAXTON], the legislation that he plans to introduce in the next session that will ensure that national policy clearly acknowledges all the elements of recreational fishing with a more appropriate definition.

The SPEAKER pro tempore (Mr. KINGSTON). The time of the gentleman from New Jersey, [Mr. PALLONE] has expired.

Mr. PALLONE. Lastly, I wanted to say something about the gentleman from Massachusetts [Mr. STUDDS]. He would probably appreciate it if I sat down, anyway. So with that I will say thank you for everything, GERRY, and I will sit down.

Mr. STUDDS. No greater commendation than silence. Mr. Speaker, I thank the gentleman, it was a very clever ploy, but it did not work.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. I thank the gentleman for yielding me the time.

Mr. Speaker, I want to get my congratulations in early so I will not have to ask for more time. Congratulations for all your fine work, Mr. STUDDS.

Mr. Speaker, I am pleased to rise in support of the Senate's version of the Sustainable Fisheries Act. This legislation contains important provisions which would authorize the Secretary of State to institute Pacific insular area fisheries agreements at the request of and with the concurrence of the Governors of the affected Pacific insular areas.

The inclusion of these provisions is the culmination of efforts which started when the Governors met with the Department of the Interior and other Federal agencies to draft legislation which would allow for the responsible development of fisheries resources in the Pacific.

I am pleased to note that the other body has included provisions which were part of my original legislation, H.R. 2369, introduced last year, and this element includes an important recognition of the growing role of Pacific territories over their exclusive economic zone.

Under this legislation, fees from these fisheries agreements would be covered over into the Treasury of the insular area from where the fees were collected. Fees may be charged to foreign fishing vessels that wish to take advantage of the Pacific fisheries agreements under this bill.

It is our understanding that the legislative intent is not to limit the foreign fishing fees to correspond directly to the fees charged by the United States or to be specific to a single nation but, rather, to give us a mechanism for charging such fees in a manner similar to current agreements with

foreign nations. This provision will level the playing field between American and foreign fishing vessels in the Pacific.

It is also our understanding that the legislative intent is to give maximum flexibility to the Secretary of State in interpreting appropriate reciprocal agreements.

I would like to thank the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] for their fine work on this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the chairman for yielding me this time.

Mr. Speaker, I think this has been a very positive exercise for this body, the House of Representatives, to go through and understand the nature and importance of the marine ecosystems, the world's oceans and especially the coastal waters of the United States in order to sustain the fishing stock which is necessary for so many livelihoods and so many people that depend on that type of food source.

There are three very important elements that I think have occurred in this legislation that survived in the House, that survived in the Senate, and that survived in the conference. Those three very important provisions are the habitat provisions, the bycatch provisions and the optimum yield provisions.

The habitat provision. If we did not include those into the legislation, even if we had all of the best regulations concerning the coastal fisheries possible, we could still lose, without protecting the habitat where the fish spawn, 75 percent of the commercial caught fish. We have solved that problem.

The next one, if we are going to have some type of efficiency built into the bycatch provision, if we do not have some type of protection built into the bycatch provision, we were catching and throwing away 10 fish for every targeted fish we were keeping. So the bycatch provisions in this legislation practically eliminates that and works to bringing that down to zero.

The last one is the optimum yield provision which I think is one of the most important. If we do not have any understanding as to the data of the health of the fish stock, how do we know how to allocate those fish stocks to each fisherman?

□ 1115

The scientific data collected now to determine the health of the efficient stocks is to be calculated into the allocation and the quota to each fisherman. Sustaining the marine ecosystem in this way, this piece of legislation goes a long way into accomplishing that task.

I want to thank the gentleman from Massachusetts [Mr. STUDDS], and wish him well in his future endeavors, and thank the gentleman from Alaska [Mr. YOUNG], for all the work he has done. I encourage people to vote for the conference report.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, in my first Congress I served on the Merchant Marine and Fisheries Committee. Chairman STUDDS demonstrated that under his leadership it was possible to legislate in a manner that puts the public interest first, rather than the personal interest. That is a rare talent, indeed.

His quick wit and humor are far too rare in this body and will be sorely missed. His ability to craft bipartisan compromise is something we should all learn. But most of all, GERRY has become a very dear friend to me. He has greatly brightened my years in this Congress, and I will miss him sorely.

Unfortunately, I must also today rise in reluctant opposition to this bill. When we considered the House version a year ago, I was an enthusiastic supporter of the legislation, but, unfortunately, because of the Senate's failure to act on this issue until this final hour, we are forced to accept an inferior bill. There are a number of provisions which I find objectionable, but I will list just two.

First, the Senate bill removes the safeguards for coastal communities, and those small coastal communities that are up and down my district are often economically dependent on the bounty of the fishery resource. They must be taken into account when fishery regulations are developed. I do not think this bill does that.

Second, the Senate bill attempts to limit public participation in council proceedings. For example, a fisherman writing a letter to a council who does not provide complete documentation for his views could be subject to a $100,000 fine.

Now, that is absurd. We need more input, not less.

It is a shame that this bill is not what it could or should have been, and I must reluctantly conclude that no bill is better than this second-rate Senate bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in support of this bill. This bill passed out of this body last October. I regret that some of the strong provisions in the House bill were watered down in the Senate. However, the bill still retains many of the strongest provisions of the House-passed bill, particularly that which we just heard from Congressman WAYNE GILCHREST, the optimum sustained yield standard. Is it is a remarkably strong standard we ought to have in law. The second is the fish habitat protections. In balance it is a good bill, and I commend the authors for their leadership and urge an ''aye'' vote.

While I am here, I would like for a moment to just talk about the fact that this is perhaps Congressman STUDDS' last appearance on the floor, and I think it would be remiss if we did not recognize that history is going to be very kind to this man in his service to this Nation. As former chairman of the Merchant Marine and Fisheries Committee and now, I guess, chairman emeritus, he was able to do some remarkable things. One of them was that he authored legislation to make oil companies liable for their spills.

He created the Studds-Magnuson Act which extended the 200-mile limit to our coastal zone. When you think about it, that is the largest acquisition of land without any price paid for it and without a shot fired. It was bigger than the Louisiana Purchase, and it now allows us to govern out to 200 miles from our shorelines all around the United States and its territory islands.

He also is famous, I think, for starting remarkable town hall meetings. Everybody knows his meetings in Massachusetts kind of set the stage for how we should all conduct our meetings at home.

To pay the greatest tribute to him, I think because he was involved with so many fishermen of Portuguese descent in this committee, he went out and learned Portuguese.

He has done many great things as chairman, and we are going to sadly miss him. This bill and the marine sanctuary bill are a real tribute to his years in Congress. We look forward to having many years of friendship with him after he is gone.

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that each side have 5 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I join my enormous admiration for my colleague from Massachusetts with my disappointment at the bill he has been put, against his will, in the position of supporting. I acknowledge also that the gentleman from Alaska, who has been unfailingly courteous to other Members, also was put in an uncomfortable position.

There is a lot of good work in this bill and I wish we had back the bill these two gentlemen brought forward. But in a development that will undoubtedly astound people, the United States Senate did not do what we all wished they would do, namely, keep a good bill.

One of the things they have added, quite surprisingly in this climate, is a new tax, in effect, on fishermen, because this bill says that under the new central lien registry fishermen will involuntarily be assessed one-half of 1

percent of the value of their permits. We are not sure what the permits are, but this is going to go to fishermen who are struggling now, trying to make a living, and take more money from them to finance government activities.

This is an assessment on the fishermen that will be indistinguishable to them when they have to pay it from any other tax. It is an error. I hope we will have a chance, and I will vote against this bill because of it in part, but I hope we have a chance to revisit it in the future. There are ambiguities because permits are not valued here.

I also oppose the lobster bycatch restrictions. We have State authority here. Again, it seems to me somewhat unusual that the Senate would disregard States' rights and impose nationally through legislation rules which are fully within the competence of States to deal with and which, at least in the case of Massachusetts, States have already dealt with.

I welcome the inclusion of peer review, because I think there has been an error with regards to further restrictions. I think amendment 7 in New England goes much further than necessary, when amendment 5 is working. I welcome the improvements there. But I do not welcome the additional tax, I do not welcome the intrusion into what could be a State matter, and I very much regret the Senate has ruined a good bill.

Mr. STUDDS. Mr. Speaker, I yield one minute to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, first I would like to commend the chairman emeritus of the committee, the gentleman from Massachusetts, GERRY STUDDS, for his leadership over his course of history here in the U.S. Congress, because certainly our fisheries in Maine and Massachusetts and elsewhere have been well served through his leadership.

I would also like to thank the gentleman from Alaska [Mr. YOUNG] for indulging us in some additional time on a very important issue, especially as it pertains to Maine.

I would like to stand in support of this legislation, recognizing that everything is not going to be perfect and we are not all going to get what we all would like to get, that there is more here to be gained I think for the fisheries, for fishery management, for our lobster resources and for the fishermen. I think those are the important people that we have to recognize and serve.

Here in Maine, we are going to be well served by this legislation, because it is going to conserve our lobster resources, it is going to protect our ground fish, and it is going to continue the boat buyback program which has been started by the Department of Commerce. I would like to commend them for their work, working with the State and working with the fishermen, because I think we are moving in the right direction, and it will be supportive of this legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished dean of the House, the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is a good bill and I urge my colleagues to support it.

Mr. Speaker, I want to pay tribute to two men. First, the distinguished chairman of the committee, my friend from Alaska, DON YOUNG, with whom I have served over the years on other committees and in other places and with whom I have done some great work. I have enormous respect and affection for him, and I wish to salute him at this time.

I also wish to pay tribute to my distinguished friend and colleague from Massachusetts, GERRY STUDDS. I have served with him on the Merchant Marine and Fisheries Committee earlier in happier days. I also have had the pleasure of serving with him on the Committee on Commerce, in which capacity he has been an extraordinarily competent, dedicated and decent man.

I want to praise him for the hard work he has done in the area of the environment, in the area of conservation, and to note that milestone legislation in the whole area of conservation bears his name and his imprimatur. Superfund legislation on proposals relating to conservation, fish and wildlife, things like the endangered species, ocean dumping, marine mammals protective legislation, and National Environmental Policy Act, are pieces of legislation which bear the imprint of his hand, his wisdom and his character.

We are grateful to him for what he has done in these area. The people that he has served so well in the Cape Cod, Massachusetts area, have reason to be grateful to him for his interest in fisheries and natural resources, for the splendid programs that he has pushed, not only to protect fishery resources, but for the constituent service which he has given, and for the concern he has had about them, about the people of the country, about the environment, about the future of this Nation, and about the general things that are so important to quality of life to the people of this country.

He has been a valuable member of the Committee on Commerce, and I will personally miss him. The committee will miss his wisdom, his superb service, and his diligence. We will also miss his sense of humor and the good will and good spirit with which he approaches legislation and the problems of this place.

I express to him my warm good wishes for great happiness and success in his future undertakings. I will miss him, and the lovely Deborah, my wife, joins in expressing to him our joint wishes for happiness, success, and long life.

Mr. STUDDS. Mr. Speaker, I yield myself a minute just to acknowledge with deep appreciation and, believe it or not, humility, for the very kind remarks of the dean of the House. In fairness, many of the statutes for which he gave me credit bear his name.

May I finally just say what a pleasure it has been to serve with him and my friend from Alaska and all of my colleagues here, almost all of them, and leave you with one thing I heard at one point.

Long before I served in this Congress, a very dear friend of mine had a grandfather who was a very senior Republican Member of Congress. Once, after a couple of drinks, he looked at me and he said, ''Young man, remember Rule 6. Rule 6 is don't take yourself too seriously, and there are no other rules.''

Mr. Speaker, I thank my colleagues for a magnificent 24 years, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was sitting here listening to the gentleman from Michigan, the dean of the House [Mr. DINGELL], give his compliments for my good friend, the gentleman from Massachusetts, and I cannot echo those words enough. I can assure him as one that has been the author and the worker of the Magnuson Act, and the gentleman from California [Mr. MILLER], I want them both to be aware that I have not left this subject. As I mentioned, we have reviewed this three times.

I will cherish the advice that the gentleman from Massachusetts [Mr. STUDDS] can give me on this issue as he goes into another life. We have modern communications today, far exceed that which we had in the past. As a friend, I expect him to keep in contact with me on issues that he thinks are important to the sea.

The gentleman from California himself brought up some issues that I believe very strongly in. I happen to think that the issuance of an IDQ, or IFQ, and then creating a great value of it, to be sold for wealth, is very wrong, and it is wrong to accumulate a massive amount, creating a monopoly. We are going to continue to address those issues as the future unfolds as far as our seas go.

I would like to say, Mr. Speaker, to my friends in the House, I would like to extend our interest in the oceans beyond the 200 miles. We sometimes concentrate, because fishermen vote and fishermen are very vocal and they are probably the hardest group in the world to represent, but I would like to extend our interest concerning what effect is going on beyond the 200 miles.

□ 1130

Because the key to our survival in this Nation today and all nations in this world is a healthy, providing ocean. If it is unhealthy, it does not provide. If it does not provide, I do not think any nation can survive. Someone

who may live in the middle of our great Nation or the middle of Russia or the middle of India or the middle of China may say, what has that got to do with me? All of our food cycle chain and all of our wealth eventually is created from the sea.

So I am going to suggest in the future, if I have anything to do with it, with the gentleman from California [Mr. MILLER], that we extend not only beyond the 200 miles, I mean brought within the 200 miles, to be beyond the 200 miles, internationally trying to come to grips with, are the seas healthy, are the species healthy, have we done something wrong, have the death curtains been eliminated, what should we be doing, not impinging upon people's rights but how do we prevail in maintaining a healthy sea.

Mr. Speaker, again, in closing, I can suggest that those who have worked with me over the years on these issues, the ocean, I deeply appreciate their friendship and especially their dedication. The staffs that have been working with the gentleman from Massachusetts [Mr. STUDDS] are exceptionally good. We will continue to overview and to watch the great oceans that surround our shores.

Mr. GOSS. Mr. Speaker, I am pleased that today we will send S. 39, the Sustainable Fisheries Act, to the President. The bill before us is the result of a long process—it was almost a year ago that the House passed H.R. 39, the basis for the bill we're debating today. H.R. 39 was carefully crafted to limit over-fishing, rebuild depleted stocks of fish, reduce bycatch and protect our marine resources.

Of particular concern to me is the bycatch issue—when sea turtles, red snapper, and other nontargeted species get caught and die in fishing nets. During consideration of the Magnuson reauthorization bill, the House adopted an amendment I offered to address this issue.

It is clear that the delicate balance between protecting our marine resources and encouraging industry has been maintained in this bill.

Mr. Speaker, this bill is slightly different than the House-passed bill, but on the whole, it is a responsible step forward and an environmentally sound bill. Reauthorization of the Magnuson Act is long overdue. I strongly urge my colleagues to support passage of S. 39.

Mr. RIGGS. Mr. Speaker, I first want to thank my colleague from Alaska, the chairman of the committee, for his work on this bill. As the representative of a coastal district, I appreciate the difficulties and complexities you faced in crafting legislation in the face of such diverse and complicated fishing interests.

As you know, the reauthorization of the Magnuson Act is crucial to continuing the sound management of our Nation's fishery resources. Responsible fishing practices are necessary for protecting our nation's essential fishery habitat.

Last October, the House completed work on the Magnuson Act. The bill we sent the other body was a good bill that went a long way to restore the health of our fisheries.

However, it was not until last week that the Senate completed work on this bill and sent it to the House for final consideration. Obviously with only a few days left in the session, our options are limited and the opportunity to amend it is nonexistent. This has left me and many of my colleagues with a difficult choice. Either pass the bill in its current form, as watered down as it is, or send it back to the Senate where it would surely die. With reservations I will support this bill, in the hope that when we return to Congress next year, further improvements can be made.

I first want to point out that the Senate failed to adequately address the interests of small coastal fishing communities in the version delivered to the House.

Second, while the House addressed the windfall profit aspect associated with ITQS, the Senate bill falls silent. In addition, the Senate bill does not prohibit the development of ITQS through the moratorium period and does not prohibit ITQS from being placed in perpetuity.

Third, limited access schemes included in the bill may require permit holders to register their permits with a lien registry and pay a fee every time the permit is transferred.

I am concerned regarding provisions in the bill that may give the Secretary of Commerce the ability to impose a limited access plan, including ITQS, at his discretion, on any fishery that is not currently managed by a regional fishery management plan.

My last point is of special concern to many of my constituents. The Senate bill obscures the fishing community language by including the home ports of the distant water, corporately held, factory trawlers under the definition of ''community-based fleets.'' The House bill gives consideration of local, community-based fleets and protects the interests of the historic, generation after generation family fishermen.

As I stated previously, while I have very real concerns and reservations regarding this bill, I will vote for final passage to further the process of protecting our Nation's fisheries.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the Senate bill, S. 39.

The question was taken.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 39, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

## SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

## EXTENDING AUTHORITY FOR THE MARSHAL AND POLICE OF THE SUPREME COURT

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4164) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

The Clerk read as follows:

H.R. 4164

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first sentence of section 9(c) of the Act entitled ''An Act relating to the policing of the building and grounds of the Supreme Court of the United States'', approved August 18, 1949 (40 U.S.C. 13n(c)) is amended by striking ''1996'' and inserting ''2000''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and the gentlewoman from Colorado [Mrs. SCHROEDER] each will control 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the consideration of the House H.R. 4164, a bill to extend the authority for the Marshal of the Supreme Court and the Supreme Court Police to provide security to Justices, court employees, and official visitors beyond the Court's buildings and grounds. It is crucial that we take favorable action on this legislation before adjourning this Congress, since authority to provide this protection is slated to expire on December 29, 1996.

The authority for the Marshal of the Supreme Court and the Supreme Court Police to provide security beyond court grounds appears at 40 U.S.C. 13n(a)(2), and was first established by Congress in 1982. Congress has periodically extended that authority—in the past 14 years, there has not been an interruption of the Supreme Court police's authority to provide such protection. Congress originally provided that the authority would terminate in December 1985, and extensions have been provided ever since. In 1985, authority was extended through December 26, 1990; in 1990, it was extended through December 29, 1993; and in 1993, it was extended through December 29, 1996.

Chief Justice Rehnquist has written to me requesting that Congress extend this authority permanently. As the

Chief Justice correctly pointed out to me in his letter, ''As security concerns have not diminished, it is essential that the off-grounds authority of the Supreme Court police be continued without interruption.'' The Supreme Court informs me that threats of violence against the Justices and the Court have increased since 1982, as has violence in the Washington metropolitan area. Accordingly, I support a permanent extension of this authority to provide for the safety of the Justices, court employees, and official visitors.

Given the late date in the Congress, however, and the fact that we must pass an extension before December 29, 1996, the bill we are considering today would provide for only a 4-year extension, until December 29, 2000. My colleague in the Senate, Senator HATCH, has introduced a similar, stopgap bill, which will allow for the orderly continuation of Supreme Court security measures until the time that we can consider a permanent authorization. Yesterday, the Senate approved that bill.

This provision is without significant cost, but provides great benefits to those on the highest court in the land and those working with them. According to the Supreme Court, from 1993 through 1995, there were only 25 requests for Supreme Court police protection beyond the Washington, DC, metropolitan area, at a toal cost of $2,997. I am also informed that off-grounds protection of the Justices within the D.C. area is provided without substantial additional cost, since it is part of the officers' regularly scheduled duties along with tasks on court grounds.

I encourage my colleagues to support this much-needed extension so as to preserve the security of the Supreme Court.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be brief because the gentleman from Illinois has clearly outlined what this is. This is basically housekeeping and it must be done. I wish we did not ever have to worry about policing for the Supreme Court or for anything else, but that is a wish that, obviously, is absolutely ridiculous when we look at the real world. If we do not do this, we are in real trouble.

Yes, we probably need to do the permanent one as soon as possible because this constantly rolling it over every few years does not make sense either.

The gentleman from Illinois has explained this. We have no objection over here.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume to pay tribute to my friend, the gentlewoman from Colorado, PAT SCHROEDER. This may be our last clash on the floor. We have had several over the past 22 years anyway, and they have all been civil. They have been fervent but they have been civil.

The gentlewoman makes a great contribution to this body, and she will be missed by this Member. I wish her Godspeed in her future endeavors.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. HYDE] that the House suspend the rules and pass the bill, H.R. 4164.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. HYDE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2100) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. REED. Mr. Speaker, reserving the right to object, I have no objection but I would like an explanation.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I would say to the gentleman that the bill is the identical bill with the one we just passed in the House. It is the Senate version.

Mr. REED. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2100

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AUTHORITY.**

Section 9(c) of the Act entitled ''An Act relating to the policing of the building and grounds of the Supreme Court of the United States'', approved August 18, 1949 (40 U.S.C. 13n(c)) is amended in the first sentence by striking ''1996'' and inserting ''2000''.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4164) was laid on the table.

## ADMINISTRATIVE DISPUTE RESOLUTION ACT OF 1996

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4194) to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

The Clerk read as follows:

H.R. 4194

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Administrative Dispute Resolution Act of 1996''.

**SEC. 2. AMENDMENT TO DEFINITIONS.**

Section 571 of title 5, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking '', in lieu of an adjudication as defined in section 551(7) of this title,'';

(B) by striking ''settlement negotiations,''; and

(C) by striking ''and arbitration'' and inserting ''arbitration, and use of ombuds''; and

(2) in paragraph (8)—

(A) in subparagraph (B) by striking ''decision,'' and inserting ''decision;''; and

(B) by striking the matter following subparagraph (B).

**SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS.**

(a) LIMITATION OF CONFIDENTIALITY APPLICATION TO COMMUNICATION.—Subsections (a) and (b) of section 574 of title 5, United States Code, are each amended in the matter before paragraph (1) by striking ''any information concerning''.

(b) DISPUTE RESOLUTION COMMUNICATION.—Section 574(b)(7) of title 5, United States Code, is amended to read as follows:

''(7) except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.''.

(c) ALTERNATIVE CONFIDENTIALITY PROCEDURES.—Section 574(d) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end thereof the following new paragraph:

''(2) To qualify for the exemption established under subsection (j), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.''.

(d) EXEMPTION FROM DISCLOSURE BY STATUTE.—Section 574 of title 5, United States Code, is amended by amending subsection (j) to read as follows:

''(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under section 552(b)(3).''.

**SEC. 4. AMENDMENT TO REFLECT THE CLOSURE OF THE ADMINISTRATIVE CONFERENCE.**

(a) PROMOTION OF ADMINISTRATIVE DISPUTE RESOLUTIONS.—Section 3(a)(1) of the Administrative Dispute Resolution Act (5 U.S.C. 571 note; Public Law 101–552; 104 Stat. 2736) is amended to read as follows:

''(1) consult with the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code, to facilitate and encourage agency use of alternative dispute resolution under subchapter IV of chapter 5 of such title; and''.

(b) COMPILATION OF INFORMATION.—

(1) IN GENERAL.—Section 582 of title 5, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 582.

(c) FEDERAL MEDIATION AND CONCILIATION SERVICE.—Section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)) is amended by striking ''the Administrative Conference of the United States and other agencies'' and inserting ''the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code,''.

**SEC. 5. AMENDMENTS TO SUPPORT SERVICES PROVISION.**

Section 583 of title 5, United States Code, is amended by inserting ''State, local, and tribal governments,'' after ''other Federal agencies,''.

**SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.**

Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended—

(1) in subsection (d) by striking the second sentence and inserting: ''The contractor shall certify the claim when required to do so as provided under subsection (c)(1) or as otherwise required by law.''; and

(2) in subsection (e) by striking the first sentence.

**SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.**

(a) EXPEDITED HIRING OF NEUTRALS.—

(1) COMPETITIVE REQUIREMENTS IN DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by striking ''agency, or'' and inserting ''agency, or to procure the services of an expert or neutral for use''.

(2) COMPETITIVE REQUIREMENTS IN FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by striking ''agency, or'' and inserting ''agency, or to procure the services of an expert or neutral for use''.

(b) REFERENCES TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.—Section 573 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of dispute resolution under this subchapter. Such agency or interagency committee, in consultation with other appropriate Federal agencies and professional organizations experienced in matters concerning dispute resolution, shall—

''(1) encourage and facilitate agency use of alternative means of dispute resolution; and

''(2) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.''; and

(2) in subsection (e) by striking ''on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual''.

**SEC. 8. ARBITRATION AWARDS AND JUDICIAL REVIEW.**

(a) ARBITRATION AWARDS.—Section 580 of title 5, United States Code, is amended—

(1) by striking subsections (c), (f), and (g); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) JUDICIAL AWARDS.—Section 581(d) of title 5, United States Code, is amended—

(1) by striking ''(1)'' after ''(b)''; and

(2) by striking paragraph (2).

(c) AUTHORIZATION OF ARBITRATION.—Section 575 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking ''Any'' and inserting ''The'';

(2) in subsection (a)(2), by adding at the end the following: ''Each such arbitration agreement shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes.'';

(3) in subsection (b)—

(A) by striking ''may offer to use arbitration for the resolution of issues in controversy, if'' and inserting ''shall not offer to use arbitration for the resolution of issues in controversy unless''; and

(B) by striking in paragraph (1) ''has authority'' and inserting ''would otherwise have authority''; and

(4) by adding at the end the following:

''(c) Prior to using binding arbitration under this subchapter, the head of an agency, in consultation with the Attorney General and after taking into account the factors in section 572(b), shall issue guidance on the appropriate use of binding arbitration and when an officer or employee of the agency has authority to settle an issue in controversy through binding arbitration.''.

**SEC. 9. PERMANENT AUTHORIZATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS OF TITLE 5, UNITED STATES CODE.**

The Administrative Dispute Resolution Act (Public Law 101–552; 104 Stat. 2747; 5 U.S.C. 571 note) is amended by striking section 11.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Subchapter IV of title 5, United States Code, is amended by adding at the end thereof the following new section:

**''§ 584. Authorization of appropriations**

''There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 583 the following:

''584. Authorization of appropriations.''.

**SEC. 11. REAUTHORIZATION OF NEGOTIATED RULEMAKING ACT OF 1990.**

(a) PERMANENT REAUTHORIZATION.—Section 5 of the Negotiated Rulemaking Act of 1990 (Public Law 101–648; 5 U.S.C. 561 note) is repealed.

(b) CLOSURE OF ADMINISTRATIVE CONFERENCE.—

(1) IN GENERAL.—Section 569 of title 5, United States Code, is amended—

(A) by amending the section heading to read as follows:

**''§ 569. Encouraging negotiated rulemaking''**; and

(B) by striking subsections (a) through (g) and inserting the following:

''(a) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of negotiated rulemaking. An agency that is considering, planning, or conducting a negotiated rulemaking may consult with such agency or committee for information and assistance.

''(b) To carry out the purposes of this subchapter, an agency planning or conducting a negotiated rulemaking may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal if that agency's acceptance and use of such gifts, devises, or bequests do not create a conflict of interest. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the head of such agency. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 569 and inserting the following:

''569. Encouraging negotiated rulemaking.''.

(c) EXPEDITED HIRING OF CONVENORS AND FACILITATORS.—

(1) DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by inserting ''or negotiated rulemaking'' after ''alternative dispute resolution''.

(2) FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by inserting ''or negotiated rulemaking'' after ''alternative dispute resolution''.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subchapter III of title 5, United States Code, is amended by adding at the end thereof the following new section:

**''§ 570a. Authorization of appropriations**

''There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 570 the following:

''570a. Authorization of appropriations.''.

(e) NEGOTIATED RULEMAKING COMMITTEES.—The Director of the Office of Management and Budget shall—

(1) within 180 days of the date of the enactment of this Act, take appropriate action to expedite the establishment of negotiated rulemaking committees and committees established to resolve disputes under the Administrative Dispute Resolution Act, including, with respect to negotiated rulemaking committees, eliminating any redundant administrative requirements related to filing a committee charter under section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) and providing public notice of such committee under section 564 of title 5, United States Code; and

(2) within one year of the date of the enactment of this Act, submit recommendations to Congress for any necessary legislative changes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4194 and urge its adoption by the House.

Back in 1990, Mr. Speaker, the then-President of the United States, George Bush, signed into law the Administrative Dispute Resolution Act, which brings us to this moment in the history of this type of legislation. What we are about to do, if the House should agree and if the Senate, of course, is to reauthorize that first attempt at, and successful attempt, I might add, at bringing a new mechanism into play for the solution of problems that arise between agencies and people who deal with the agencies in the private sector most especially.

We ought to set the stage, Mr. Speaker, by saying assume that we have a contractor, and we have testimony in

hearings that buttress the example that I am about to render, a contractor deals with an agency and they come to a stalemate on an important issue in which there is no alternative left for the contractor except to bring the matter to court.

What happens then is a protracted period. As we all know, a protracted period is part of the court system these days, during which the contractor is not going to be doing any work and which the agency may find itself frozen in its tracks in attempting to do the mandate while the court proceeds to handle a case that may take years to reach final docket stage.

The purpose then of the Administrative Dispute Resolution Act is to allow a mechanism where an interim kind of cooperative measure can be taken where both parties go before a mechanism which allows them an alternative way to solve their dispute.

What this does for the contractor is save enormous amounts of money, of course. No. 2, it, more importantly, saves important time segments for both the agency and the contractor and, in the long run, brings about for the public a swift answer to the vexing problems that may have arisen. So by itself it is an excellent cost saver and time saver, and we want to make sure that the House and the Senate fully complement our efforts here by passing this legislation.

What more we can say about it is that on June 12, 1996, the Senate approved a predecessor to this bill with an amendment that included several substantive additions. First, several provisions in the Senate passed bill relating to ADR were different, notably with respect to the issues of confidentiality of ADR communications and the authority of the Government to engage in binding arbitration.

Second, the Senate added a permanent reauthorization of the Negotiated Rulemaking Act, a law designed to improve the development of agency rules by encouraging the formation of committees composed of representatives from the regulated public to work together with agency representatives.

Third, the Senate added a provision dealing with the jurisdiction of the Federal district courts to entertain bid protests in procurement cases, something which is commonly referred to as Scanwell jurisdiction, after the name of the case that wended its way through the court system.

The conferees of the House and Senate negotiated over a period of several months to arrive at an agreement that would enable two important provisions to be reauthorized, two provisions which our subcommittee had heard testimony that indicated that considerable taxpayer dollars were being saved, as I indicated in my hypothetical, because of their existence.

□ 1145

Both the ADR Act and the Negotiated Rulemaking Act have reduced the cost of government to the taxpayer by, in the instance of the former, reducing resort to litigation, which is what I have been trying to emphasize, and in the case of the latter, by ensuring the promulgation of agency rules that make sense and which do not overburden the regulated public.

The question of changing Scanwell jurisdiction. This added feature that I mentioned had not been raised in the House but was supported by the administration and insisted upon by the Senate, thereby causing the delays that caused us to wait until almost the last day to make sure that this can be passed. The conference adopted a course of compromise with respect to Scanwell, but it is obvious that since efforts to change Scanwell jurisdiction have never been the subjects of hearings in the House, they cannot be successful at this point without discrete consideration in this body. Thus H.R. 4194 embodies the conference agreement with the exception of Scanwell, dropping off Scanwell, which is left for consideration as we see it in the next Congress.

With respect to ADR, the House receded to the Senate language on confidentiality with an amendment that brought it closer to the House position. The same course was taken with respect to the issue of arbitration. The conference report provided, and so does the current bill, H.R. 4194, that ADR communications between the neutral and the parties are exempted from disclosure under the Freedom of Information Act. It did so in order to promote honest and candid discussions in the process which will lead to the settlement of issues in dispute and a resulting savings in time and money to every party to a particular dispute. ADR communications between the parties themselves are not so exempted in recognition that the public does in fact have a right to know something about the process and how it is operating.

Now, with respect to arbitration, the conference report and H.R. 4194 authorize agencies to engage in binding arbitration but with certain limitations and guidelines designed to foster discretion and accountability. This bill, as did the conference report, clarifies that an agency cannot exceed its otherwise applicable settlement authority in ADR proceedings and it requires an agency, in consultation with the Attorney General, to issue guidelines on the use and limitations of binding arbitration.

Mr. Speaker, I think it is an important accomplishment of this body to reauthorize two very significant statutes that have been extremely useful in saving the taxpayers money and in helping agencies and the regulated public develop a better working relationship that makes government work better. I wish to commend my colleague, the distinguished gentleman from Rhode Island, Mr. REED, and thank him for his efforts and his cooperation and that of his staff in promoting the final result in this overextended controversy. We also wish to extend our personal wishes of good luck to the gentleman who is embarking on a new career that if he would be successful would result, of course, in the elevating of the IQ of both the House and the Senate and in doing so we wish him the best.

In the meantime, Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I rise in support of this important, bipartisan legislation.

The original Alternative Dispute Resolution Act [ADRA] was signed into law in 1990 in order to encourage the use of alternative dispute resolution techniques—such as mediation, arbitration, and negotiation—to resolve disputes involving Federal agencies. The authorization for this program expired in October 1995, and this legislation would permanently reauthorize the program. Although agencies can engage in ADR without authorizing legislation, the ADRA provided a governmentwide framework for ADR and its expiration has caused unnecessary disruption in the field.

I favor innovative programs such as ADRA which can lower the costs of litigation without diminishing access to justice. This benefits both sides to the litigation equation—Government as well as business and private parties—and is the type of civil justice reform we can all support.

In addition to permanently reauthorizing ADRA, H.R. 4194 makes several other changes to the law. It expands the range of cases which are subject to referral to ADR by eliminating exemptions for certain types of workplace grievances and discrimination cases, so long as the employee so consents. I believe the program has been sufficiently tested so that it can be used for these very sensitive cases. H.R. 4194 also makes the ADR procedure more user friendly by streamlining the acquisition process for neutrals.

The bill also creates a limited exemption from the Freedom of Information Act [FOIA] for certain documents disclosed to an arbitrator or other neutral in the course of a dispute resolution proceeding. As with all other exemptions to FOIA, this new exemption is to be construed in the narrowest possible manner.

For example, it is important to note that the parties are not permitted to use this exemption as a mere sham to exempt sensitive information from FOIA. Thus, as noted in the statement of managers on the predecessor legislation to this bill (H.R. 2977), litigants may not resort to ADR principally as a means of taking advantage of the new exemption—in such a case the new FOIA exemption should not be held to apply. There are few policies which are more important than openness in Government and release of Government documents to the people.

Finally, I would like to note that this bill does not authorize an agency or any other employer to require its employees to submit to binding arbitration as a condition of employment or to relinquish any rights they may have under title VII of the Civil Rights Act of 1964 or any other statute. The decision to engage in binding arbitration concerning such disputes must be voluntary by all parties. No one should be required to relinquish his or her statutory rights as a condition of obtaining employment with the Federal Government. Under no condition could I support this legislation if this were not the case.

I urge my colleagues to join me in supporting this worthwhile, bipartisan legislation.

Mr. REED. Mr. Speaker, I yield myself such time as I may consume.

(Mr. REED asked and was given permission to revise and extend his remarks.)

Mr. REED. Mr. Speaker, first I want to thank the gentleman from Pennsylvania, Mr. GEKAS, for his hard work on this legislation. It was a pleasure working with him and his staff, and I commend him on the excellent job he has done this year as chairman of the Subcommittee on Commercial and Administrative Law. I thank him for his kind words and his accurate assessment of my intelligence.

The original House version of this legislation, H.R. 2977, passed the House by voice vote on June 4 of this year. The bill before us today is identical to the conference report on H.R. 2977 minus a controversial procurement reform provision added by the Senate. That provision would have repealed Federal district court jurisdiction over bid protests otherwise known as the Scanwell jurisdiction, as has been explained by Chairman GEKAS. Removing this provision will give the House the opportunity to hold hearings on this issue and examine it more closely. In particular, close scrutiny should be given to the impact on small contractors of this provision.

The remaining provisions of this legislation permanently authorize the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act.

Mr. Speaker, I include my full statement for the RECORD:

First, I want thank Chairman GEKAS for his hard work on this legislation. It was a pleasure working with him and his staff and I commend him on the excellent job he has done this year as the chairman of the Subcommittee on Commercial and Administrative Law.

The original House version of this legislation, H.R. 2977, passed the House by voice vote on June 4 of this year. The bill before us today is identical to the conference report on H.R. 2977, minus a controversial procurement reform provision added by the Senate. That provision would have repealed Federal district court jurisdiction over bid protests, otherwise known as Scanwell jurisdiction. Removing this provision will give the House the opportunity to hold hearings on this issue and examine it more closely. In particular, close scrutiny should be given to the impact on small contractors.

The remaining provisions of this legislation permanently reauthorize the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act.

When the ADR Act was first enacted in 1990, the Federal Government lagged well behind the private sector and the courts in using alternative dispute resolution. Since then, almost every agency has experimented with consensus based dispute resolution techniques. Now, the Federal Government has the opportunity to become a leader in making dispute resolution easier, cheaper, and more effective.

H.R. 4194 makes several changes to the existing ADR Act:

It removes a procedural impediment to the use of binding arbitration by Government agencies while at the same time imposing safeguards to ensure binding arbitration is used only where appropriate.

It expands the range of cases that can be referred to ADR by eliminating the exemptions for certain types of workplace related disputes so they may, with the consent of the employee, be referred to ADR. The general provisions of section 572(b), which establish criteria for identifying cases where ADR is not appropriate, would still apply.

I would like to take a moment to address a concern that was recently brought to my attention by the gentlelady from Colorado [Mrs. SCHROEDER]. She wanted to make clear that this bill does not authorize an agency or any other employer to require its employees to submit to binding arbitration as a condition of employment or to require employees to relinquish rights they may have under title VII of the Civil Rights Act of 1964 or any other statute.

I wanted to assure her that she has no reason to worry about this bill. The decision to engage in binding arbitration must be voluntary by all parties, as provided by sections 572 (a) and (c) of the ADR Act. Also, 5 U.S.C. 2302(b)(9)(A) makes it a prohibited personnel practice to take any action against an employee because of the ''exercise of any appeal, complaint or grievance right granted by any law, rule, or regulation.'' A party cannot be required to enter into binding arbitration as a condition of initial or continued employment. I wanted to make sure that point is absolutely clear. We have been assured of this by the Department of Justice, the EEOC, and OPM. Both the Ranking Member, Mr. CONYERS, and I signed the conference report with this understanding and would not have signed it otherwise, nor would we be supporting this legislation today.

H.R. 4194 makes ADR easier for agencies to use by streaming the acquisition process for neutrals.

H.R. 4104 also enhances the confidentially provisions of the ADR statute. The bill provides that a document generated by a neutral and provided to all parties is exempt from discovery under section 574(b)(7), as well as from disclosure pursuant to FOIA. This change will facilitate the use of early neutral evaluation and similar ADR processes that provide an outcome prediction to both sides. Parties are understandably reluctant to subject themselves to the risk of the neutral's opinion, which is not based on full discovery, being used against them at trial later. This is a change from the House passed version of H.R. 2977.

Another change from the House passed version of H.R. 2977 concerns the interaction between the confidentiality protections in the ADR Act and the Freedom of Information Act. As passed by the House, H.R. 2977 provided that the memoranda, notes, or work product of the neutral would be exempt from disclosure under the Freedom of Information Act. According to the testimony of the Federal Mediation and Conciliation Service, the lack of a FOIA exemption has served as an incentive to hire private neutrals who are not subject to FOIA, rather than Government neutrals. This is a particular problem for Government agencies, like FMCS, that furnish employees as neutrals for proceedings involving other Federal agencies, since their neutrals' notes, unlike the notes of private sector neutrals, may be subject to FOIA disclosure.

The conference was reluctant to go as far as the Senate bill and exempt all ADR communication from FOIA. Under prevailing law, documents exchanged by the Government and its litigation adversaries in the course of settlement are not withholdable under FOIA, and key documents have been made public that shed light on why the Government settled important enforcement actions.

But the House conferees were persuaded to go slightly farther than the original House proposal to cover the situation where a neutral asks an agency to prepare a statement outlying the strengths and weakness of its case. Under the House passed H.R. 2977, such a document in the hands of the mediator would be protected against disclosure pursuant to FOIA, yet that same document in the hands of an agency party would not be, unless it fit one of the existing FOIA exemptions. The overall purpose of the confidentiality provision is to encourage a candid exchange between a party and the neutral to the end of facilitating an agreement. Thus, the conference agreed that dispute resolution communications between a party and a neutral are to be protected against disclosure under FOIA. It is not the intent of the conferees, as is made clear by the statement of managers, that this provision be read to permit parties to evade FOIA by passing documents through the neutral to another party. It only exempts a document generated by an agency during a dispute resolution proceeding that is provided to the neutral alone. If a party provides a document to the neutral and the neutral provides it to another party, that document would be regarded as being exchanged between the parties, and hence outside the revised section 474(j). It would therefore, be subject to FOIA. In fact, under ADRA section 574(b)(7), if the document is provided to or available to all parties, it is also not protected against disclosure through discovery.

H.R. 4194 also narrows the definition of documents accorded confidentiality. They are limited to communications prepared for a dispute resolution proceeding. Preexisting documents are not protected. Section 574(f) already states that the ADR Act does not prevent the discovery or admissibility of any evidence that is otherwise discoverable.

When the Department of Justice drops antitrust charges against a software company pursuant to a settlement agreement or the FDIC settles a case with the directors of a failed savings and loan, the public should be able to find out why the Government acted as it did. The public interest in disclosure does not disappear simply because of a shift in venue from a trial court or an unassisted settlement setting to an alternative dispute resolution proceeding.

At the same time, ADR is qualitatively different from unassisted settlement negotiations and litigation. Working with a neutral, participants share information and concede weaknesses that otherwise would be more advantageous to withhold. Exempting from FOIA disclosure documents shared with the neutral, along with the work product of the neutral, will encourage ADR without sacrificing accountability and openness.

The conference report also permanently reauthorizes the Negotiated Rulemaking Act.

The Negotiated Rulemaking Act was passed in 1990 to provide an alternative to traditional notice and comment rulemaking. Instead, of formulating a rule on its own, publishing it, and waiting for interested parties to comment, under negotiated rulemaking an agency brings together representatives of the parties that will be affected by the rule to develop that rule by consensus. Our subcommittee held a very informative hearing this year where we heard from the participants of a negotiated rulemaking involving OSHA, the construction industry, and labor, that succeeded where a decade of traditional rulemaking had failed.

Agencies have used negotiated rulemaking in a variety of circumstances, from fall protection in the steel industry to headlight aiming. Vice President GORE's National Performance Review encouraged its use, citing the reduction in compliance costs, greater ease in implementation, and more cooperative relationships between the agency and regulated parties that result. President Clinton by Executive order has required executive departments and selected agencies to do at least one negotiated rulemaking this year.

The Negotiated Rulemaking Act would expire at the end of November. This conference report would permanently reauthorize it, and make some primarily technical improvements. For example, the process for acquiring neutrals and facilitators is streamlined. Likewise, OMB is directed to expedite the procedures for forming a negotiated rulemaking committee.

H.R. 4194 also authorizes the President to designate an agency or interagency panel to coordinate and facilitate agency use of ADR and negotiated rulemaking, to make up for the loss of ACUS, the Administrative Conference of the United States, which lost its funding last year.

Finally, I insert into the RECORD a copy of the statement of managers as part of the legislative history of this bill.

It is important that we reauthorize both the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act. This bill has the support of the administration and I urge my colleagues to vote for H.R. 4194.

Mr. Speaker, I include for the RECORD a copy of the statement of managers as part of the legislative history of the bill:

The conferees incorporate by reference in this Statement of Managers the legislative history reflected in both House Report 104–597 and Senate Report 104–245. To the extent not otherwise inconsistent with the conference agreement, those reports give expression to the intent of the conferees.

Section 3—House recedes to Senate amendment with modifications. This section clarifies that, under 5 U.S.C. section 574, a dispute resolution communication between a party and a neutral or a neutral and a party that meets the requirements for confidentiality in section 574 is also exempt from disclosure under FOIA. In addition, a dispute resolution communication originating from a neutral and provided to all of the parties, such as Early Neutral Evaluation, is protected from discovery under 574(b)(7) and from disclosure under FOIA. A dispute resolution communication originating from a party to a party or parties is not protected from disclosure by the ADR Act.

The Managers recognize that the intent of the Conference Agreement not to exempt from disclosure under FOIA a dispute resolution communication given by one party to another party could be easily thwarted if a neutral in receipt of a dispute resolution communication agrees with a party to in turn pass the communication on to another party. It is the intent of the Managers that if the neutral attempts to circumvent the prohibitions of the ADR Act in this manner, the exemption from FOIA would not apply.

As with all other FOIA exemptions, the exemption created by section 574(j) is to be construed narrowly. The Managers would not expect the parties to use the new exemption as a mere sham to exempt information from FOIA. Thus, for example, we would not expect litigants to resort to ADR principally as a means of taking advantage of the new exemption. In such a case the new exemption would not apply.

Section 7—Senate recedes to House with a modification. This section requires the President to designate an agency or to designate or establish an interagency committee to facilitate and encourage the use of alternative dispute resolution. The Managers encourage the President to designate the same entity under this provision as is designated under section 11 (regarding Negotiated Rulemaking). This would promote the coordination of policies, enhance institutional memory on the relevant issues, and make more efficient the use of ADR and Negotiated Rulemaking.

Section 8—House recedes to Senate amendment with modifications. This section permits the use of binding arbitration under certain conditions, and clarifies that an agency cannot exceed its otherwise applicable settlement authority in alternative dispute resolution proceedings.

The head of an agency that is a party to an arbitration proceeding will no longer have the authority to terminate the proceeding or vacate any award under 5 U.S.C. section 580. However, it is the Managers' intent that an arbitrator shall not grant an award that is inconsistent with law. In addition, prior to the use of binding arbitration, the head of each agency, in consultation with the Attorney General, must issue guidelines on the use and limitations of binding arbitration.

Section 11—House recedes to Senate amendment with modifications. This section permanently reauthorizes the Negotiated Rulemaking Act of 1990. The President is required to designate an agency or interagency committee to facilitate and encourage the use of negotiated rulemaking.

In addition, this section requires the Director of the Office of Management and Budget to take action to expedite the establishment of negotiated rulemaking committees and committees to resolve disputes under the Administrative Dispute Resolution Act. It is the understanding of the Managers that the Federal Advisory Committee Act (FACA) applies to proceedings under the Negotiated Rulemaking Act, but does not apply to proceedings under the Administrative Dispute Resolution Act. The Director also is required to submit recommendations to Congress for any necessary legislative changes within one year after enactment.

The Managers deleted language in paragraph (b)(1)(B) determining that property accepted under this section shall be considered a gift to the United States for federal tax purposes because the Managers determined that the language merely repeated current law.

Section 12—House recedes to Senate amendment with modifications. This section consolidates federal court jurisdiction for procurement protest cases in the Court of Federal Claims. Previously, in addition to the jurisdiction exercised by the Court of Federal Claims, certain procurement protest cases were subject to review in the federal district courts. The grant of exclusive federal court jurisdiction to the Court of Federal Claims does not affect in any way the authority of the Comptroller General to review procurement protests pursuant to Chapter 35 of Title 31, U.S. Code.

This section also applies the Administrative Procedure Act Standard of review previously applied by the district courts (5 U.S.C. sec. 706) to all procurement protest cases in the Court of Federal Claims. It is the intention of the Managers to give the Court of Federal Claims exclusive jurisdiction over the full range of procurement protest cases previously subject to review in the federal district courts and the Court of Federal Claims. This section is not intended to affect the jurisdiction or standards applied by the Court of Federal Claims in any other area of the law.

Mr. Speaker, it is important that we reauthorize both the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act. This bill has the support of the administration and I urge my colleagues to vote for H.R. 4194.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE].

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, the cost and length of traditional litigation is increasingly leading to the settlement of claims through alternative means. Many different techniques, such as mediation, arbitration, minitrials, and partnering have been found effective in reaching expeditious and consensual resolutions to matters which would have otherwise been adjudicated through our courts. The benefits of these alternative dispute resolution techniques are equally apparent where one or more of the parties to the dispute is a governmental entity. In order to promote their use by agencies, we are today considering H.R. 4194, the Alternative Dispute Resolution Act of 1996, which will reauthorize that act.

In addition to providing a permanent authorization for the act, H.R. 4194 contains several provisions which will improve procedures governing alternative dispute resolution, and give parties incentives to use these techniques. First, it eliminates the provision of current law which gives the Government 30 days to vacate the award of an arbitrator. The practical effect of this provision was that no private party would agree to arbitration with the Government. This change is anticipated to dramatically increase the use of binding arbitration.

Under the bill, an agency cannot use binding arbitration if doing so would exceed its otherwise applicable settlement authority in alternative dispute resolution proceedings. An arbitrator would not be permitted to grant an award that is inconsistent with law. In addition, prior to the use of binding arbitration, the head of each agency, in consultation with the Attorney General, must issue guidelines on the use and limitations of binding arbitration.

Second, H.R. 4194 increases the confidentiality of dispute resolution communications between a party and a neutral. While current law sets out in great detail what communications

in an alternative dispute resolution may be disclosed by the neutral and the parties, and under what conditions, it fails to ensure that such documents are also protected from disclosure under the Freedom of Information Act [FOIA]. If either a party or the neutral is a Government agency, a dispute resolution communication would be potentially available to the public through FOIA dispute the intent of the ADR Act that it be kept confidential. This confidentiality is of vital importance to reaching a voluntary agreement, because it encourages a candid exchange between a party and a neutral. H.R. 4194 provides an exemption from FOIA disclosure for communications between a party and a neutral, so long as they would also be confidential according to the terms of the ADR Act.

The bill clarifies that, under 5 U.S.C. section 574, a dispute resolution communication between a party and a neutral or a neutral and a party that meets the requirements for confidentiality in section 574 is also exempt from disclosure under FOIA. In addition, a dispute resolution communication originating from a neutral and provided to all of the parties, such as early neutral evaluation, is protected from discovery under 574(b)(7) and from disclosure under FOIA. A dispute resolution communication originating from a party to a party or parties is not protected from disclosure by the ADR Act.

The intent of this provision not to exempt from disclosure under FOIA a dispute resolution communication given by one party to another party could be easily thwarted if a neutral in receipt of a dispute resolution communication agrees with a party to in turn pass the communication on to another party. If the neutral attempts to circumvent the prohibitions of the ADR Act in this manner, the FOIA exemption would not apply.

As with all other FOIA exemptions, the exemption created by section 574(j) is to be construed narrowly. Parties should not be allowed to use the new exemption as a mere sham to exempt information from FOIA. Thus, for example, litigants should not resort to ADR principally as a means of taking advantage of the new exemption. In such case the new exemption would not apply.

Mr. Speaker, H.R. 4194 also reauthorizes the Negotiated Rulemaking Act, which encourages agencies to use negotiated rulemaking when its use would enhance the informal rulemaking process. The bill requires the President to designate an agency or to designate or establish an interagency committee to facilitate and encourage the use of negotiated rulemaking, and to do the same to facilitate the use of alternative dispute resolution. Hopefully, the President will designate the same entity for both purposes. This would promote the coordination of policies, enhance institutional memory on the relevant issues, and make more efficient the use of ADR and negotiated rulemaking. In addition, the bill requires the Director of the Office of Management and Budget to take action to expedite the establishment of negotiated rulemaking committees and committees to resolve disputes under the Administrative Dispute Resolution Act. The Federal Advisory Committee Act [FACA] would apply to proceedings under the Negotiated Rulemaking Act, but not to proceedings under the Administrative Dispute Resolution Act.

Mr. Speaker, I strongly support H.R. 4194 and urge its swift adoption.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we engaged in hearings on this bill, I want to spread on the record the thought that I have that the quality of the testimony was what spurred this Member in attempting to bring about a final solution to the resolution of administrative disputes. Particularly I want to pay tribute to the gentlemen from TRW, who in their testimony outlined how in effect money could be saved and, more importantly, time and energy of the various agencies and the private entities involved in an enterprise and very forcefully convinced this Member, along with the testimony of others, that this type of mechanism indeed should be and is now on the verge of being reauthorized.

We worry about what effect the Scanwell language might have and what atmosphere it casts over the final passage of this legislation. The gentleman from Rhode Island was correct in stating that hearings ought to be held and that the next Congress ought to make it a part of its agenda. I want to place on the record my pledge that if reelected and we return to the work of the committee in which we participate, that we will hold hearings and look at it very closely. But for now, we do no harm to anyone by leaving the law as it is without delving into the controversial aspects of the Scanwell item about which we speak. So, with that pledge, I am determined to offer the best possible face of this legislation so it can be reauthorized now, along with its other provisions.

I wonder if the gentleman from Rhode Island would engage in a colloquy with me with some of my remaining time. I remembered during the conference that the gentleman from Rhode Island was not unhappy with but was not final in his determination as to the report language. Could I ask the gentleman if he is now satisfied with the report language as now will accompany the bill?

Mr. REED. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. Mr. Speaker, I believe we have made progress with respect to the report language and it is adequate. We have made progress with the report language. I believe at this juncture, it is adequate to substantiate our understanding of the legislation and provide guidance to interpretation of the legislation.

Mr. GEKAS. Mr. Speaker, I thank the gentleman.

So that the last tidiness that has to be applied to this legislation, namely the report language, will probably offer no obstacle to the final passage of this legislation; is that correct?

Mr. REED. Mr. Speaker, I do not think there is anything that we should know. I believe that the staffs have been in communication and that there is an understanding that the language of the report will substantiate our mutual understanding of the legislation. Consequently, I do not at this juncture anticipate any problems.

Mr. GEKAS. Mr. Speaker, I am rapidly coming to the close of the remarks that I want to insert into the record, but I am searching diligently for even additional language that I feel should become part of the RECORD. I am doing that to give time to the gentleman from Georgia, [Mr. LINDER], to get here so that we can proceed with the next item of business. You are going to have to listen to me drone on for a few minutes, if you do not mind. The gentleman from Massachusetts [Mr. MOAKLEY], is present but he cannot begin the process without the presence of his colleague from the Committee on Rules. We are consulting here on how best we can fill the time.

Mr. Speaker, as my final item in the discourse which I have embarked on this morning, I want to give some statistics that will show the value of what we are about here today. The Army Corps of Engineers reportedly used dispute resolution in 55 contract disputes between 1989–94, 53 of which were successful. One case reportedly resulted in a claim for $55 million being settled for $17 million in 4 days. So this gives you an idea that we are not just puffing here when we are saying that to allow for a mechanism for alternative ways to solve disputes between contractors and agencies, that we indeed can demonstrate to the public that we are utilizing time, energy and cost savings very efficiently.

I think that the gentleman from Georgia, [Mr. LINDER], would agree with me if he were here. If he should get to the floor rather quickly, I could end my discourse.

Mr. Speaker, this is not the most exciting of issues and my heart is not pounding with the rapture that usually accompanies my involvement in issues before the floor, but insofar as it was granted to us to have the power to deal with the issue and because it was relegated to my committee, I now take the privilege of thanking every member of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary, both on the minority side and the majority side. This may be the last time that our voice, collectively or individually, will be heard as members of that committee.

I daresay that we had excellent cooperative, bipartisan action on many items and where we did devolve into ideological or partisan approaches to a particular problem, those were handled on a civil basis with great cooperation being accorded between staffs and between and among Members.

Mr. Speaker, I reserve the balance of my time.

□ 1200

Mr. REED. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like, if I could, to engage the gentleman from Pennsylvania [Mr. GEKAS] in a colloquy, and

in doing so I would like to take a moment to address a concern that was recently brought to my attention by the gentlewoman from Colorado [Mrs. SCHROEDER]. She wanted to make clear that this bill does not authorize an agency or any other employer to require its employees to submit to binding arbitration as a condition of employment, or to relinquish rights they may have under title 7 of the Civil Rights Act of 1964 or any other statute. I want to assure her that she has no reason to worry about this bill and that the decision to engage in binding arbitration must be voluntary by all parties, as provided in sections styled 72(a) and (c) of the ADR act, and in fact would like if the gentleman could confirm that understanding.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I assert for the record and for the gentleman's confirmation that indeed this bill does not in any way change the current law, the current system for handling binding arbitration of the type that has been described by the gentleman in his hypothetical. We remain nongermane in this bill as to the current situation on binding arbitration.

Mr. REED. Mr. Speaker, I thank the gentleman from Pennsylvania, and reclaiming my time once again, I do want to commend him for his leadership on the committee and to commend all of my colleagues on the committee, both the members of the minority and majority parties and the staffs who have done an excellent job. I, too, second the chairman's determination that this has been a committee I think marked by collegiality and cooperation, and at times when we did disagree it was done based upon principle, in a very civil and constructive manner, and I thank the chairman for that atmosphere that he has created.

I have no more speakers, Mr. Speaker, and I would reserve the balance of my time pending other comments by the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one other item: I made it the point throughout the entire 2-year period in which I chaired this committee to begin the each meeting and each hearing on time. When we said 10 o'clock or 9:30 or 11 o'clock, the gavel actually rapped every single time that we had a hearing or meeting throughout the course of the 2 years.

Now many times we had to recess immediately upon convening the hearing because of the absence of a quorum, but I want the record to show that every single meeting or hearing that was conducted in the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary began on time. I believe, unless someone can contravene it, that that is a record.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Massachusetts (Mr. MOAKLEY) to see if he can challenge that assertion on my part. Seeing that he is rising, that worries me, but I will yield to the gentleman.

Mr. MOAKLEY. Mr. Speaker, actually I cannot affirm whether or not that is true, but the only thing is I know that presently, right now, I am waiting for a Republican member of the Committee on Rules to show up who is not on time.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for his non-comment.

Another matter that I wanted to bring before the CONGRESSIONAL RECORD is my personal thanks to Ray Smietanka, to Roger Fleming, to Charles Kern, who are staff attorneys in the subcommittee, and of course Susan Guttierez and Becky Ward who are visible most of the time, but invisible another part-time, but who very boldly and carefully helped the process of the committee.

Now I want to speak some more, and the gentleman from Georgia (Mr. LINDER) is here, but I refuse to end my discourse because I am getting warm now. But I think I am going to have to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. REED. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 4194.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## CONFERENCE REPORT ON H.R. 3539, FEDERAL AVIATION AUTHORIZATION ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 540

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LINDER asked and was given permission to revise and extend his remarks and to include extraneous material)

Mr. Speaker, House Resolution 540 provides for the consideration of the conference report for H.R. 3539, Federal Aviation Reauthorization. House Resolution 540 is a typical House rule for a conference report. The rule waives all points of order against the conference report and against its consideration, and the conference report shall be considered as read.

The House understands the importance of the timely consideration of this bill, and the Rules Committee favorably approved this rule yesterday. It is imperative that this bill be enacted into law soon so that airport improvement funds can be released across the country by the end of the month. We are close to completing the work of the 104th Congress, and the House cannot delay sending the President this legislation for his signature; therefore, I urge adoption of this rule so that we can get on with debate and passage of this essential legislation.

As a conferee on the section of this legislation under the jurisdiction of the Rules Committee, I want to commend Chairman BUD SHUSTER, and BILL CLINGER, and JOHN DUNCAN for their hard work in resolving the differences that remained between the House and the Senate legislation. The conferees had to balance an assortment of concerns, and the resulting product closely resembles the FAA reauthorization bill that passed the House.

The conference report authorizes the Federal Aviation Administration's major program for 2 years and provides about $19 billion dollars for FAA operations, airport grants, and FAA facilities, equipment, and research. This legislation reforms the FAA, authorizes the necessary funding to increase aviation safety and security, and assures expanded aircraft inspection. These are provisions that are vital to provide the effective services and protection that the American public deserves.

I also want to comment on a number of notable items in the bill. First, the conference report authorizes an airport privatization pilot program that will allow five airports to be either sold or to enter into long term leases. The pilot program gives us an opportunity to observe the ability of the private sector to introduce the necessary capital and efficiencies that may help to advance our current airport system into the 21st century.

Another significant provision in the conference report is a requirement that the National Transportation Safety Board serve as the responsible contact following an accident. Under these requirements, the NTSB would designate an independent, non-profit entity to

provide emotional care and support for the families of any passenger involved in an accident. It is crucial that we provide family members with information about their loved ones, and this provision helps provide the care that is needed under the most horrible of circumstances.

Finally, this Nation has seen a disturbing rise in the practice of lawyers immediately harassing the grieving families of victims following an accident. I am particularly pleased this bill protects passengers and family members by prohibiting unsolicited contacts from lawyers until 30 days after an accident. It is a compassionate provision that deserves our support.

Mr. Speaker, I urge my colleagues to support the rule so that we may proceed with the debate and consideration of a conference report that contains these meaningful FAA reforms, vital transportation resources and significant safety and security protections for American families across the nation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from Georgia [Mr. LINDER], for yielding me the customary half-hour.

Mr. Speaker, most of the things that this bill does are excellent.

It authorizes $10.4 billion for the next 2 fiscal years for our Federal Aviation Administration. These are people in charge of our air traffic control, air routes and airline safety.

It also authorizes $4.6 billion in airport grants.

It authorizes funding for airline safety and inspection programs which will improve the safety of air travel in the United States.

It improves the notification process for families of airline accident victims to end confusion and to speed the transfer of information during that very, very difficult time.

And if that were all that this bill would do, Mr. Speaker, I would happily support it, and so would many of my colleagues. But that is not all that is in this bill.

This bill contains a direct attack on working Americans. This bill contains a provision that was not part of either the House or Senate bill. This provision will resurrect the term ''express carrier'' solely on behalf of the Federal Express Co. No other company is categorized as an express carrier.

In fact, Mr. Speaker, the term ''express carrier'' was dropped with the passage of the ICC Termination Act in 1995, but this bill pulls that term out of the trash heap, and in doing so will effectively prohibit the employees of Federal Express from unionizing.

The supporters of this provision, this blatant attack on American workers, call it a technical correction. The person testifying before the committee said it was inadvertently left out of the House bill. It was inadvertently left out of the Senate bill. But somehow it showed up in the conference committee report.

I would argue that for the 130,000 employees of Federal Express this change is hardly a correction, it is more like a misdirection.

If Federal Express employees cannot unionize locally, Mr. Speaker, they cannot unionize at all, and the powerful people at the top of Federal Express know it.

So, I urge my colleagues to stand up for those 130,000 employees of this company and defeat the rule and defeat the bill. Despite all of the progress this bill will make towards improving air travel and airline safety, it should be defeated because of that one provision.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, H.R. 3539 is a good bipartisan bill except for one horrible extraneous provision which was beyond the scope of the conference. We should be passing a conference report today in order to fund airport improvement program grants, reform the FAA, address the security needs of our aviation system, restructure the Washington Airport Authority, and deal with the ways that pilot records are shared, accident victim families are treated, and children are allowed to fly. But I cannot ask my colleagues to vote for this bill because the Republican leadership has chosen to sabotage this important legislation with a big favor for the Federal Express Corp.

In case my colleagues have not heard, the history of this controversial so-called Fed Ex provision is as follows:

There has never been a hearing on it, not in a subcommittee in the House, not in a full committee of the House, not in a subcommittee of the Senate, not in a full committee of the Senate. They attempted to attach this provision to the fiscal year 1996 omnibus appropriations bill and failed. They tried to attach it to the NTSB reauthorization bill and failed.

□ 1215

They tried to attach it to the Railroad Unemployment Act amendments and failed. They attempted to attach it to the amendments to the DOT appropriations and failed. I understand that they even tried to attach it to the CR that we will be voting upon today, tomorrow, Sunday, Monday, Tuesday, whenever it comes to pass. Now they have stuck it on this very important aviation bill, threatening everything in it.

Defeating the rule will enable us to have this terrible special interest provision removed so that the product of 2 years of effort of the Aviation Subcommittee will not be sacrificed to Federal Express.

Mr. Speaker, I hate to see the progress that we have made in improving virtually every aspect of aviation for the American people thrown away to cater to one powerful corporation. We have had splendid, outstanding cooperation on all aviation matters here in the House, principally because of the nature of the chairman of the Aviation Subcommittee, the gentleman from Tennessee [Mr. DUNCAN]. He and I have worked splendidly together throughout the entire process of this bill and many other bills.

The ranking member, the gentleman from Minnesota [Mr. OBERSTAR], and the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the committee, have worked in tremendous cooperation to improve the aviation industry in this country, with all the legislation that is included in this bill.

Now, unfortunately, at the last moment, when everything else was done in conference, when we had worked everything else out between the House and Senate, at the 11th hour, an amendment is brought forward to aid and assist one giant corporation against the American middle class, a provision for Federal Express.

Mr. Speaker, I say to one and all in this House, this is an opportunity for Members to stand up and do something for American middle class people, and vote against this rule.

For the arguments that people will put forth that we do not want to defeat this very important piece of legislation because so many things will be adversely impacted in the aviation industry, I simply say to them, the very distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], has stated in several publications if the rule is defeated, if the bill is defeated, they will simply put it on the continuing resolution, or they will bring it back without this provision and pass a clean aviation bill.

Mr. Speaker, I say to the Members, vote against this terrible rule.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the Committee on Transportation.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule. The issue which my friend, the gentleman from Illinois, brings up will, of course, be debated after this rule has passed, and we can address it at that point. Our view is that it is simply a technical correction that needs to be made.

But beyond that, let me emphasize that the provision was offered by the Senate. Indeed, it was offered by Senator HOLLINGS, a Democrat. The Senate conferees unanimously, Republican and Democrat alike, including Senator WENDELL FORD, supported this provision. So this is certainly not simply

something, it is not something that we have proposed, it is something that the Senate has proposed. It is something that we accept, because we think it is a technical correction.

But, indeed, that can be debated, and I am sure it will be debated at length when we get into the conference report itself. I simply rise and urge my colleagues to vote in favor of this rule so we can get to the debate, to the substance of the conference report.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I have heard certain people in the Republican party do not want this bill. I wanted to ask my dear friend, the gentleman from Pennsylvania [Mr. SHUSTER], who just sat down, if he really wants this proviso in the bill.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I would be happy to respond. Absolutely.

It is outrageous, it is outrageous that we even have to deal with this issue this way, because it is nothing more than a technical correction. Indeed, if we were the ones who were involved in putting something in here which inadvertently hurt labor, we would be down there in the well saying it should be taken out.

We think it is fundamentally wrong, it is outrageous that this issue is even contentious, because this is nothing more than a technical fix. In the gentleman's heart of heart, he knows it.

Mr. MOAKLEY. Mr. Speaker, I do not know how anybody could say that something that affects 130,000 working people, that has not had one minute of hearing in the House committees or the Senate committees, that was put into the conference committee, is a technical correction. I would like to take a look at that dictionary to see what technical correction really means.

Mr. Speaker, this is a terrible thing. This is a terrible affront to the working men and women of America, that this type of proviso could be inserted into this otherwise great bill. For anybody to jeopardize the millions of Americans that fly every year, the protections that are put in this bill are jeopardized by putting this proviso in there.

I think we would do best to defeat the rule, then extract this amendment, and I am sure that the conference committee, it probably would go through without a negative vote.

I just think that the stakes are too high. Regardless of what party the gentleman is in who inserted this amendment in the Senate, I just think it is the wrong place. This should be debated before it gets to the conference committee report. This should have been debated in the House. This should have been debated in the Senate. This should not end up on our doorstep, at the 11th hour, when we are trying to get out of this place.

Mr. Speaker, I would hope my colleagues would join me in voting against the rule, so we can strip out this terrible provision.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 222, nays 187, not voting 24, as follows:

[Roll No. 445]

YEAS—222

| | | |
|---|---|---|
| Allard | Duncan | Knollenberg |
| Archer | Dunn | Kolbe |
| Armey | Ehlers | LaHood |
| Bachus | Ehrlich | Latham |
| Baker (CA) | Ensign | LaTourette |
| Baker (LA) | Everett | Laughlin |
| Ballenger | Ewing | Lazio |
| Barr | Fawell | Leach |
| Barrett (NE) | Fields (TX) | Lewis (CA) |
| Bartlett | Foley | Lewis (KY) |
| Barton | Fowler | Lightfoot |
| Bass | Fox | Lincoln |
| Bateman | Franks (CT) | Linder |
| Bereuter | Franks (NJ) | Livingston |
| Bilbray | Frelinghuysen | LoBiondo |
| Bilirakis | Funderburk | Longley |
| Bliley | Gallegly | Lucas |
| Blute | Ganske | Manzullo |
| Boehner | Gekas | McInnis |
| Bonilla | Geren | McKeon |
| Bono | Gilchrest | Meyers |
| Brownback | Gillmor | Mica |
| Bryant (TN) | Goodlatte | Miller (FL) |
| Bunn | Goodling | Molinari |
| Bunning | Gordon | Montgomery |
| Burr | Goss | Moorhead |
| Burton | Graham | Morella |
| Buyer | Greene (UT) | Myers |
| Callahan | Greenwood | Myrick |
| Calvert | Gunderson | Nethercutt |
| Camp | Gutknecht | Neumann |
| Canady | Hall (TX) | Ney |
| Castle | Hancock | Norwood |
| Chabot | Hansen | Nussle |
| Chambliss | Hastert | Orton |
| Chenoweth | Hastings (WA) | Oxley |
| Christensen | Hayworth | Packard |
| Chrysler | Hefley | Parker |
| Clement | Herger | Paxon |
| Clinger | Hilleary | Payne (VA) |
| Coble | Hobson | Petri |
| Coburn | Hoekstra | Pombo |
| Collins (GA) | Hoke | Portman |
| Combest | Horn | Pryce |
| Cooley | Hostettler | Radanovich |
| Cox | Houghton | Rahall |
| Crane | Hunter | Ramstad |
| Crapo | Hutchinson | Regula |
| Cremeans | Hyde | Riggs |
| Cubin | Inglis | Roberts |
| Cunningham | Istook | Rohrabacher |
| Deal | Johnson (CT) | Ros-Lehtinen |
| DeLay | Johnson, Sam | Roth |
| Diaz-Balart | Jones | Roukema |
| Dickey | Kasich | Royce |
| Dixon | Kelly | Salmon |
| Doolittle | Kim | Sanford |
| Dornan | Kingston | Saxton |
| Dreier | Klug | Scarborough |
| Schaefer | Stearns | Vucanovich |
| Schiff | Stenholm | Walker |
| Seastrand | Stockman | Walsh |
| Sensenbrenner | Stump | Wamp |
| Shadegg | Talent | Watts (OK) |
| Shaw | Tanner | Weldon (FL) |
| Shays | Tate | Weldon (PA) |
| Shuster | Tauzin | Weller |
| Skeen | Taylor (MS) | White |
| Smith (MI) | Taylor (NC) | Whitfield |
| Smith (NJ) | Thomas | Wicker |
| Smith (TX) | Thornberry | Young (AK) |
| Smith (WA) | Tiahrt | Young (FL) |
| Souder | Torkildsen | Zeliff |
| Spence | Upton | Zimmer |

NAYS—187

| | | |
|---|---|---|
| Abercrombie | Frisa | Mollohan |
| Ackerman | Furse | Moran |
| Andrews | Gejdenson | Murtha |
| Baesler | Gephardt | Nadler |
| Baldacci | Gibbons | Neal |
| Barcia | Gilman | Oberstar |
| Barrett (WI) | Gonzalez | Obey |
| Becerra | Gutierrez | Olver |
| Beilenson | Hall (OH) | Ortiz |
| Bentsen | Hamilton | Owens |
| Berman | Harman | Pallone |
| Bevill | Hastings (FL) | Pastor |
| Bishop | Hefner | Payne (NJ) |
| Blumenauer | Hilliard | Pelosi |
| Boehlert | Hinchey | Peterson (MN) |
| Bonior | Holden | Pickett |
| Borski | Hoyer | Pomeroy |
| Brewster | Jackson (IL) | Poshard |
| Browder | Jacobs | Quinn |
| Brown (CA) | Jefferson | Rangel |
| Brown (FL) | Johnson (SD) | Reed |
| Brown (OH) | Johnson, E. B. | Rivers |
| Bryant (TX) | Kanjorski | Roemer |
| Cardin | Kaptur | Roybal-Allard |
| Clay | Kennedy (MA) | Rush |
| Clayton | Kennedy (RI) | Sabo |
| Clyburn | Kennelly | Sanders |
| Coleman | Kildee | Sawyer |
| Collins (IL) | King | Schroeder |
| Collins (MI) | Kleczka | Schumer |
| Condit | Klink | Scott |
| Conyers | LaFalce | Serrano |
| Costello | Lantos | Sisisky |
| Coyne | Lewis (GA) | Skaggs |
| Cramer | Lipinski | Skelton |
| Cummings | Lofgren | Slaughter |
| Danner | Lowey | Spratt |
| Davis | Luther | Stark |
| de la Garza | Maloney | Stokes |
| DeFazio | Manton | Studds |
| DeLauro | Markey | Stupak |
| Deutsch | Martinez | Tejeda |
| Dicks | Martini | Thornton |
| Dingell | Mascara | Thurman |
| Doggett | Matsui | Torres |
| Dooley | McCarthy | Torricelli |
| Doyle | McCollum | Towns |
| Durbin | McDade | Traficant |
| Edwards | McDermott | Velazquez |
| Engel | McHale | Vento |
| English | McHugh | Visclosky |
| Eshoo | McKinney | Volkmer |
| Evans | McNulty | Ward |
| Farr | Meehan | Waters |
| Fattah | Meek | Watt (NC) |
| Fazio | Menendez | Waxman |
| Fields (LA) | Metcalf | Williams |
| Filner | Millender-McDonald | Wise |
| Flake | Miller (CA) | Wolf |
| Flanagan | Minge | Woolsey |
| Forbes | Mink | Wynn |
| Ford | Moakley | Yates |
| Frank (MA) | | |

NOT VOTING—24

| | | |
|---|---|---|
| Boucher | Jackson-Lee (TX) | Quillen |
| Campbell | Johnston | Richardson |
| Chapman | Largent | Rogers |
| Dellums | Levin | Rose |
| Foglietta | McCrery | Solomon |
| Frost | McIntosh | Thompson |
| Green (TX) | Peterson (FL) | Wilson |
| Hayes | Porter | |
| Heineman | | |

□ 1243

The Clerk announced the following pair:

On this vote:

Mr. Porter for, with Ms. Jackson-Lee of Texas against.

Messrs. DAVIS, ENGLISH of Pennsylvania, and MCHUGH changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1245

Mr. SHUSTER. Mr. Speaker, pursuant to House Resolution 540, I call up the conference report on the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 540, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1996, at page H11289.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Illinois [Mr. LIPINSKI] will each control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report is an omnibus aviation bill that includes many important issues that the Subcommittee on Aviation has considered during the 104th Congress. This conference report incorporates many bills and issues, including the FAA reauthorization, aviation safety, FAA reform passed by the House this March, the child pilot safety bill passed by the House this July, the pilot record sharing bill, passed by the House this July, the aviation security bill, passed by the House this August, assistance to families of passengers involved in aircraft accidents, passed by the House earlier this month, and the Metropolitan Washington Airports Authority bill.

It is a good bill. It is a must piece of legislation, because if this is not passed and signed into law, our airports across America will get no funding for their airport improvement programs. Therefore, it is absolutely imperative that we pass this legislation.

As far as I know, there is only one issue which has been made controversial, an issue which many of us believe should not be controversial, because it is a technical correction. It is an issue which was offered by Senator HOLLINGS, a Democrat, in conference in the Senate, supported by all of the Senate conferees, Republicans and Democrats, and supported by the Republicans in the House.

Therefore, the provision is a technical correction to correct a provision in the bill in which we eliminated the ICC. It is referred to as the Fed-Ex provision. We believe that this should not be controversial at all, because, as a matter of good faith, it is simply correcting something that was inadvertently left out of the legislation when the ICC bill was passed. Nevertheless, it has become controversial, and I am sure it will be debated as we move along here this afternoon.

Mr. Speaker, I would urge my colleagues to support this conference report, because if we do not support it, if it goes down, there will be no funding for America's airports in the coming years.

Mr. Speaker, I include the following letters for the RECORD:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
*Washington, DC, September 18, 1996.*

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.*

DEAR MR. SHUSTER: This is in response to your letter of September 3, 1996, requesting our opinion as to whether certain proposed changes to the Federal approving legislation for the Metropolitan Washington Airports Authority (the ''Authority'') would result in the Authority being viewed as a Federal instrumentality under the Internal Revenue Code (the ''Code'') rules governing issuance of tax-exempt bonds. The Authority is established as an interstate compact by laws of Virginia and the District of Columbia. The compact was approved by Congress in the Metropolitan Washington Airports Act of 1986 (P.L. 99–591, the ''Act''); the Act also provided for a lease of Washington National and Dulles International Airports to the Authority. The Authority has been viewed as a political subdivision of Virginia during past periods when it was permitted to incur debt because it was created by Virginia law, operates in Virginia with respect to property located in the Commonwealth, and possesses the power of eminent domain and the police power, two of the three principal indicia of governmental status under the Code's tax-exempt bond rules.[1]

Your proposed legislation would reverse several limitations currently placed on the Authority as a result of a court determination that a Congressional Review Board is unconstitutional. The proposed legislation also would (1) expand the Authority's Board of Directors to include two additional directors appointed by the President and (2) sunset certain reinstated powers and benefits after five years. The concerns about future issuance of tax-exempt bonds for the Authority arise from the latter proposed amendments to the Act.

The Code exempts interest on debt of States and local governments from the regular income tax when the debt is incurred to finance activities conducted by those governmental entities or to finance certain private activities specified in the Code. One such private activity is financing for airport facilities. Interest on both debt of the Federal Government and debt issued by any other entity (including States or local governments) for the benefit of the Federal Government is taxable. Further, under longstanding Treasury Department rules, if a beneficiary of tax-exempt bonds ceases to qualify for this subsidized financing, interest on the bonds (in certain cases) becomes taxable retroactive to the date the bonds are issued (referred to as ''change in use'' rules). A prohibited change in use could occur, for example, if the Authority were to become a Federal instrumentality during the term of any previously issued debt as a result of sunset provisions in relevant authorizing legislation. If the possibility of such a change in use were specified in legislation when bonds were issued, required certifications of tax-exemption could not be made. An unqualified opinion from the bond counsel of the issuer as to the tax-exempt nature of interest is required at the time of bond issuance as part of industry marketing requirements, and certain information reports must be made to the Internal Revenue Service (the ''IRS'') that debt which purports to be tax-exempt has been issued.

The relevant Code tax-exempt bond rules do not provide specific guidance on when an entity is treated as a Federal instrumentality. Rather, that determination is made by the IRS based on all relevant facts and circumstances. The IRS has issued no guidance directly on point to your inquiry. As a result, the only manner in which a binding determination could be made would be either revenue legislation enacted by the Congress or a ruling letter issued to the Authority by the IRS. Because of the absence of clear present-law authority on the effect of your proposal, we recommended to your Aviation Subcommittee staff that the Authority and its bond counsel be contacted to discuss in detail the source of the concerns which had been expressed to you about the proposed legislation. A conference call was held with your staff and Authority counsel on September 11, 1996. At the request of the Aviation Subcommittee staff, this letter outlines the matters discussed in that conference call.

The Authority counsel concurred with the Joint Committee staff that there is no tax guidance directly on point to the questions raised by your proposed legislation. We discussed with the counsel the factors which might lead them to conclude that they could obtain a favorable ruling from the IRS, if requested, and therefore issue a favorable tax opinion on future bonds of the Authority if your proposals were enacted. The counsel stated that such a determination would be based on whether the Authority remained as valid political subdivision of Virginia. They cautioned that any final legislation would have to be reviewed in its totality to determine whether the Authority continued to be a political subdivision of Virginia before making such a determination; however, they did state that the two changes you propose, viewed standing alone, would not in all cases lead them to opine that the Authority had become a Federal instrumentality.

Specifically, the counsel stated that the mere expansion of the Authority's Board of Directors from 11 directors to 13, with the two additional directors being appointed by the President, would not preclude their giving a favorable tax opinion for future bond issuances based on their belief that they would receive a favorable ruling from the IRS, if requested. This statement was conditioned upon any such expansion being drafted to preserve the existing procedures whereby directors are appointed pursuant to the Virginia statute creating the Authority, rather than pursuant to Federal law. On the other hand, if Virginia law were overridden in providing for the additional directors, the counsel stated that they would decline to give a favorable opinion. The counsel noted that amendment of the relevant Virginia statutes is limited by the State legislature's rules and schedule, and that any legislation that is enacted should take into account at least minimum time periods needed to comply with those requirements.

Your legislation also proposes a sunset of certain Authority powers, including the power to issue additional debt, after a five-year period. Unlike similar provisions which we understand to have been included in some past versions of this proposal, however, this

[1] The third principal factor is the power to tax, which has not been granted to the Authority.

sunset would not affect the status of the Authority as a continuing entity. Provided that the powers subject to the sunset provision are not essential to the Authority's continued status as a political subdivision of Virginia, both we and bond counsel concur that the provision should not preclude continued eligibility of Authority debt for tax-exemption. However, if the legislation were drafted to terminate the Authority or powers essential to its status as a political subdivision, as opposed to limiting certain of its other powers, we and the Authority's counsel agree that the change in use rules described above would preclude future issuance of Authority debt as tax-exempt.

In conclusion, while certain additional Federal restrictions may be imposed on the Authority without precluding tax-exemption for its debt, there is no direct legal authority on how pervasive those restrictions may be. Any such restrictions must be carefully structured to avoid adversely affecting the Authority's continued status as a political subdivision of Virginia.

I hope this information is helpful as you finalize your proposed legislation.

Sincerely,

KENNETH J. KIES.

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COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
*Washington, DC, September 26, 1996.*

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SHUSTER: I am writing to you regarding the pending conference report on H.R. 3539, the Federal Aviation Reauthorization Act of 1996. As I stated in an earlier letter, I remain opposed to any provisions to create a ''fast-track'' procedure in the House for considering possible tax legislation in the future.

The Committee on Ways and Means has always been cooperative in giving Administration proposals their due consideration. I want to reassure you and the other conferees that my opposition to legislative mandates does not preclude expeditious consideration of recommendations of the Administration by the Committee on Ways and Means as appropriate. With best personal regards,

Sincerely,

BILL ARCHER,
*Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is, on the whole, with one glaring exception, an excellent and bipartisan piece of legislation. Beginning with the work in the subcommittee, throughout the hearing process, the chairmanship of the gentleman from Tennessee [Mr. DUNCAN] and the leadership on our side of the gentleman from Illinois [Mr. LIPINSKI], the subcommittee worked together, ironed out many contentious issues, others of lesser significance, but worked through all of the fundamental aviation issues, to produce a truly fine piece of legislation.

In full committee we did again the same thing. Working together with the gentleman from Pennsylvania, Chairman SHUSTER, we were able to come to accommodation on major issues. We have already discussed these previously on the floor when the bill passed the House.

The conference report largely reflects the House position on most of the significant aviation issues concerning structure and formula for the Aviation Improvement Program. All airports are going to receive their full formula allocation. The allocations for general aviation airports are streamlined and improved in many respects.

We placed more emphasis on the need for a strong discretionary fund in the airport improvement program, and the reason for that discretionary fund is to underscore the role of the Secretary of Transportation in ensuring that we have a national system of airports.

Mr. Speaker, the reason for the role of the secretary is to ensure that we integrate our national airports in the spirit of the national system of integrated airports. That is the concept of the airport improvement program.

The conference report provides for a minimum discretionary fund of $300,000 for fiscal year 1997. That is an important provision. It means that in the future, emphasis will be able to be placed on those airports that truly contribute in a very special way to the movement of people and goods throughout the Nation's air space.

The conference report also supports an important letter of intent program. That is important for major mega projects, to ensure that the revenue stream will be available over the period of several years needed to complete these large airports, like improvement of Hartsfield airport in Atlanta, and of DFW, O'Hare, of Los Angeles, of JFK, where you have major aviation traffic and projects that cannot be done overnight, that take years of planning and years to complete.

So the letter of intent is vitally important to ensure there will be sufficient funds, and that provision provides about $150 million for high priority projects that offer expansion in capacity and improvement in safety.

At the beginning of our process, there was a lot of pressure to eliminate the noise setaside program, the so-called part 150 program of FAA. The bill rejects that rather ill-conceived notion. Noise funding is a capacity issue. If people living near the airport or within the noise footprint of the airport object to increased traffic, then you cannot flow more traffic into that airport. If you can abate the noise, calm neighbors' concerns, you really have, in effect, increased the capacity of the airport.

By the end of the decade, thanks to the 1990 aviation bill, we will cut in half the number of people impacted by noise, and this legislation continues that commitment.

The bill also includes legislation previously passed in the House to require airlines to share pilot training records so bad pilots can be weeded out of the system, to ensure the tragedy that befell the 7-year-old child pilot trying to set a cross-country record is not going to happen again, to ensure that families of aircraft accidents, victims, are getting the proper consideration and care and sensitive treatment and the information and the prompt response that they require in the aftermath of an aviation tragedy.

The bill will also remove the constitutional problems associated with the Metropolitan Washington Airport Commission and a bill that we passed in the House in August concerning anti-terrorism measures.

The bill also brings small commuter airports up to the higher standards of major airports and inaugurates a pilot program to review the privatization of airports, whether this privatization program might be a good way to attract additional capital investment airports need that they otherwise cannot achieve in order to expand capacity.

Mr. Speaker, for these and a host of other reasons, other provisions of the bill that I need not go into at this time, I think we ought to pass that part of the bill, the part that is offensive, which I shall address in later remarks.

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN], chairman of the Aviation Subcommittee.

Mr. DUNCAN. Mr. Speaker, I rise in strong support of the conference report to H.R. 3539, the Federal Aviation Reauthorization Act.

First, let me congratulate the chairman of the Transportation and Infrastructure Committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his outstanding leadership on this bill and throughout the entire 104th Congress.

He has been, in my opinion, one of the, if not the most effective and hardest working chairmen in the entire Congress.

I also want to thank the ranking member of the full committee, Mr. OBERSTAR, and the ranking member of the Aviation Subcommittee, Mr. LIPINSKI, for their expertise in aviation matters and for their bipartisanship throughout this entire Congress.

We have certainly accomplished significant improvements to aviation in this Nation by working together.

Mr. Speaker, the Federal Aviation Reauthorization Act conference report, H.R. 3539, is a comprehensive measure that this House can be proud of. It is must pass legislation. If we do not pass this conference report, no airport in this Nation will receive any Federal grants to make much needed improvements to their respective airports.

No Federal funds can be spent to improve our aging air traffic control equipment, which so desperately needs to be updated. Mandated airport security requirements will go unfunded.

We just cannot afford to let these things go unfinished. We must pass this conference report.

Mr. Speaker, by the end of this year, there will have been well over 500 million passengers boarding planes all across this country. Experts predict that this number will increase to more than 800 million in just 10 years time.

I cannot stress enough the urgency of this legislation.

We have addressed many important issues in this conference report in a very bipartisan manner and I think members on both sides and staff have done an outstanding job.

We have worked throughout this entire process in a bipartisan manner and we have also worked closely with our colleagues in the Senate.

This conference report is very similar to the House passed bill. Although we had a 3-year authorization, the Senate had a 1-year authorization. So we split the difference in conference and agreed to a 2-year authorization.

□ 1300

Mr. Speaker, this legislation will bring needed and additional reforms to the personnel and procurement systems at the FAA, very similar to the FAA reforms that were included in H.R. 2276, that the House passed unanimously in March. It helps move the FAA into the 21st century in a very businesslike manner.

It also incorporates and improves upon several of the aviation security measures that the House passed just 1 month ago. We have required criminal background checks for certain airport employees, required standards for airport security personnel, called for improvements to passenger profiling, to help detect bombs and terrorists, allowed bomb sniffing dogs to be used at our largest airports, and several other security improvements.

In addition, the conference report also includes the pilot record sharing bill, the Child Pilot Safety Act, and the Aviation Disaster Family Assistance Act, all of which were overwhelmingly passed by the House this year.

It expands the State block grant program, so that two additional States can be more involved in the allocation of Federal dollars to airports in their respective States.

The conference report includes a scaled back version of the Metropolitan Washington Airport Authority legislation that the Transportation Committee favorably reported.

I am very pleased that this conference report includes a new and innovative privatization pilot program, developed in our subcommittee, that will allow at least five airports across the Nation to become private.

With scarce Federal dollars we need to be looking at new ways of doing things. And I think this pilot program will be very successful just as other privatization efforts have been in several other countries.

It will be good for the taxpayers and the flying public.

And Mr. Speaker, this conference report establishes a Commission to review alternative financing methods that will enable us to develop a stabilized funding system for the FAA in the near future.

Finally, Mr. Speaker, this legislation will help every airport in the Nation.

We have adjusted the formulas under the airport improvement program so that the entitlements for all but I think four airports across the Nation will be increased, and those are the four largest airports and they wanted a larger discretionary fund for the FAA and so we have take care of all of the smaller- and medium-sized airports in this bill.

Mr. Speaker, the flying public pays for much of our aviation system and infrastructure through a 10-percent ticket tax. These taxes are placed in the aviation trust fund. So we have a system that is mainly payed for by those who use the system.

And I hope that we can push forward again in the next Congress, like we did here in the House earlier this year, by approving Chairman SHUSTER's trust funds-off budget legislation.

This will also enable us to make aviation security and safety improvements. And it will be mainly payed for by those who use the aviation system in this Nation.

Mr. Speaker, we have an outstanding conference report that I believe every Member of the House can and should support.

We need to improve aviation security and aviation safety in this Nation—and we should do it as soon as possible.

We must pass this conference report today. The American people deserve nothing less.

Mr. Speaker, I urge passage of this bill.

Mr. LIPINSKI. Mr. Speaker, how much time do we have remaining on our side?

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Illinois [Mr. LIPINSKI] has 23½ minutes remaining and the gentleman from Pennsylvania [Mr. SHUSTER] has 22½ minutes remaining.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO

Mr. DEFAZIO. Mr. Speaker, I thank the ranking member for yielding me this time. There are, indeed, many important parts to this legislation, those that go to security, those that go to the infrastructure of the air traffic system in this country, and a provision which I worked hard to get in my decade here in Congress; that is, to finally say that the FAA's business is to regulate in the public interest and regulate for safety and not promote the airlines.

Those are the good parts of this bill. They have merit and they should be enacted into law.

Unfortunately, what we have here is one last attempt at the very last moment to put in an extraneous matter, voted on by neither committee of jurisdiction, voted on neither by the House or the Senate, to benefit one very large multinational corporation who has generously filled many campaign coffers of Members of this House and the other body.

This is not a technical correction. It is not a technical correction. Do trucks run on rails? No. Well, we are going to classify Federal Express for the purposes of this bill as a rail carrier.

Now, Mr. Speaker, there is one very simple reason for that. It makes it a lot harder to organize. So, once again, the working people of this country are going to be screwed by a large corporation, screwed behind the closed doors of a conference committee. Special interest provisions are being put into what is an otherwise meritorious must-pass bill for this Congress.

We can defeat this bill and send a message to the big corporations: It is not business as usual here in Washington anymore.

What happened to the changes in the revolution? Is this the revolution? Special interest for one large corporation stuck into a bill that otherwise benefits the people of America generally and would not hurt the working people. It is not too much to ask.

Reject this bill. If we do not reject it, the President may well veto it. Let us reject it, send it back to conference, get the special interest provision, this provision for one large company, taken out and get a clean bill.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York [Ms. MOLINARI] chairman of the Subcommittee on Railroads of the Committee on Transporation.

Ms. MOLINARI. Mr. Speaker, I thank the chairman for yielding me this time, and perhaps at the risk of trying to restore some sense of order, sanity and, hopefully, some reasonableness back into this House, I would like to explain, in fact, without the political hysteria that has just gone on, exactly what happened here.

Mr. Speaker, we are talking about, and there has been references made with some very colorful language, to the Hollings amendment that is included in this conference report has drawn far more controversy than it should have. A careful review of the facts, as opposed to the rhetoric, should bear this out.

To begin with, the Interstate Commerce Commission Termination Act, which was enacted last December, removed the term ''Express Company'' from the I.C.C. statute. This was done at the suggestion of the then ICC—now the Surface Transportation Board—because the staff believed the term no longer had any meaning. The ICC bill also included many conforming amendments to other laws. One of these conforming amendments removed the term ''Express Company'' from the Railway Labor Act, again under the assumption that the term was obsolete and had no meaning.

The assumption, that ''Express Company'' no longer had any meaning, was true for ICC purposes. What no one realized at the time, however, is that the

term does have meaning for National Mediation Board purposes in determining who is and who is not covered by the Railway Labor Act. In fact, as recently as 1993, the National Mediation Board has used the term ''Express Company'' standard in deciding Railway Labor Act cases.

So the effect of the drafting error in the ICC Termination Act is possibly to jeopardize certain entities' existing status under the Railway Labor Act. This ambiguity flies in the face of the stated intent of the ICC legislation—made explicit at labor's request—not to ''expand nor contract coverage of employees and employers under the Railway Labor Act.''

The Hollings amendment would simply correct the mistake that was made in the ICC Termination Act by restoring the Railway Labor Act legal standards that existed before the ICC Termination Act was enacted. It would not make it more difficult to organize, as some critics have claimed, since no one's status is being altered. It would not affect trucking companies, since trucking companies are explicitly excluded by statute from the Railway Labor Act. What it would do is correct an honest mistake that certain groups are trying to exploit to their own advantage.

I urge my colleagues to consider the facts of this issue and vote ''yes'' on the conference report.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York, [Mr. NADLER].

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, as a member of the Subcommittee on Aviation, I was expecting to support this conference report. The gentleman from Tennessee, Chairman DUNCAN, the gentleman from Pennsylvania, Chairman SHUSTER, the gentleman from Minnesota, Ranking Member OBERSTAR, and the gentleman from Illinois, Ranking Member LIPINSKI, and the other members of the committee as well as the staff put in countless hours crafting a bill that was bipartisan in nature and would easily have passed this House.

That is why I am so disappointed. We now find ourselves in a heated debate over one provision in this bill, a provision that is beyond the scope of the conference report.

The majority has inserted language to reinstate the language ''express carrier'' as a recognized term in the Railway Labor Act, a term that was deleted by the majority in the ICC Termination Act just a few months ago. It was not done by accident, it was not an oversight on the part of some clerk. It was deliberate and reasonable because, according to the ICC and its successor, the Surface Transportation Board, there are no companies left that fall into that classification. But we know the real reason why this is being done.

With this language, the Federal Express Corporation, a large source of campaign contributions for lots of people, will be able to apply to be reclassified as a so-called express carrier. If the Federal Express were successful, it would be able to deny to its truck drivers the protections afforded by the National Labor Relations Act of their right to organize a labor union, should they wish to do so.

Why has Federal Express suddenly found the need to be classified as an express carrier? The classification has been around for more than 20 years. What has changed? Why is it suddenly so important? It is obvious: to keep out the union. This is a union-busting provision, pure and simple. If, as was stated, this is simply a technical correction being made, why was it not done at the committee level? Why was it not done at the House? Why was it not done at the Senate? Why this last minute secret addition in the conference report? Why does the Committee on Rules have to waive the point of order to make this nonconferenceable provision admissible into the conference report?

It is terrible that we are now perhaps jeopardizing billions of dollars in airport construction funds in order to carry out some secret promise to one company. If this is a reasonable request, let us have hearings, let us have some debate about this. This is the wrong time to be doing this. It is the wrong bill to be doing this in.

I urge a no vote on this conference report as long as it contains this nefarious ''FEDEX'' amendment.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished ranking member of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I thank my good friend and colleague for yielding me this time.

Mr. Speaker, there are a number of good reasons to oppose this bad legislation, but let me tell my colleagues about another less publicized provision. This is a Republican special interest fix which was so bungled we are not in this legislation about to eliminate a key airline safety provision.

The tale starts with some airline companies that were concerned that EPA may be overly aggressive in regulating airplane emissions from engines. I, too, frequently have criticized the EPA for its ovezealousness but I cannot support the solution that this conference has advised.

I would also point out that existing law, the Clean Air Act, forbids this action from being taken by EPA where it would jeopardize the health and the safety of the traveling public.

As passed out of the Senate committee, the measure included a provision which stripped EPA of its power to regulate aircraft engine emissions. When the measure got to the Senate floor, an amendment was adopted that basically stated EPA could not change aircraft emission standards where the change would impact engine noise or aviation safety.

Unfortunately, this was translated into legislative language on the Senate floor and as adopted by the conference, from which the Committee on Commerce, which has jurisdiction and expertise on clean air, was excluded, the result was that the provision literally only applies to EPA emission standards, which both significantly increases engine noise and harms engine safety.

In other words, as passed by the Senate, the safety concerns alone are not enough to stop EPA engine emission standards. Bungling. Incompetence.

Worse, because this new language was placed by the conferees, over my strong objections, directly into the Clean Air Act, this provision now conflicts with existing provisions of the law in the Clean Air Act which allowed FAA to prevent implementation of EPA airplane emission standards where airline safety may be compromised. The result is a thoroughly screwed up, incompetently done statute, which risks the safety of our traveling public.

We can resolve this whole problem by rejecting the bill and going about our business in a more sensible fashion.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume to respond to my good friend from Michigan as well as my colleagues on our side of the aisle on this issue, that it was the Senate bill that included this provision. Indeed, both Republicans and Democrats.

So when my good friend from Michigan calls it a Republican provision; the Democrats in the Senate supported this as well as the Republicans, I am told. And it gave the FAA a greater role in setting aircraft emission standards. It is important because emission standards can affect aviation safety as well as aircraft noise.

☐ 1315

Currently, aircraft emissions are controlled by EPA and the House Committee on Commerce. We acknowledge that. We agreed with this provision in conference for the sake of safety, not committee, jurisdiction. The provision was changed in conference, indeed, to make it more acceptable to the Committee on Commerce. Our staffs worked with the Committee on Commerce to try to make it more acceptable.

We would be happy to continue to work with that committee on this issue and we certainly acknowledge their jurisdiction on this issue, and we have already committed to put that in writing, that we will indeed acknowledge that this is their jurisdiction on this issue. It was a Senate provision which we found in the course of negotiating in the conference we had to accept in order to get on with the legislation.

Mr. LIPINSKI. Mr. Speaker, I yield 15 seconds to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, the answer is the Committee on Transportation and Infrastructure thoroughly bollixed up and botched this matter. Airline safety is adversely affected because the committee did not talk to the Committee on Commerce and because the Committee on Commerce was excluded. The result is that the traveling public is going to be much less safe under this legislation than they are under existing law.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I rise in support of the conference report on H.R. 3539, the Federal Aviation Administration Authorization Act of 1996. We must pass this bill without delay. The time is way overdue.

This year the FAA has been the target, and rightfully so in many cases, of public concern over aviation security and airline safety. In this crucial time when we are asking the FAA to secure our airports and ensure the safety of our planes, this is no time to let a partisan squabble over a technical amendment threaten the future of the FAA, our airports, and our airline passengers.

For the last 2 years of this Congress, I have been a strong advocate of FAA reform. In fact, I introduced my own FAA reform bill, H.R. 2403, just 1 year ago this month.

Mr. Speaker, this bill takes the final steps to set these reforms in motion. We can all rest easier when we fly knowing that the FAA will be able to place qualified and satisfied air traffic controllers in towers and cities across our Nation. This bill also ensures that the FAA can begin replacing its outdated air traffic control computer with reliable and updated computer systems that will guarantee the safety of our Nation's skies.

Finally, this bill requires airlines and airports to implement security screening standards and bomb detection equipment. Again, are we going to hold up this bill in the final hour? I think not.

Mr. Speaker, it is time to pass the FAA Authorization Act. Just this morning a major airline experienced a security threat at the Nashville International Airport, which serves my district. This bill, ensuring new safety and security for our Nation's airports, airlines, and passengers cannot be delayed. I call on my colleagues to support H.R. 3539.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. BILIRAKIS].

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, as chairman of the Health and Environment Subcommittee, I must rise in opposition to section 406 of H.R. 3539.

This new section changes current law respecting the promulgation of aircraft emission standards. Although the changes are specifically made to the Clean Air Act, and not to the underlying bill, I believe this is a matter which is properly addressed through the normal legislative process and not through last minute legislating in a conference which was closed to the committee of jurisdictional interest in this matter.

The new section 406 is not a radical departure from current law. It maintains the present requirements of the Clean Air Act for consultation between the Environmental Protection Agency and the Federal Aviation Administration regarding aircraft emission standards.

However, the new section is duplicative at best and troublesome at worst for its attempt to alter standards affecting the promulgation of new emission standards. While I do not personally object to considering noise and safety as part of developing new emission standards—I do object when my subcommittee, which has jurisdiction over the Clean Air Act, is allowed neither time nor opportunity to assess recommended changes to the law.

Section 406 has not been subject to proper review by the Health and Environment Subcommittee and there is no legislative record to support its inclusion in H.R. 3539. This section was added without the consent of the Commerce Committee or the Subcommittee on Health and Environment.

Years ago, I objected when such provisions were added by the former majority in various bills and conference reports—most often late in the session and very often late at night. I do not believe the new majority should fall into the same trap of ignoring bona fide interest and expertise of the committee of jurisdiction. As we all know, what may appear to be simple and innocuous legislative language often can have an impact far beyond that which is apparent in the initial review. Aircraft emission standards are an important subject for consideration within the Clean Air Act and within the committee given explicit authority over the act. And so, Mr. Speaker, this is a protest against doing business in this manner.

Mr. LIPINSKI. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, let us focus on what this debate is really about. This provision for FedEx is another assault on the American middle class, the American middle class that has been attacked for over 15 years by our Nation's terrible trade policies, technology, profit driven downsizing, profit-driven deregulation, and systematic sinister weakening of unions. How, you ask? Let me explain.

During the debate on the rule, I outlined the history of this dubious Federal Express provision. Let us take a closer look at what my colleagues are calling a technical correction.

The last express carrier, as defined by the ICC, went out of existence 20 years ago, so at the ICC's suggestion the classification was removed from statute because it was obsolete.

But suddenly, after the ICC bill is signed into law, one company and its countless consultants decided that it might want to be an express carrier some day and started knocking on doors up here.

I have already outlined the five other times FedEx has tried to get this provision into law. Judging by the consistent effort and expense they have gone to, it must really be important for them to remove this dead classification.

But why? Federal Express would not go through all this trouble if they were not going to get something out of it. The fact is that it is much more difficult for a union to organize under the Railway Labor Act than under the National Labor Relations Act.

Under the RLA a unit of the company would have to be organized companywide, while under the NLRA it can be done facility by facility.

Why is this relevant for a company like Federal Express, which is currently classified as an air carrier and already subject to the RLA? Federal Express' operations have changed. No longer does every package get on a plane. Often it just goes on a truck to its destination.

I understand that Federal Express' long-term plan is to truck in packages less than 400 miles away from their hubs around the country. Why would an airline like Federal Express rely so much upon trucks? Because it is cheaper. To their credit, Federal Express is planning for the future to remain competitive. It sure seems to be working. In fiscal year 1996, Federal Express had revenues of $10.3 billion. That is $10.3 billion revenues in 1996. It has headquarters in Memphis, Miami, Hong Kong, and Brussels, with offices in hundreds of cities around the world. And yet, it is afraid of middle-class Americans coming together in a union to improve their way of life, improve their children's way of life, and expand the American middle class.

Managers at FedEx get a labor law book which states in large print: ''Our corporation goal is to remain union free.'' Sections in that document are titled: ''What are indications of union activity and what can I do?'' ''What can I do to prevent union intervention?'' I have that documented right here in my hands at the present time, if anyone would like to look at it. No wonder they want to be an express carrier.

Mr. Speaker, there are no express carriers and have not been any for two decades. Federal Express is pushing this provision so it will be prepared in the future to meet its corporate objective: Remain union free. That is why they have tried to attach this provision to six bills in the last 9 months.

The Republican leadership has decided even though the airports need funding, the FAA needs to be reformed

and aviation security needs to be addressed, as well as the other four areas this bill addresses, it is more important to do FedEx a favor.

Today we have an opportunity to take a stand for the American middle class, a small but very significant stand. We can strip from this bill the 11th hour, no hearings in subcommittee or full committee, Federal Express amendment that makes it much, much more difficult for middle-class Americans to organize into unions so that they can improve their standard of living with better salaries, wages, and benefits.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

We may disagree and have different opinions, but I am sure my good friend would not want to misstate the facts. When we hear that Federal Express is not an express company, that simply is factually incorrect. There is no reclassification here. According to the National Mediation Board findings of law, it is very clearly spelled out that they are recognized as an express company. They have been for as many years as they have been in business. So this is a matter of fact, and I am sure my friend would not want to mislead the body. I think the fact needs to be stated.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY.]

Mr. DELAY. Mr. Speaker, I rise in support of this conference report, but I am disturbed by the kinds of things that are being said on this floor with regard to what is frankly a simple technical correction that was made by the conferees of this committee. FedEx is not trying to get something that they have not had for many, many years. FedEx is not trying to get something new. FedEx is not union bashing. FedEx understands that we made a mistake in the Interstate Commerce Commission Termination Act, and they are trying to regain and correct that mistake. It is fairness here. And I am very disturbed that like the ads that are being run against us time and time again out in the country and almost $100 million misrepresenting what we have been doing in this, once again the facts are being misrepresented in this regard.

When the Interstate Commerce Commission Termination Act was signed into law last year, a drafting error in a conforming amendment created an ambiguity concerning the status of express companies under the Railroad Labor Act, which is the sole statute governing labor relations in the rail and the airline industry. That is fact. Prior to the enactment of the ICC Termination Act, the Railway Labor Act had jurisdiction over carriers which were defined as ''any express company, sleeping car company, carrier by railroad.''

□ 1330

Due to a drafting error, express companies were inadvertently dropped from the scope of the Railway Labor Act, and that is fact. The result is that an ambiguity was created.

The ICC Termination Act states that the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.

Now clearly, Congress did not intend to change the status of express companies with regard to the Railway Labor Act in any way, and unfortunately that is the result of this error. So I certainly would hope that those Members expressing concerns about this provision are not trying to take advantage of an unintended mistake for their own gain. This bill simply corrects an error to restore what was the status quo in this country.

So I urge my colleagues to support this bill and oppose any motion to recommit that would strip out this provision.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Missouri.

Mr. VOLKMER. I would ask the gentleman, why, if this is just a technical thing, was it not put in the House bill back originally?

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman's time has expired.

Mr. DELAY. Could I have 15 seconds to respond?

Mr. SHUSTER. I just do not have any more time.

Mr. DELAY. I hope someone will answer that.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding this time to me, and I want to reiterate and adopt what the previous speaker said, the gentleman from Texas [Mr. DELAY]. This is nothing more than an issue of fairness. As he said and as others have said, there was an ambiguity unintentionally created, and I want to read again what we said in the bill.

The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of the employees and employers by the Railway Labor Act.

These are not my words; these are the words of Congress. Some of the people who are opposing the conference report for this reason are the very ones that drafted it. These are not our words; these are the words of Congress.

And to say this is any way antilabor is simply untrue. As a matter of fact, there are a higher percentage of workers unionized under the National Railway Labor Act than there are under the National Labor Relations Act, and I see it as a basic matter of fairness to correct an unintended error made in drafting.

Mr. Speaker, I want to say something else about FedEx. I represent part of Memphis, TN. Federal Express has dedicated 100 percent of their aircraft to the civil patrol. They flew more missions in Desert Storm than any other civilian aircraft company in this country. Fred Smith is a dedicated patriot who served in Vietnam, crawled through the rice paddies, and I resent this attack on one company because of a drafting error that is clearly the intent of Congress to correct today, and that is all this matter is about.

Mr. LIPINSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. VOLKMER].

(Mr. VOLKMER asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I not only am a lover of cats, but I love flowers, and flowers are very beautiful, and what I saw developing as this bill passed through the House, passed through the Senate, started in the conference up to Wednesday was a beautiful bouquet of flowers that smelled just beautifully. And then Wednesday night, something happened. Wednesday night, a skunk snuck in a beautiful flower garden and smelled up the whole thing, and this bill now just smells, smells, smells terribly.

Why? Because of one special interest provision that was put in there for Federal Express. That is all. The rest of the bill is fine.

I would like to ask the gentleman from Illinois who worked so hard on this legislation to get all the good points in, and I want to commend him and also the gentleman from Minnesota, the ranking member of the full committee.

As my colleagues know, this provision which we have heard here, this leadership, and I will talk about that leadership in a minute, that leadership calls it a technical thing. Did we ever have any hearings on it?

Mr. LIPINSKI. Mr. Speaker, if the gentleman would yield, no, there were never any hearings on it in the House.

Mr. VOLKMER. In the subcommittee?

Mr. LIPINSKI. Not in the subcommittee.

Mr. VOLKMER. Full committee?

Mr. LIPINSKI. Not in the full committee.

Mr. VOLKMER. How about the Senate? Did they have any in subcommittee or full committee?

Mr. LIPINSKI. No hearings in the subcommittee or full committee in the Senate.

Mr. VOLKMER. That explains why it was not in the bill when it passed the House and the Senate.

Mr. LIPINSKI. Absolutely.

Mr. VOLKMER. Because it really did not need to be in this bill, but all of a sudden—now it was not in either bill when it passed through the House or the Senate; is that correct?

Mr. LIPINSKI. That is correct.

Mr. VOLKMER. Now how many times has Fed Ex tried to get this provision in other bills unsuccessfully before this bill?

Mr. LIPINSKI. At least five and perhaps six. I cannot confirm the sixth one, but I certainly can confirm five occasions.

Mr. VOLKMER. Now if this was purely a technical little provision that really did not harm anybody or do anything, they would not have that problem; would they?

Mr. LIPINSKI. It is my opinion that they would not, no.

Mr. VOLKMER. Now, as my colleagues know, I have been reading about this, and I admire the gentleman from Pennsylvania, and up to Wednesday night I would say he helped grow that beautiful bouquet of flowers.

But I would like to quote the gentleman from Pennsylvania when this came up in conference. It says:

Representative SHUSTER: I am told by my staff that this is clean language to accomplish what the Senator stated. I am instructed by our leadership to accept it from my perspective.

That is what I find, that the gentleman from Pennsylvania, from the leadership, and I find that leadership down on the floor, but I also find that leadership has raised all kinds of dollars all through this political process through this whole Congress from special interests.

And I would like to ask anybody in this body, ethics, I think somebody should take a look at the Federal Election Commission reports and let us see where Fed Ex money is going to. How much is the Republican National Committee getting from Fed Ex? How much is the Republican Congressional Campaign Committee getting from Fed Ex? How much are the members of the leadership on that side getting from Fed Ex?

I think there is our answer right there, Members. That is what this is all about. It is a payoff; that is all it is, is a payoff.

Now even the gentleman from Tennessee, the subcommittee chairman, and he is up at the Committee on Rules, he did not say he wanted this. And I admire that gentleman greatly. He said in answer to the chairman's question in the Committee on Rules, ''It would have suited me if it was not in there.'' That is what he said. Now, that is the truth. It is better not to be in here.

The best thing we can do to get this skunk out of the flower bed is to defeat this bill, and if the bill is not defeated, I think we all should urge the President to veto this smelly, skunky bill.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio, [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I thank my colleague from Pennsylvania for yielding the time.

Let me congratulate Members on both sides of the aisle for bringing this bill to the floor and the job that they have done in reauthorizing the FAA and in furthering many projects that need to be done to improve the Nation's airports.

Now we all know that there has been a great change in this Congress. We have just not restored common sense back to Congress, but we have also brought an awful lot of accountability back to Congress, and when we make a mistake, we have had the courage to stand up and to correct that mistake. That is why we are here today, fighting over one small provision of this bill.

When we eliminated the ICC last year, we made a drafting mistake, and I think every Member of this body understands it was truly a mistake. And since then, we have lawyers around America trying to exploit the mistake that was made when we eliminated the ICC.

What we are trying to do today is to have the courage and the guts to stand up to do what is right and to fix the mistake that we made and to stop those from exploiting this innocent mistake for their own professional good or, frankly, for their own livelihood.

Now the outrageous claims that were just made by the previous speaker, I am not going to even provide enough dignity to what was said to respond to it, other than no person's name, no company's name ever ought to be uttered on the floor of this House.

We know we made a mistake. Let us stand up and do the right thing.

We know in the Senate, where this provision came from, that the Senate Members unanimously agreed to put it in the bill. That means all of the Democrat Senators and all of the Republican Senators in the other body unanimously argued to put this provision in this bill.

That is where it came from, that is why it is here, and that is why we are dealing with it today. But more importantly, we are dealing with it because it is the right thing to do, to admit we made a mistake and correct it.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, let me just say this is being painted as a union vote, and it seems incredible to me that it could be cast in those terms. It is simply correcting a technical error that was made when the ICC Regulation Termination Act was passed.

Someone having firsthand knowledge of this, actually having facts in this case, will understand that while Federal Express was under the Railway Labor Act, that in fact its pilots did unionize. So I am not sure I understand the facts that this is an antiunion vote.

I might also cite the national statistics on this, that folks under the National Labor Relations Act in the private sector are unionized about 11 percent, whereas under the Railway Labor Act they are unionized 65 to 70 percent.

So, again, I fail to see how this could possibly be, under any circumstances, an antiunion or a union vote.

I urge my colleagues to do the right thing to correct this mistake and give the relief sought.

Mr. SHUSTER. I yield 1 minute to the gentleman from Virginia [Mr. WOLF].

(Mr. WOLF asked and was given permission to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I rise in very strong opposition to this bill. Let me just talk to the Members on our side.

This bill expands the essential air service that our Committee on the Budget voted to phase out. I thought we had abolished all the ice buckets on Capitol Hill. We have created a massive ice bucket with regard to this bill. We are expanding essential air service.

There are so many other things, Mr. Speaker, I am just going to revise and extend. I strongly urge my colleagues on this side to vote against this bill, because when they read this bill later on next week, they will be very regretful that they voted to spend all this additional money.

Mr. Speaker, I wish I could vote for the conference report to H.R. 3539, the Federal Aviation Authorization Act of 1996. This bill funds airport improvements, air traffic control facilities and equipment, and salaries and expenses to operate the FAA.

But the bill includes amendments to the Metropolitan Washington Airports Act which I find unacceptable. Colleagues who were serving in the mid-1980's may recall the legislation to turn control of the two metropolitan Washington airports—National and Dulles—from the Federal Government to a local authority.

We got the Federal Government out of the airport management business and established an authority made up of a majority of local residents to run these two airports located in Virginia. And what has happened since the 1986 act establishing the Metropolitan Washington Airports Authority? I believe everyone would agree that it's been a true success story. I submit here for the RECORD a copy of statistics on the success of the two airports.

Both airports have had major renovation and expansion projects underway and are serving more passengers more efficiently than ever before in modern and safe facilities.

If there has been one ongoing source of contention, though, in this almost decade-long process of having the local authority operate these airports, it has been the Congressional Board of Review which was set up in tandem with the Airports Authority as a way to keep congressional oversight and even, some would say, control over the airports.

I never believed the Review Board was necessary because Congress already has a built-in mechanism for oversight and that's the committee hearing process. Court challenges also were made to the Review Board and twice the U.S. Supreme Court struck down the Review Board as unconstitutional.

Legislation was then introduced to try to keep Congress involved with the airports and get around the constitutional challenges. What has emerged in this Congress as provisions in the FAA conference report are changes to the make-up of the Airports Authority board of directors which I find incongruous with one of the primary changes this Congress has tried to make in the area of Federal mandates and turning back control to State and local governments of what should be State and local government decisions.

This conference report mandates two additional directors to the MWAA board appointed by the President and specifically mandates that the two additional appointments "shall be registered voters of States other than Maryland, Virginia, and the District of Columbia." Furthermore, provisions in the conference report for the two additional Presidentially appointed board members state that "in carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest."

That is wholly unacceptable and defies what this Congress has tried to accomplish in turning back control of program and decisionmaking to the local and State levels.

Another provision in his conference report is merely a job protection provision for a former employee of the Congressional Board of Review. Even though the Board of Review is terminated, this bill provides that this employee will continue to have a position with the Department of Transportation serving "to assist the Secretary in carrying out this Act."

Mr. Speaker, I am a strong supporter of aviation programs but am convinced that the provisions in the conference report to H.R. 3539 relating to the Metropolitan Washington Airports Authority are unnecessary and regret that these provisions are included in legislation I would like to support. I thought we got rid of ice buckets.

There are other bad provisions in this bill and I therefore oppose H.R. 3539.

YOU CAN ONLY TRADE AS FAR AS YOU CAN TRAVEL

Prepared for the Washington Initiative's European Mission.

WASHINGTON ENJOYS EXCELLENT AIR SERVICE

In today's global market the efficiency of a region as a business location is a function of its air service availability. The Washington region's businesses work with local governments, the airports, and the federal government to attract new air services and to represent the travelers' and the shippers' interests. As a result, Washington's air service choices have more than doubled in ten years and Washington Dulles is projected to be one of the top five international gateways to the U.S. by 2002.

Washington's excellent demographics form one of the nation's largest domestic and international aviation markets. Combined with the city's strategic geographic location, this market gives Washington based companies a very wide choice of competitive services from a choice of airports, including:

238 international flights a week operated by 20 carriers, provide direct service in 32 markets principally from Washington Dulles, including nonstop service to all major European gateways and Tokyo.[1] (Canadian services also operate from National.)

More than 600 daily domestic flights from Dulles and National serve 77 U.S. destinations nonstop and provide single plane or one stop connecting service to virtually every community in the United States receiving scheduled air service.

New low-fare services saved travelers from Washington Dulles and National $97 million in 1995.

In 1995, Washington Dulles was the 7th largest intercontinental gateway to the United States and ranked 4th as a transatlantic gateway behind New York's JFK, Los Angeles International and Chicago Airports.

On the east coast, Dulles ranked second only to New York's JFK as a transatlantic and Asian gateway.

Washington Dulles serves the 3rd largest international market in the United States.

Washington Dulles is strategically located:

1. Within a two-hour flight or a day's truck journey of two-thirds of the U.S. and Canadian populations—the world's largest market.

2. On the Great Circle air routes between the Far East and South America and between Europe and Southern NAFTA.

Washington Dulles and National Airports, 36 airlines provide:

1. Nonstop daily service in 77 domestic markets and one-stop service to virtually every airport served by scheduled airline service.

2. Nonstop or single-plan service in 32 international markets, including nonstop service to Tokyo and all major European gateways.

Washington Dulles Airport European services include:

1. A choice of three daily nonstop services to Frankfurt with United, Lufthansa and Delta Airlines.

2. Six daily nonstop flights to London by British Airways, United Airlines, and Virgin Atlantic.

3. Daily service to Amsterdam by United and Northwest/KLM.

For air cargo shipments Washington offers:

1. 141 airlines and companies providing freight forwarding, customs brokerage, trucking, warehouse and bonded space, foreign-trade zone, cold storage, and other services with reliable, 24-hour operations.

2. Modern cargo facilities and a vibrant growing cargo industry.

3. Paperless, electronic interfaces with U.S. Customs, allowing prompt service and clearance of cargo, in some instances before the plane lands.

4. Uncongested airport access through the Washington Dulles Access Road and an uncongested extensive road feeder trucking network.

5. A high standard of secure, rapid and responsive cargo services with extremely low loss and damage levels.

THE REGION'S AIRPORTS

Washington is served by three airports which provides the traveler and shipper with an unusually side competitive choice for fares and services. American cities with only one airport which is predominantly served by one or two carriers typically have fares 18 percent higher than the national norm.

Washington Dulles International and Washington National Airports are part of the National Capital Region and operated by the Metropolitan Washington Airports Authority—a regional self-funding government agency.

Baltimore Washington International Airport is located between Washington and Baltimore and operated by the state of Maryland. BWI and Washington Dulles are located approximately 40 minutes from downtown Washington. National Airport is located on the Potomac River in the downtown area.

National Airport is a physically limited facility offering a controlled number of flights to U.S. and Canadian destinations without 1,250 miles. Washington Dulles is the region's full service growth airport with a design capacity of 50 million passengers and 750,000 flights per year with 320,424 flights handled over the 12 months ending with July 1996. BWI provides a wide range of North American service, including transcontinental, Canadian and Caribbean flights, and transatlantic service principally to the U.K. and Scandinavian countries.

The Smithsonian plans to open a 720,000 sq. ft. expansion of the National Air & Space Museum at Washington Dulles in 2001.

[1] Summer 1996 Schedule.

Mr. LIPINSKI. Mr. Speaker, we at the present time only have two speakers remaining. I do not know how many speakers the gentleman from Pennsylvania has. He still has more time than we have, so I would like to try to balance this out, Mr. Speaker.

Mr. SHUSTER. Mr. Speaker, I am still attempting scientifically to determine how many speakers I would have, I would say to my friend, but I yield myself such time as I may consume.

Mr. Speaker, I would respond to my friend from Virginia, who was in the well a moment ago, two points. First of all, the authorized levels in this bill are below previous authorized levels; and, second, it is easy for someone from a large metropolitan area, indeed, the Nation's Capital, to not care about essential air service for rural America. But rural America cares about essential air service. Indeed, many of our communities are dependent upon it.

So for those Members on both sides of the aisle who care not only about supporting our major metropolitan areas, and we do, but also care about supporting rural America, the essential air service provision is an important provision.

□ 1345

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, in 1978, if we had not had an agreement that created essential air service, we likely would not have had deregulation. Continuing EADS is continuing the commitment we made to small towns and communities and rural areas across this country, that they, too, would be served by aviation.

Mr. LIPINSKI. Mr. Speaker, I yield 3½ minutes to the gentleman from Minnesota, [Mr. OBERSTAR] the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let us just get the record straight on this express issue. The reason for ending ICC regulation and oversight of express carriers was that the concept of express carrier had become obsolete. The ICC staff itself recommended the elimination of express carrier status.

It was not an oversight, it was not something that someone forgot to do, it was not something that was neglected in drafting. It was not a drafting error. It was done for good reason. The last express carrier went out of business in the mid-1970's.

Federal Express purchased that carrier's operating certificates. The Surface Transportation Board, successor to ICC, advised us in writing, "Federal Express apparently never engaged in the operations authorized by these certificates."

Subsequently, Federal Express obtained and operated new certificates

which, according to the Surface Transportation Board, were ''different from the licenses typically issued to motor common carriers to provide express service.''

In short, Mr. Speaker, and factually, without hyperbole, Federal Express has never been an express carrier. There have been no other express carriers since the 1970's.

The change in the Railway Labor Act does not deprive Federal Express or anyone else of rights they held in 1995. Whether you are an express carrier or not is going to be determined on the basis of the nature of your operations as a carrier.

If express carriers continue to be covered by the Railway Labor Act, then we will be in an Alice in Wonderland situation. Supposing a trucking company is formed in the year 2000 and claims to be an express carrier under the Railway Labor Act. How will its case be decided? Will the National Mediation Board have to decide whether the ICC would have issued to this company an express carrier certificate? It just creates a lot of problems.

Whether Federal Express is an express carrier within the meaning, or is a carrier within the meaning of the Railway Labor Act, is determined on the basis of the dollar volume of its operations and whether the preponderance of its operations are as an air carrier or as a truck carrier, motor carrier. They are an air carrier.

We should not, on the thin thread of a nonexistent operation of a dormant authority purchased and never used, lock this carrier into a statutorily established position within the meaning of the Railway Labor Act forever and ever. That is simply wrong.

If Federal Express wants to make its case, we can hold hearings in the ordinary course of events and attempt to find a way, but we should not use the subterfuge of dormant authority, never used, never undertaken by this carrier, to give them a very special and privileged status.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, counsel informs me that Federal Express is indeed an express carrier, and refers very specifically to findings of law in 1993, three different cases, instances before the National Mediation Board, in which they state ''Federal Express corporation has been found to be a common carrier as defined in 45 U.S.C. 151, First;'' and it goes on. The important point is 45 U.S.C. 151, First is the express carrier statute. So very clearly, Mr. Speaker, in these findings of law Federal Express has been identified as an express carrier.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman from Illinois [Mr. LIPINSKI] is recognized for 2½ minutes.

Mr. LIPINSKI. Mr. Speaker, first of all I want to say that the cooperation I have had with the gentleman from Minnesota has been outstanding, and I sincerely thank him for that, in regard to all these aviation bills.

I also want to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee, for the excellent cooperation we have had with him, and the majority staff on the Republican side has worked extremely well with the minority staff on the Democratic side. They have all worked enormously hard on these pieces of legislation.

They are very, very good pieces of legislation. Mr. Speaker, none of us want to see them fail. But, unfortunately, we do have this Federal Express provision in this bill. It was not ever talked about in any hearing in the subcommittee or a full committee, in the House or in the Senate.

In fact, there were no discussions between the conferees in regard to this particular provision until at the absolute end of the conference, when everything else was decided, a Senator brought forth this provision. It prevailed. I understand that. But just because it prevailed in a conference committee among 10 Members, it should not mean that this House has to accept it. Mr. Speaker, this House has a right to reject it.

As I have said before, we all give lipservice to protecting, strengthening the American middle class. This is an opportunity to do it. This is a $10.7 billion corporation. They can afford to have their employees unionized. They can afford to have their employees come together for a better way of life, a better way of life for their family, a better way of life for themselves.

If Members truly support the American middle class, if they want to see it grow, vote ''no'' on this bill, and we will come back and pass this bill without this terrible provision.

Mr. SHUSTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I happen to agree with my friends that we should not have to be here today on this floor debating this particular issue. This issue should have been easily resolved many months ago, and of course, as my friends know, we tried to resolve it but they blocked it. We were unable to.

Then, of course, we did not bring this issue to the floor in our conference report. Rather, it was offered by our colleagues in the Senate, and indeed by Senator HOLLINGS, and passed unanimously by the Senate conferees, Republicans and Democrats, and supported by the Republican conferees because we believe and are absolutely convinced that the evidence is overwhelming that this is nothing more than a correction of a mistake, an honest mistake that was made at the time we eliminated the ICC.

Mr. Speaker, we have had a lot of rhetoric on the floor here today, everything from flowers to skunks, but I would hope we could set the rhetoric aside and look at the facts. Mr. Speaker, let us look at the facts. There are certain facts that are incontrovertible. Perhaps the most significant, the most overwhelming fact of all is that there is labor-requested language included in the ICC Termination Act. Let me quote what is in the law.

''The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.'' That was the quote. Let me emphasize it again, that is the law: ''It shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.'' I do not see how anybody can misinterpret that. It is there. It is a fact. It is the law.

Then we discovered we had made a mistake. By making that honest mistake on both sides of the aisle, we find that this term of the law is not met, so we simply are attempting to correct it.

Mr. Speaker, it is very clear to everybody, I think, that our friends in labor saw this as a windfall opportunity, the opportunity to capitalize on an honest mistake that was made in drafting the legislation, so they are attempting to capitalize on this windfall.

I believe, from the bottom of my heart, that had we discovered an unintentional provision of the law which inadvertently hurt labor, I would be down in the aisles today, as would many of my colleagues, supporting the removal of that unintended provision that hurt labor. But, so be it, everybody must make their own judgment.

The evidence is overwhelming. Indeed, the technical correction contained in this report is entirely neutral. It does not predetermine the actual status of any company, either in the present or in the future. It simply restores the legal standards that were in place before the ICC Termination Act was passed.

So I hope we would set aside the rhetoric, I hope we would set aside the misinformation, I hope we would deal with the facts. Indeed, the facts are very clear. The law spells out, there is no advantage or disadvantage. We are simply correcting a mistake which was made in the law. For that reason, I urge my colleagues to support this legislation. It is must legislation.

I regret that something that should have been handled routinely much earlier has not been handled routinely much earlier, but at bottom, what we are doing here is fair. What we are doing here is correcting a mistake. Very importantly, what we are doing here is bringing to the floor of this House vital aviation legislation so we can continue to build and improve the airports of America, the United States of America's aviation system, and provide for the safety and security of the pension.

For all of those reasons, I would urge my colleagues to support this legislation.

Mr. ARCHER. Mr. Speaker, I rise in support of the conference report to accompany H.R.

3539, the Federal Aviation Reauthorization Act of 1996. The bill, as introduced, was referred to the Committee on Ways and Means, and the Committee on Ways and Means was named as conferees on this bill. The bill is necessary to extend the expenditure authority of the aviation trust fund contained in the Internal Revenue Code, ensuring needed funding for the operation of our aviation system, and to enhance air safety and security.

I am very pleased to inform my colleagues that the conference report does not include Senate amendments which would have required a fast-track procedure for House consideration of future administration recommendations on aviation financing, including taxes. Legislative mandates of this nature only serve to limit the input of congressional committees of jurisdiction and to circumscribe consideration of a proposed financing package. I what to thank my colleague, Rules Committee Chairman SOLOMON, who helped us oppose this legislative straight jacket for the House.

I will also note that section 273 of the conference report and accompanying statement of managers contains language to clarify the method by which the Federal Aviation Administration may establish and collect fees on aircraft that overfly the United States but do not take off or land here. These clarifications have been included to ensure that these overflight fees are true user fees and not new taxes on air carriers.

Specifically, the statement of managers on this section states:

The user fee imposed on any flight must be based on the FAA's actual cost of service and not on any non-cost based determination of the ''value'' of the service provided. Further, assuming similar costs of serving different carrier and aircraft types, the user fee may not vary based on factors such as aircraft seating capacity or revenues derived from passenger fares.

Any interpretation of these fees by the FAA to the contrary would be a clear violation of congressional intent. Furthermore, the Committee on Ways and Means will continue to exercise vigorous oversight on any proposed fees which could be viewed as inconsistent with this statement of congressional intent or as a delegation of congressional taxing authority.

The lion's share of this bill is the product of enormous work and effort by Chairman SHUSTER and his committee to develop a bipartisan agreement for strengthening and improving our Nation's aviation programs. The bill before us accomplishes those goals, and it deserves the support of the House.

Mr. ROEMER. Mr. Speaker, one of the important accomplishments of this bill is that it focuses the FAA exclusively on safety, a matter of renewed concern in this country.

The conference report includes a number of provisions similar to the Vice President's Aviation Security and Antiterrorism Commission. These include requiring airlines and airports to conduct background checks—in some cases, criminal background checks—of all personnel who would screen passengers, baggage, or cargo; and requires the FAA to certify companies that provide security screening, and to develop uniform performance standards for the training and testing of security screeners.

While these steps are welcome and needed, they should be considered a beginning. The FAA should establish performance milestones that are attached to the development of technology. They should conduct a classified review of which airports are the safest, and immediately take steps to bring other airports up to speed using the safest airports as working models. The FAA should be implementing a long-term strategy taking into consideration all of the Vice President's recommendations, including any followup report that the Commission may have in the coming months.

Although the bill requires the FAA to use existing technology for explosives detection even if the technology has not been perfected, the FAA gets to decide whether such technology provides a benefit. The FAA should accept technology even of minimal benefit. Even if a device can only detect explosives or weapons 30 percent of the time, it will improve safety.

In addition, Mr. Speaker, in privatizing some airports, the Congress and the FAA should consider what this will do to the uniform standards that the bill is working to implement. There is a lot of promise in new technology: in explosive detection machines to explosion-proof cargo holds. These will augment traditional procedures such as well-trained staff, bomb-sniffing dogs, x-ray devices, and others. These needs provide a clear mandate for Government-sponsored research and development of technology.

All of these efforts should be looked at as milestones toward a single goal: that no airport should be less safe than another. We must achieve a single standard of high security for American airports; a standard that every airport in this country meets at the same level.

Mr. POMEROY. Mr. Speaker, I rise in reluctant opposition to the conference report on the FAA Authorization Act (H.R. 3539).

The legislation before the House contains many vitally important provisions to enhance the efficiency and safety of air travel in this country. I supported the bill when it passed the House, and I fully expected to be able to support the conference report. However, regrettably, in the 11th hour, a positively poison pill was added to the bill that was not part of either the House or the Senate bill, has not been the subject of a single congressional hearing, and represents a serious setback for the interests of working people.

This provision is textbook special-interest legislation added in conference to aid a single, powerful company—Federal Express. The effect of the provision, which would reinstate an outdated classification under the Railway Labor Act, would be to make it much more difficult for Federal Express employees to unionize. This is precisely the wrong step to take in this time of corporate downsizing and financial insecurity. Instead, we must work to safeguard worker protections.

Mr. Speaker, because of this provision, I am forced to oppose an otherwise outstanding bill. However, I am confident that this objectionable provision will ultimately be deleted and the FAA legislation passed before the 104th Congress adjourns.

Mr. CLAY. Mr. Speaker, I rise in opposition to the conference report accompanying H.R. 3539. This legislation includes a blatant effort to deny workers the right to form and join unions. While I support other provisions of the bill, I will not vote for this legislation so long as it includes the express carrier provision.

The express carrier provision was not a part of this legislation as passed by either the House or the Senate. Rather it is a wholly extraneous provision that was inserted into the conference report at the behest of a single company. The sole purpose of the provision is to deny employees of that company any realistic means of being able to form a union and bargain on their own behalf.

This is a measure of the lengths antiunion Members of Congress will go on behalf of the rich and powerful to undermine the rights of ordinary citizens.

The express carrier provision is intended to accomplish a single end—to ensure that employees will not be protected by the National Labor Relations Act, but by the weaker protections of the Railway Labor Act instead. If this transfer of jurisdiction is accomplished, employees would be required to organize on a national basis before they would be able to exercise any voice in the determination of their wages and working conditions. In effect, the express carrier provision is intended to make it impossible for employees to engage in collective bargaining.

That some are willing to jeopardize passage of the Federal Aviation Reauthorization Act in order to deny workers the ability to have a voice in their working conditions demonstrates once again the antiworker animus of this Congress. I urge Members to defeat the conference report.

Mr. BLILEY. Mr. Speaker, I must reluctantly rise to report that the House Commerce Committee does not agree with provisions contained in section 406 of H.R. 3539 which affect the promulgation of aircraft emission standards.

These provisions were added in the other body and adopted in conference with some modification to reflect the fact that aircraft emission standards are established under the authority of the Clean Air Act. However, the Commerce Committee did not assent to the inclusion of these provisions in the conference agreement and was not allowed an opportunity to make changes to the legislative language of this conference report.

The Commerce Committee has an undisputed jurisdictional interest in section 406. In essence, this section amends the Clean Air Act to alter the current provisions under which aircraft emission standards may be set. Section 406 creates a new legislative hurdle to changing any existing regulation requiring the consideration of factors unrelated to health or environmental protection.

To be sure, these new factors are not unreasonable considerations. The new language bars changing existing standards if such change would significantly increase noise and adversely affect safety. But now is not the time—in this bill—to advance new legislative standards for aircraft engines. Present statutory authority has stood—unamended—for nearly 20 years. Such standards should not be altered in an unrelated bill.

I recognize the long labors of my colleagues to bring this bill to the House floor. I know that members of the Transportation and Infrastructure Committee and other House committees which were allowed to be part of the conference have labored long and hard to produce a good bill. But I repeat—section 406 in its present form should not be part of this legislation.

I thank the Speaker for the opportunity to address the House on this most important legislation and this most important concern of the Commerce Committee.

Mrs. MORELLA. Mr. Speaker, I rise today in support of H.R. 3539, the Federal Aviation Authorization [FAA] Act of 1996. I would like to thank Chairman WALKER and the Technology Subcommittee ranking member, Congressman JOHN TANNER for their work in crafting title XI of the H.R. 3539.

Title XI is the FAA Research, Engineering, and Development [RD&E] Management Reform Act of 1996. I originally introduced the RD&E Act on May 16, 1996. Its major provisions were subsequently incorporated into H.R. 3322, the Omnibus Civilian Science Authorization Act of 1996 which passed the House on May 30, 1996.

The language in title XI is taken from H.R. 3322. It has been modified slightly to increase the authorization for aviation security research by just over $21 million. This increase should allow the FAA to step up its efforts to develop effective antiterrorism technologies for U.S. airports.

In total, title XI authorizes $208 million for FAA research and development activities in fiscal year 1997—an increase of $21 million over the fiscal year 1996 appropriated level. The title further directs the FAA research advisory committee to annually review the FAA research and development funding allocations and requires the Administrator of the FAA to consider the advisory committee's advice in establishing its annual funding priorities. Finally, title XI streamlines the requirements of the national aviation research plans and shortens the timeframe the plans must cover from 15 to 5 years.

Mr. Speaker, title XI strengthens an already good bill, and I would like to thank Transportation Committee Chairman SHUSTER and Aviation Subcommittee Chairman DUNCAN along with full Committee Ranking Member OBERSTAR and Subcommittee Ranking Member LIPINSKI for their support and assistance in including the FAA RD&E Act in H.R. 3539.

Also included in H.R. 3539 are provisions to restore the operating authority of the Metropolitan Washington Airports Authority [MWAA]. MWAA, which oversees operations at National and Dulles Airports, has been functioning with limited powers under a court order for more than 1 year.

I firmly believe that the only flaw in the original legislation creating the airport authority is the unconstitutionality of the congressional board of review. I maintain that the best remedy would be to amend this legislation by eliminating the congressional review board.

However, I recognize that there is a strong interest to preserve the federal interest, and I have expressed my willingness to accept the compromise provisions included in this conference report. Two additional Federal appointments to the MWAA board of directors surely would ensure that the two airports remain attentive to Federal concerns.

I am pleased that the provisions protect the high density rule at Washington National Airport. Any change in the hourly limits would impose serious social and economic consequences on Maryland and the entire metropolitan Washington region. The primary safety and economic concerns, as well as the impact of noise generated by additional flights on the airport's neighbors, make the high density rule imperative for this heavily traveled metropolitan airport.

I urge all of my colleagues to vote to suspend the rules and pass H.R. 3539.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 198, not voting 17, as follows:

[Roll No. 446]

YEAS—218

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|---|---|---|
| Allard | Fawell | Manzullo |
| Archer | Fields (TX) | McCollum |
| Armey | Foley | McCrery |
| Bachus | Ford | McInnis |
| Baker (CA) | Fowler | McIntosh |
| Baker (LA) | Franks (CT) | McKeon |
| Ballenger | Franks (NJ) | Meyers |
| Barrett (NE) | Frelinghuysen | Mica |
| Bartlett | Funderburk | Miller (FL) |
| Barton | Gallegly | Molinari |
| Bass | Ganske | Montgomery |
| Bateman | Gekas | Moorhead |
| Bereuter | Geren | Morella |
| Bilbray | Gilchrest | Myrick |
| Bilirakis | Gillmor | Nethercutt |
| Bliley | Goodlatte | Norwood |
| Blute | Goodling | Nussle |
| Boehner | Gordon | Oxley |
| Bonilla | Goss | Packard |
| Bono | Graham | Parker |
| Brewster | Greene (UT) | Paxon |
| Browder | Greenwood | Payne (VA) |
| Brownback | Gunderson | Petri |
| Bryant (TN) | Gutknecht | Pickett |
| Bunn | Hall (TX) | Pombo |
| Bunning | Hancock | Porter |
| Burr | Hansen | Portman |
| Burton | Hastert | Pryce |
| Buyer | Hastings (WA) | Radanovich |
| Callahan | Hayworth | Rahall |
| Calvert | Hefley | Ramstad |
| Camp | Herger | Riggs |
| Campbell | Hilleary | Roberts |
| Castle | Hobson | Rogers |
| Chabot | Hoekstra | Rohrabacher |
| Chambliss | Horn | Roth |
| Chenoweth | Hostettler | Roukema |
| Christensen | Houghton | Salmon |
| Chrysler | Hunter | Saxton |
| Clement | Hutchinson | Scarborough |
| Clinger | Hyde | Schaefer |
| Coble | Inglis | Schiff |
| Coburn | Istook | Seastrand |
| Collins (GA) | Johnson (CT) | Shadegg |
| Combest | Johnson, Sam | Shaw |
| Condit | Jones | Shays |
| Cox | Kasich | Shuster |
| Cramer | Kelly | Skeen |
| Crane | Kim | Smith (MI) |
| Crapo | Kingston | Smith (TX) |
| Cremeans | Klug | Souder |
| Cubin | Knollenberg | Spence |
| Cunningham | Kolbe | Stearns |
| Deal | LaHood | Stenholm |
| DeLay | Largent | Stockman |
| Dickey | Latham | Stump |
| Doggett | LaTourette | Talent |
| Dooley | Laughlin | Tanner |
| Doolittle | Lazio | Tate |
| Dornan | Leach | Tauzin |
| Dreier | Lewis (CA) | Taylor (MS) |
| Duncan | Lewis (KY) | Taylor (NC) |
| Dunn | Lightfoot | Thomas |
| Ehlers | Lincoln | Thornberry |
| Ehrlich | Linder | Tiahrt |
| Ensign | LoBiondo | Torkildsen |
| Everett | Longley | Upton |
| Ewing | Lucas | Vucanovich |
| Walker | Weldon (PA) | Young (AK) |
| Walsh | Weller | Young (FL) |
| Wamp | White | Zeliff |
| Watts (OK) | Whitfield | Zimmer |
| Weldon (FL) | Wicker | |

NAYS—198

| | | |
|---|---|---|
| Abercrombie | Gutierrez | Oberstar |
| Ackerman | Hall (OH) | Olver |
| Andrews | Hamilton | Ortiz |
| Baesler | Harman | Orton |
| Baldacci | Hastings (FL) | Owens |
| Barcia | Hefner | Pallone |
| Barr | Hilliard | Pastor |
| Barrett (WI) | Hinchey | Payne (NJ) |
| Becerra | Hoke | Pelosi |
| Beilenson | Holden | Peterson (MN) |
| Bentsen | Hoyer | Pomeroy |
| Berman | Jackson (IL) | Poshard |
| Bevill | Jacobs | Quinn |
| Bishop | Jefferson | Rangel |
| Blumenauer | Johnson (SD) | Reed |
| Boehlert | Johnson, E. B. | Regula |
| Bonior | Johnston | Richardson |
| Borski | Kanjorski | Rivers |
| Brown (CA) | Kaptur | Roemer |
| Brown (FL) | Kennedy (MA) | Ros-Lehtinen |
| Brown (OH) | Kennedy (RI) | Roybal-Allard |
| Bryant (TX) | Kennelly | Royce |
| Canady | Kildee | Rush |
| Cardin | King | Sabo |
| Clay | Kleczka | Sanders |
| Clayton | Klink | Sanford |
| Clyburn | LaFalce | Sawyer |
| Coleman | Lantos | Schroeder |
| Collins (IL) | Levin | Schumer |
| Conyers | Lewis (GA) | Scott |
| Cooley | Lipinski | Sensenbrenner |
| Costello | Livingston | Serrano |
| Coyne | Lofgren | Sisisky |
| Cummings | Lowey | Skaggs |
| Danner | Luther | Skelton |
| Davis | Maloney | Slaughter |
| de la Garza | Manton | Smith (NJ) |
| DeFazio | Markey | Smith (WA) |
| DeLauro | Martinez | Spratt |
| Diaz-Balart | Martini | Stark |
| Dicks | Mascara | Stokes |
| Dingell | Matsui | Studds |
| Dixon | McCarthy | Stupak |
| Doyle | McDade | Tejeda |
| Durbin | McDermott | Thornton |
| Edwards | McHale | Thurman |
| Engel | McHugh | Torres |
| English | McKinney | Torricelli |
| Eshoo | McNulty | Towns |
| Evans | Meehan | Traficant |
| Farr | Meek | Velazquez |
| Fattah | Menendez | Vento |
| Fazio | Metcalf | Visclosky |
| Fields (LA) | Millender-McDonald | Volkmer |
| Filner | Miller (CA) | Ward |
| Flake | Minge | Waters |
| Flanagan | Mink | Watt (NC) |
| Foglietta | Moakley | Waxman |
| Forbes | Mollohan | Williams |
| Fox | Moran | Wilson |
| Frank (MA) | Murtha | Wise |
| Furse | Myers | Wolf |
| Gejdenson | Nadler | Woolsey |
| Gephardt | Neal | Wynn |
| Gibbons | Neumann | Yates |
| Gilman | Ney | |
| Gonzalez | | |

NOT VOTING—17

| | | |
|---|---|---|
| Boucher | Frost | Obey |
| Chapman | Green (TX) | Peterson (FL) |
| Collins (MI) | Hayes | Quillen |
| Dellums | Heineman | Rose |
| Deutsch | Jackson-Lee (TX) | Solomon |
| Frisa | | Thompson |

☐ 1418

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Ms. Jackson-Lee of Texas against.

Messrs. BARR of Georgia, STUPAK, ROYCE, WATT of North Carolina, and Mrs. KENNELLY changed their vote from ''yea'' to ''nay.''

Mrs. KELLY changed her vote from ''nay'' to ''yea.''

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

## ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. LINDER. Mr. Speaker, pursuant to House Resolution 525, the following suspensions are expected to be considered today, September 27:

H.R. 4000, POW/MIA; H.R. 4041, Dos Palos Land Conveyance; H.R. 3219, Native American Housing; S. 1004, Coast Guard Reauthorization Conference Report; S. 1505, Pipeline Safety; H.R. 2779, Metric Conversion (if/when Senate sends over); and S. 1972, Older American Indian Tech. Amdts.

## PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1311, NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ESTABLISHMENT ACT

Mr. ARCHER. Mr. Speaker, I rise to a question of privileges of the House.

Mr. Speaker, I offer a privileged resolution (H. Res. 545) returning to the Senate the bill S. 1311 and I ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 545

*Resolved*, That the bill of the Senate (S. 1311) entitled the ''National Physical Fitness and Sports Foundation Establishment Act'', in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of privilege under rule IX.

Under the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from Florida [Mr. GIBBONS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1311. S. 1311 contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. It would override current tax law and direct a particular tax treatment for a certain newly established foundation, and therefore contravenes this constitutional requirement.

Section 2 of S. 1311 would establish the National Physical Fitness and Sports Foundation. Subsection (a) provides that the foundation shall be a charitable and not-for-profit corporation and shall not be an agency or establishment of the United States. In particular, it dictates that the foundation shall be established as an organization described in section 501(c)(3) of the Internal Revenue Code and that it shall be presumed for tax purposes to be a 501(c)(3) organization until the Secretary of the Treasury determines that the foundation fails to meet the requirements of section 501(c)(3). The final sentence of the subsection explicitly waives the requirements of subsection (a) of section 508 of the Internal Revenue Code, which generally requires new organizations to notify the Secretary that they are applying for recognition of section 501(c)(3) status.

This provision explicitly overrides the Federal income tax rules governing recognition of tax-exempt status. The Internal Revenue Code has specific rules that govern tax-exempt organizations and that specify the application for 501(c)(3) status and the tax treatment of entities applying for 501(c)(3) status. S. 1311 supersedes those rules in this instance and grants special Federal income tax treatment to the newly established National Physical Fitness and Sports Foundation.

The provision would have a direct effect on tax revenues. The proposed change in our tax laws in a ''revenue affecting'' infringement on the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on October 7, 1994, the House returned to the Senate S. 2126, containing Internal Revenue Code provisions regarding exemption from taxation. On July 21, 1994, the House returned to the Senate S. 1030, containing a provision exempting certain veteran payments from taxation. On June 15, 1989, the House returned to the Senate S. 774, conferring tax-exempt status to two corporations. Finally, on September 25, 1986, the House returned to the Senate S. 638, containing numerous provisions relating to the tax treatment of the sale of Conrail.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

The proposed action today is procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

Mr. Speaker, on a personal note, I'd like to say that this is probably the last time that my friend, SAM GIBBONS, and I will be working together on a legislative matter on the floor of the House of Representatives. As our colleagues know, SAM is retiring at the end of this Congress.

In a way, it's only fitting that we are standing here shoulder to shoulder defending the constitutional prerogatives of the House of Representatives to originate revenue measures.

Mr. Speaker, this morning the members of the Committee on Ways and Means had a breakfast to pay tribute to SAM and to give him a send-off with our very, very best wishes for his years of service. I want to say to my colleague, SAM, I will personally miss you.

Mr. Speaker, further on a personal note, the end of the congressional session brings with it both joys and sorrows. I take a considerable amount of joy in reaching the end of the one of the more grueling legislative sessions in my memory—knowing that we are all heading to our congressional districts to face our constituents, and compete for election based on our record of accomplishments and our differing philosophies of government.

But I take great sorrow knowing that as the year comes to a close, the House of Representatives is going to lose one of the most outstanding staff members who has ever served in these halls, Phil Moseley, the chief of staff of the Ways and Means Committee.

Phil came to Washington from San Antonio, TX, in 1973 to serve as my press secretary. He was a bright and enthusiastic 27-year-old, ready to take on the heady world of congressional politics. His intention was to stay for a couple of years and then to return to Texas to settle down. Fate had a different answer in store for Phil. He fell in love with a lovely young woman who also worked in my office, Norah Horrocks, and she soon became his bride.

Fortune smiled on me when Phil and Norah met, because I have been the chief beneficiary of their decision to make the Nation's Capital their home. Phil served as my administrative assistant from 1978 to 1988. When I became the ranking Republican on the House Ways and Means Committee, I managed to prevail upon him to take on the new challenge of serving as the minority chief of staff.

When the Republican Party took control of the House in 1994, fortune was with me again because Phil was at my

side as the committee's chief of staff when I took over the reigns of the chairmanship. We hit the ground running in November and we haven't stopping running yet.

Within 2 weeks of the election, Phil had already prepared a plan to reduce the committee's budget by 39 percent and reduce the size of the committee staff by a third. The taxpayers can thank Phil Moseley for helping to save them $3.1 million.

In the first 3 months of 1995, the Ways and Means Committee held more hearings receiving testimony from more witnesses than during any similar period in history. We reported out many major pieces of legislation—among them, welfare reform and the Contract With America Tax Relief Act. Phil was a guiding force during the long days and nights as the committee did its job. At a time when everyone in Congress was working hard and giving 100 percent, Phil gave 150 percent.

In his 2 years as the chief of staff of the Ways and Means Committee, Phil Moseley has developed a reputation as one of the House's most capable, thoughtful, and politically astute staff members. It's a reputation that is totally deserved. He is person of great intelligence and integrity, and I am sure my Democrat colleagues on the committee will agree that Phil has provided fair and an evenhanded service to all committee members on both sides of the aisle.

Phil's departure leaves me with a great sense of personal sorrow, because he's one of the best friends I've had in my life. We know each other so well that we often know what each other is thinking without having no articulate it. He is leaving some mighty big shoes that no one will be able to fill. I know that everyone on the Ways and Means Committee, both Republicans and Democrats alike, is sorry to lose a person of his integrity and ability.

But as I said, this is also a time of joy. As Phil's close friend, I take great joy in knowing that in leaving the House, he will have more time to spend with Norah and his daughter, Kendall, and his son, Clay. Phil, I will truly miss you. God bless and good fishing, my friend.

□ 1430

The taxpayers can thank Phil Moseley for helping to save them $3.1 million in that first year.

In the first 3 months of 1995, the Committee on Ways and Means held more hearings, receiving testimony from more witnesses, than during any similar period in history. We reported out many major pieces of legislation, among them welfare reform and the Contract With America Tax Relief Act.

Phil was a guiding force during those long days and nights as the committee did its job. At a time when everyone in the Congress was giving 100 percent, Phil Moseley was giving 150 percent.

In his 2 years as chief of staff of the Committee on Ways and Means, he developed a reputation as one of the House's most capable, thoughtful, and politically astute staff members. It is a reputation that is totally deserved. He is a person of great intelligence and integrity, and I am sure my Democrat colleagues on the committee will agree that Phil has provided fair and even-handed service to all committee members on both sides of the aisle.

His departure leaves me with a great sense of personal loss. He is one of the best friends that I have ever had, and we know each other so well that, more often than not, we can know what the other is thinking and articulate it without even conversation between ourselves. He is leaving some mighty big shoes to be filled.

I know that everyone on the Committee on Ways and Means, both Republicans and Democrats alike, is sorry to lose a person of such integrity and ability. But, as I said, it is also a time of joy. As Phil's close friend, I take great joy in knowing that in leaving the House, he will have more time to spend with Nora and with his children, Kendall and Clay.

Phil, I will truly miss you. God bless you, and good fishing.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

First, I want to thank the gentleman from Texas [Mr. ARCHER] for the kind words that he had to say about me. I appreciate them.

Second, I want to say that Phil Moseley deserves and has earned all the credit that Mr. ARCHER has paid to him. I have known him not as well and not as long, but I have observed his operation, and he is a very fine individual and has done a fine job for all of us Americans.

Third, I want to say that the motion that Mr. ARCHER has made deserves to be supported here in the House of Representatives because the Constitution, very wisely, placed in the House of Representatives the exclusive right, let me repeat that, the exclusive right to originate tax legislation.

Now, this is not a bad bill that this tax legislation is connected with, and if we blue-slip it back to the Senate, and if they give a hoot about it over there, they will strip out the obnoxious part of the legislation and send it back to us, and then the private corporation that they are setting up can follow the same procedure that every other American corporation can follow by filing with the appropriate people in the United States the necessary forms to be declared tax exempt. Or they can come back to the House of Representatives next year and, if they deserve it, then we will grant them that tax exemption.

But the tax exemption they get in this bill should not be originated in the Senate. It never has been. It is something we have always had to fight in the 218 year history of this Republic.

Every year since I have been here, always on the closing days and in the closing hours of this Congress, the Senate zaps over one of these little zingers hoping we will swallow them. We never have. We never should. We should defend the rights of the American public by sending this back to the Senate to take out the objectionable, unconstitutional part.

Mr. Speaker, I urge an ''aye'' vote on the chairman's motion.

Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to say, in reiteration of what the gentleman from Florida has said, let this be the last time in this session that this House needs to spend the time doing what we are doing at this moment. Let this be a signal to the Senate that we will assert over and over again our constitutional prerogatives.

Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. LONGLEY. Mr. Speaker, pursuant to House Resolution 525, the following suspension is expected to be considered today, September 27: S. 1918.

## PERSONAL EXPLANATION

Mr. LONGLEY. Mr. Speaker, due to surgery on a herniated disk on Thursday, September 19, I was absent for rollcall vote No. 422, the vote to override the President's veto of legislation to ban partial birth abortions.

Had I been present, I would have voted in the affirmative, to override the President's veto.

## ANNOUNCEMENT OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4073, by the yeas and nays; and S. 39, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

## NATIONAL UNDERGROUND RAILROAD FREEDOM CENTER

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4073.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 4073, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 244, nays 170, not voting 19, as follows:

[Roll No. 447]

YEAS—244

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greene (UT)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stokes
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—170

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blumenauer
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Chenoweth
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Cummings
Danner
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Geren
Gibbons
Gonzalez
Gordon
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Barrett (WI)
Boucher
Chapman
Collins (MI)
Dellums
Durbin
Frost
Gephardt
Green (TX)
Gunderson
Hayes
Heineman
Hoekstra
Hunter
Jackson-Lee (TX)
Peterson (FL)
Quillen
Rose
Thompson

☐ 1500

Mr. MONTGOMERY changed his vote from ''nay'' to ''yea.''

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the second motion to suspend the rules on which the Chair has postponed further proceedings.

## SUSTAINABLE FISHERIES ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 39.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the Senate bill, S. 39, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 384, nays 30, not voting 19, as follows:

[Roll No. 448]

YEAS—384

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
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Goss
Graham
Greene (UT)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug

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| Knollenberg | Neal | Skaggs |
| Kolbe | Nethercutt | Skeen |
| LaFalce | Neumann | Skelton |
| LaHood | Ney | Slaughter |
| Largent | Norwood | Smith (MI) |
| Latham | Nussle | Smith (NJ) |
| LaTourette | Oberstar | Smith (TX) |
| Laughlin | Obey | Smith (WA) |
| Lazio | Olver | Solomon |
| Leach | Ortiz | Souder |
| Levin | Orton | Spence |
| Lewis (CA) | Owens | Spratt |
| Lewis (GA) | Oxley | Stearns |
| Lewis (KY) | Packard | Stenholm |
| Lightfoot | Parker | Stockman |
| Lincoln | Pastor | Stokes |
| Linder | Paxon | Studds |
| Lipinski | Payne (NJ) | Stump |
| Livingston | Payne (VA) | Stupak |
| LoBiondo | Peterson (MN) | Talent |
| Longley | Petri | Tanner |
| Lowey | Pickett | Tate |
| Lucas | Pombo | Tauzin |
| Luther | Pomeroy | Taylor (MS) |
| Maloney | Porter | Taylor (NC) |
| Manton | Portman | Tejeda |
| Manzullo | Poshard | Thomas |
| Markey | Pryce | Thornberry |
| Martini | Quinn | Thornton |
| Mascara | Radanovich | Thurman |
| McCarthy | Ramstad | Torkildsen |
| McCollum | Rangel | Torricelli |
| McCrery | Regula | Towns |
| McDade | Richardson | Traficant |
| McDermott | Riggs | Upton |
| McHale | Rivers | Vento |
| McHugh | Roberts | Visclosky |
| McInnis | Roemer | Volkmer |
| McIntosh | Rogers | Vucanovich |
| McKeon | Rohrabacher | Walker |
| McKinney | Ros-Lehtinen | Walsh |
| McNulty | Rose | Wamp |
| Meehan | Roth | Ward |
| Meek | Roukema | Waters |
| Menendez | Rush | Watt (NC) |
| Metcalf | Sabo | Watts (OK) |
| Meyers | Salmon | Weldon (FL) |
| Mica | Sanders | Weldon (PA) |
| Millender-McDonald | Sanford | Weller |
| | Sawyer | White |
| Miller (FL) | Saxton | Whitfield |
| Minge | Scarborough | Wicker |
| Mink | Schaefer | Williams |
| Moakley | Schiff | Wilson |
| Molinari | Schumer | Wise |
| Mollohan | Scott | Wolf |
| Montgomery | Seastrand | Wynn |
| Moorhead | Sensenbrenner | Yates |
| Moran | Serrano | Young (AK) |
| Morella | Shadegg | Young (FL) |
| Murtha | Shaw | Zeliff |
| Myers | Shays | Zimmer |
| Myrick | Shuster | |
| Nadler | Sisisky | |

NAYS—30

| | | |
|---|---|---|
| Becerra | Furse | Pelosi |
| Berman | Gibbons | Rahall |
| Conyers | Gutierrez | Reed |
| DeFazio | Johnston | Roybal-Allard |
| Eshoo | Lantos | Royce |
| Farr | Lofgren | Schroeder |
| Fattah | Martinez | Stark |
| Fazio | Matsui | Torres |
| Filner | Miller (CA) | Velazquez |
| Frank (MA) | Pallone | Woolsey |

NOT VOTING—19

| | | |
|---|---|---|
| Barrett (WI) | Green (TX) | Jackson-Lee (TX) |
| Boucher | Gunderson | Peterson (FL) |
| Chapman | Hayes | Quillen |
| Collins (MI) | Heineman | Thompson |
| Dellums | Hoekstra | Tiahrt |
| Durbin | Hunter | Waxman |
| Frost | | |

□ 1509

Mr. MATSUI, Ms. PELOSI, Ms. WOOLSEY, and Mr. BERMAN changed their vote from ''yea'' to ''nay.''

Mr. KENNEDY of Rhode Island changed his vote from ''nay'' to ''yea.''

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNUAL REPORT OF RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure and the Committee on Ways and Means:

*To the Congress of the United States:*

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1995, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

## ANNUAL REPORT OF FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Reform and Oversight:

*To the Congress of the United States:*

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Seventeenth Annual Report of the Federal Labor Relations Authority for Fiscal Year 1995.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

## FAMILY-FRIENDLY WORKPLACE ACT OF 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC NO. 104–270)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Economic Opportunities and ordered to be printed:

*To the Congress of the United States:*

I am pleased to transmit today for consideration and passage the ''Family-Friendly Workplace Act of 1996.'' Also transmitted is a section-by-section analysis. This legislative proposal is vital to American workers, offering them a meaningful and flexible opportunity to balance successfully their work and family responsibilities.

The legislation would offer workers more choice and flexibility in finding ways to earn the wages they need to support their families while also spending valuable time with their families. In particular, the legislation would allow eligible employees who work overtime to receive compensatory time off—with a limit of up to 80 hours per year—in lieu of monetary compensation. In addition, the legislation contains explicit protections against coercion by employers and abuses by unstable or unscrupulous businesses.

The legislation also would amend the Family and Medical Leave Act of 1993. This statute currently allows eligible workers at businesses with 50 or more employees to take up to 12 weeks of unpaid, job-protected leave to care for a newborn child, attend to their own serious health needs, or care for a seriously ill parent, child, or spouse. Although enactment of this statute was a major step forward in helping families balance work and family obligations, the law does not address many situations that working families typically confront. The enclosed legislation would cover more of these situations, thereby enhancing workers' ability to balance their need to care for their children and elderly relatives without sacrificing their employment obligations. Under the expanded law, workers could take up to 24 hours of unpaid leave each year to fulfill additional, specified family obligations, which would include participating in school activities that relate directly to the academic advancement of their children, accompanying children or elderly relatives to routine medical appointments, and attending to other health or care needs of elderly relatives.

I urge the Congress to give this legislation favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

## DOS PALOS LAND CONVEYANCE

Mr. SMITH of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4041) to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, CA, to the Dos Palos Ag Boosters for use as a farm school.

The Clerk read as follows:

H.R. 4041

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAND CONVEYANCE, UNUSED AGRICULTURAL LAND, DOS PALOS, CALIFORNIA.**

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, including section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)), the Secretary of Agriculture may convey to the Dos Palos Ag Boosters of Dos Palos, California, all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) held

by the Secretary that consists of approximately 22 acres and is located at 18296 Elgin Avenue, Dos Palos, California, to be used as a farm school for the education and training of students and beginning farmers regarding farming. Any such conveyance shall be final with no future liability accruing to the Secretary of Agriculture.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the transferee shall pay to the Secretary an amount equal to the fair market value of the parcel conveyed under subsection (a).

(c) ALTERNATIVE TRANSFEREE.—At the request of the Dos Palos Ag Boosters, the Secretary may make the conveyance authorized by subsection (a) to the Dos Palos School District.

(d) DETERMINATION OF FAIR MARKET VALUE AND PROPERTY DESCRIPTION.—The Secretary shall determine the fair market value of the parcel to be conveyed under subsection (a). The exact acreage and legal description of the parcels shall be determined by a survey satisfactory to the Secretary. The cost of any such survey shall be borne by the transferee.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. SMITH] and the gentleman from California [Mr. CONDIT] each will control 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we expect this to be very short, very quick. The bill as introduced by the gentleman from California [Mr. CONDIT] on September 10 is a noncontroversial land sale that has the support of the local community, the Department of Agriculture, the Democrats and the Republicans.

Mr. Speaker, I include the following letter for the RECORD:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, September 26, 1996.*

Hon. PAT ROBERTS,
*Chairman, Committee on Agriculture,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has reviewed H.R. 4041, a bill to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school. The bill was introduced in the House of Representatives on September 10, 1996. Based on information provided by the Farm Service Agency (FSA), which owns the land, CBO estimates that enacting H.R. 4041 would have no significant impact on the federal budget. Because the bill could affect direct spending, pay-as-you-go procedures would apply; but any such effect would be negligible.

The bill would direct the Secretary of Agriculture to convey a parcel of about 22 acres of land in Dos Palos, California, to the Dos Palos Ag Boosters. As consideration for the conveyance, the transferee would pay to the Secretary an amount equal to the fair market value of the parcel, as determined by the Secretary. The transferee would also be required to pay the cost of a survey to determine the exact acreage and legal description.

According to the FSA, the land is worth less than $100,000. The agency acquired the parcel through liquidation and then leased the land out. That lease has since expired. Under new procedures, FSA now is required to sell such land at its appraised value (if possible) upon expiration of a lease, so this land would likely be sold in the near future under current law. CBO estimates that receipts from the sale of this land would not be significantly different under H.R. 4041.

H.R. 4041 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) and would impose no significant costs on state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact is Craig Jagger.

Sincerely,

JUNE E. O'NEILL, *Director.*

Mr. Speaker, I reserve the balance of my time.

Mr. CONDIT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank Committee Chairman ROBERTS and Subcommittee Chairman ALLARD in addition to Ranking Members DE LA GARZA and JOHNSON for expediting this bill through the committee and to the House floor, for consideration at this time.

This bill is simple and straightforward.

H.R. 4041 gives USDA the authority to sell 22 acres of land in my congressional district to a nonprofit organization or alternatively, to the Dos Palos School District in Dos Palos, CA.

This land will be used to establish a farm school for the education and training of students and beginning farmers regarding farming.

Under the farm school proposal, high school and middle school students will be farming the ground under the advisement of the school Agriculture advisor.

The students will be taught all aspects of modern agriculture practices, including irrigation and conservation methods, integrated pest management, agricultural marketing and administration.

In addition, all proceeds from the farm school will allow students to purchase their own equipment and supplies for use at the site.

Finally, not only would this project benefit beginning farmers, it would also assure that the land remain in an agricultural use.

This legislation has the support of the local school district and the community of Dos Palos, in addition to the USDA at the local, State and Federal levels as a very worthwhile project to help young beginning farmers get started.

I hope that all of the members will join me in supporting H.R. 4041 and I urge the House to approve the bill at this time.

Mr. Speaker, I thank the House for its generosity in allowing us to do this at this time, and I yield back the balance of my time.

Mr. SMITH of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is 22 acres of land, it will be sold at market value and any other provisions that the Secretary of Agriculture deems appropriate.

Mr. DE LA GARZA. Mr. Speaker, this bill will give some kids a chance to learn how to farm the old-fashioned way: through hard work and sweat. They will work hard, planting their crops, watering them, guarding them against the many threats faced by all farmers—the weather, disease, insects. And they will feel the satisfaction of bringing in the harvest. This bill will help these students learn to appreciate the hard work that goes into producing our Nation's food, and it may even get a few of them off to a good start as farmers.

Mr. SMITH of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 4041.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1515

## GENERAL LEAVE

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore (Mr. NEY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

## RESTORATION OF CERTAIN POW/MIA AUTHORITIES APPLICABLE TO THE DEPARTMENT OF DEFENSE

Mr. SPENCE. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 4000, to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997, as amended.

The Clerk read as follows:

H.R. 4000

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. RESTORATION OF MISSING PERSONS AUTHORITIES APPLICABLE TO DEPARTMENT OF DEFENSE AS IN EFFECT BEFORE ENACTMENT OF NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.***

*(a) APPLICABILITY TO DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES AND CONTRACTOR EMPLOYEES.—(1) Section 1501 of title 10, United States Code, is amended—*

*(A) by striking out subsection (c) and inserting in lieu thereof the following:*

*''(c) COVERED PERSONS.—Section 1502 of this title applies in the case of the following persons:*

*''(1) Any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances*

*suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.*

*''(2) Any civilian employee of the Department of Defense, and any employee of a contractor of the Department of Defense, who serves with or accompanies the armed forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.''; and*

*(B) by adding at the end the following new subsection:*

*''(f) SECRETARY CONCERNED.—In this chapter, the term 'Secretary concerned' includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be.''.*

*(2) Section 1503(c) of such title is amended—*

*(A) in paragraph (1), by striking out ''one military officer'' and inserting in lieu thereof ''one individual described in paragraph (2)'';*

*(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and*

*(C) by inserting after paragraph (1) the following new paragraph (2):*

*''(2) An individual referred to in paragraph (1) is the following:*

*''(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.*

*''(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense.''.*

*(3) Section 1504(d) of such title is amended—*

*(A) in paragraph (1), by striking out ''who are'' and all that follows in that paragraph and inserting in lieu thereof ''as follows:*

*''(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the armed forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.*

*''(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the armed forces), the board shall be composed of—*

*''(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and*

*''(ii) such members of the armed forces as the Secretary considers advisable.*

*''(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the armed forces and one or more civilians described in subparagraph (B)—*

*''(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and*

*''(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the armed forces who are subjects of the board's inquiry to the number of civilians who are subjects of the board's inquiry.''; and*

*(B) in paragraph (4), by striking out ''section 1503(c)(3)'' and inserting in lieu thereof ''section 1503(c)(4)''.*

*(4) Paragraph (1) of section 1513 of such title is amended to read as follows:*

*''(1) The term 'missing person' means—*

*''(A) a member of the armed forces on active duty who is in a missing status; or*

*''(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the armed forces in the field under orders and who is in a missing status.''.*

*(b) REPORT ON PRELIMINARY ASSESSMENT OF STATUS.—(1) Section 1502 of such title is amended—*

*(A) in subsection (a)(2)—*

*(i) by striking out ''10 days'' and inserting in lieu thereof ''48 hours''; and*

*(ii) by striking out ''Secretary concerned'' and inserting in lieu thereof ''theater component commander with jurisdiction over the missing person'';*

*(B) in subsection (a), as amended by subparagraph (A)—*

*(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;*

*(ii) by inserting ''(1)'' after ''COMMANDER.—''; and*

*(iii) by adding at the end the following new paragraph:*

*''(2) However, if the commander determines that operational conditions resulting from hostile action or combat constitute an emergency that prevents timely reporting under paragraph (1)(B), the initial report should be made as soon as possible, but in no case later than ten days after the date on which the commander receives such information under paragraph (1).'';*

*(C) by redesignating subsection (b) as subsection (c);*

*(D) by inserting after subsection (a), as amended by subparagraphs (A) and (B), the following new subsection (b):*

*''(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Upon reviewing a report under subsection (a) recommending that a person be placed in a missing status, the theater component commander shall ensure that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person. Not later than 14 days after receiving the report, the theater component commander shall forward the report to the Secretary of Defense or the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title. The theater component commander shall include with such report a certification that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person.''; and*

*(E) in subsection (c), as redesignated by subparagraph (C), by adding at the end the following new sentence: ''The theater component commander through whom the report with respect to the missing person is transmitted under subsection (b) shall ensure that all pertinent information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person is properly safeguarded to avoid loss, damage, or modification.''.*

*(2) Section 1503(a) of such title is amended by striking out ''section 1502(a)'' and inserting in lieu thereof ''section 1502(b)''.*

*(3) Section 1504 of such title is amended by striking out ''section 1502(a)(2)'' in subsections (a), (b), and (e)(1) and inserting in lieu thereof ''section 1502(a)''.*

*(4) Section 1513 of such title is amended by adding at the end the following new paragraph:*

*''(8) The term 'theater component commander' means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.''.*

*(c) FREQUENCY OF SUBSEQUENT REVIEWS.—Subsection (b) of section 1505 of such title is amended to read as follows:*

*''(b) FREQUENCY OF SUBSEQUENT REVIEWS.—(1) In the case of a missing person who was last known to be alive or who was last suspected of being alive, the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—*

*''(A) on or about three years after the date of the initial report of the disappearance of the person under section 1502(a) of this title; and*

*''(B) not later than every three years thereafter.*

*''(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a missing person under this subsection upon receipt of information that could result in a change of status of the missing person. When the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.*

*''(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—*

*''(A) more than 30 years after the initial report of the disappearance of the missing person required by section 1502(a) of this title; or*

*''(B) if, before the end of such 30-year period, the missing person is accounted for.''.*

*(d) PENALTIES FOR WRONGFUL WITHHOLDING OF INFORMATION.—Section 1506 of such title is amended—*

*(1) by redesignating subsection (e) as subsection (f); and*

*(2) by inserting after subsection (d) the following new subsection (e):*

*''(e) WRONGFUL WITHHOLDING.—Except as provided in subsections (a) through (d), any person who knowingly and willfully withholds from the personnel file of a missing person any information relating to the disappearance or whereabouts and status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both.''.*

*(e) INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.—Section 1507(b) of such title is amended adding at the end the following new paragraphs:*

*''(3) A description of the location of the body, if recovered.*

*''(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person.''.*

*(f) SCOPE OF PREENACTMENT REVIEW.—(1) Section 1509 of such title is amended—*

*(A) by redesignating subsection (c) as subsection (d); and*

*(B) by inserting after subsection (b) the following new subsection (c):*

*''(c) SPECIAL RULE FOR PERSONS CLASSIFIED AS 'KIA/BNR'.—In the case of a person described in subsection (b) who was classified as 'killed in action/body not recovered', the case of that person may be reviewed under this section only if the new information referred to in subsection (a) is compelling.''.*

*(2)(A) The heading of such section is amended by inserting* ***'', special interest''*** *after* ***''Preenactment''****.*

*(B) The item relating to such section in the table of sections at the beginning of chapter 76 of such title is amended by inserting '', special interest'' after ''Preenactment''.*

*(g) EFFECTIVE DATE.—The amendments made by this section shall take effect immediately after the enactment of the National Defense Authorization Act for Fiscal Year 1997.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. SPENCE] and the gentleman from Virginia [Mr. PICKETT] each will control 20 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4000, a bill to restore a number of important authorities to chapter 76 of title 10, United States Code that were originally included when it was first passed.

I was disappointed when the original version of the Missing Persons Act was amended this year. I believed we had the right answer in 1995 and I believe that H.R. 4000 will again set the record straight.

Mr. Speaker, all Members should note that the Military Personnel Subcommittee conducted nine hearings on POW/MIA matters over the last 2 years. Additionally, the full Committee on National Security was unanimous in its support of H.R. 4000 when it reported the bill to the House with a 45-to-0 vote.

Mr. Speaker, the case in support of H.R. 4000 is overwhelming. I urge the House to send a message with this vote—the record must be corrected and H.R. 4000 must be included in the law of the land.

Mr. Speaker, I reserve the balance of my time.

Mr. DORNAN. Mr. Speaker, we are talking about dead heroes here, and missing men who may be alive. I would hope the Chamber would be as quiet as a church, and that includes our wonderful guides in the gallery, who are carrying on a narration. I know you are a great historian. Please do not do it. Let that great group listen to this.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). The gentleman from California [Mr. DORNAN] will refrain from referring to individuals in the gallery. But the gentleman is correct, the gentleman speaking on this bill deserves to be heard. The subject is of a serious nature that deserves respect.

Mr. PICKETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4000 and urge its adoption.

Under Chairman DORNAN's leadership, the Subcommittee on Military Personnel conducted a series of hearings in the 104th Congress on U.S. prisoner of war and missing in action issues. The chairman is to be commended for his diligent work in this effort. It is important that we follow up immediately on all data and reports concerning the fate of United States Korean war and Vietnam war POW's-MIA's, and develop a comprehensive policy for dealing with this issue. It is clear from the hearings held so far that the U.S. Government has not exerted the kind of focused and consistent effort that could be expected to fully account for those men.

The unknown extent of the reported involvement of the Soviet Union, China, and other nations in the exploitation, torture and experimentation on United States prisoners of war from Korea and Vietnam fully justify the additional investigative work that will be required. It is also becoming increasingly apparent that a full accounting of our prisoners and missing in action cannot be achieved until the United States has gained the full cooperation of these other nations.

As I told witnesses who appeared before the Military Personnel Subcommittee earlier this month, their testimony was compelling. Having listened to and questioned the witnesses at each one of the POW–MIA hearings over the last 2 years, I am convinced that the missing persons section of title 10, United States Code, as enacted just 5 months ago, is a necessary element to achieving full accounting for U.S. POW's and MIA's. It is past time that the U.S. Government put this issue to rest by adopting and implementing an honorable and responsible program.

Therefore, Mr. Speaker, I urge my colleagues to vote in favor of H.R. 4000. This will reinstate the POW–MIA provisions deleted from Public Law 104–106 when the fiscal year 1997 Defense authorization bill was signed into law. These provisions are necessary if our Nation is to have a thorough and comprehensive statutory framework for effectively dealing with the POW–MIA issue.

Mr. Speaker, I reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. DORNAN], the chairman of the Subcommittee on Military Personnel of the Committee on National Security.

Mr. DORNAN. Mr. Speaker, I would like to immediately defer, as I discussed with the gentleman from New York [Mr. GILMAN], who is one of the cosponsors of the original language that was worked out over two decades, and he and I discussed this, to a Member of this House who spent 7 years in Communist captivity in Hanoi.

Only the words medieval barbarity, inquisition, or Nazi or Japanese warlord prison camps, can conjure up the image of what was done to this Member of Congress and 10 other men who stood up to the Communist brutality in Hanoi, and were isolated for almost 4 years from everyone else and from one another in a slimy little hole in downtown Hanoi that they, with fighter pilot bravado, called Alcatraz.

Mr. SAM JOHNSON of Texas. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Texas.

Mr. SAM JOHNSON of Texas. Mr. Speaker, we have been uncovering all kinds of information in the committee of the gentleman from California [Mr. DORNAN], as well as on the United States-Russia Commission on POWs/MIAs, of which I am a member, about prisoners being taken to Russia during World War II, the cold war, Korea, and Vietnam. We have yet to resolve that. I think our families are owed that.

Members will recall last year we included in the defense authorization bill language which clarified and strengthened the policies and procedures regarding missing service personnel. It was praised by both military and veterans groups. As a matter of fact, it was also praised by the families, who were still alive, of missing members. They are vitally concerned and support this, as we know.

Those who support the repeal of these provisions, some of them on the other side, claim it puts undue pressure on our field commanders. Do Members want to know, is it undue pressure to ask a commander to report a missing person in 48 hours? I do not think so.

They also claim it is too burdensome to require division or theater commander staffs to handle search and rescue calls. Come on, is it too much to answer our families when they are asking about their missing guys? As a 29-year Air Force veteran who has fought in 2 wars, I want to say this thinking, besides being totally illogical, is potentially devastating to all American military families.

One of the most basic standards we live by in this U.S. military is the promise that if while performing your duty you are found missing or taken prisoner, that everything possible will be done to try to find you or free you. This bond of trust was made stronger by the missing person language that was signed into law last year. If we continue to revoke that language now, are we not revoking our promise to our military to take care of our troops who fight to keep this country free?

Mr. Speaker, I ask Members to please understand what I am saying. Before going into combat, the service member does not know if they are going to be fully backed up by our Government if they get into trouble. It is a matter of morale. We should not even be debating this issue, in my view. I think we should support our valiant military and support this bill. I thank the gentleman for bringing this to the front.

Mr. DORNAN. Mr. Speaker, as much as anyone, I am proud to serve with the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], chairman of our Committee on International Relations.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I want to commend the chairman of the committee, the gentleman from South Carolina [Mr. SPENCE], for bringing this measure to the floor. I want to commend, too, the gentleman from New York [Mr. SOLOMON], for his dedicated work to this issue, and the chairman of the subcommittee, the gentleman from California [Mr. DORNAN], for his devotion to the cause of our MIA's and POW's.

Mr. Speaker, I rise in strong support of H.R. 4000, the POW/MIA Restoration Act. Last year, this body secured a victory for U.S. service personnel, their

families, and the families of POW/MIA's by the passage of H.R. 945, the Missing Service Personnel Act.

H.R. 945 received unanimous support in the House as part of the Department of Defense Authorization Act of 1996.

Unable to prevent the passage of H.R. 945, the opponents of the legislation waited to attach a Senate amendment to the 1997 defense authorization conference report which essentially gutted the Missing Service Personnel Act.

H.R. 4000 restores the provisions stricken from the Missing Service Personnel Act by the Senate amendment.

The first provision to be restored requires that military commanders report and initiate searches for missing service personnel within 48 hours, rather than 10 days as proposed by the Senate amendment. While current regulations require local commanders to report any individual missing more than 24 hours, the missing often fall through the cracks, especially during military operations.

The second provision covers civilian employees of the Defense Department who are in the field under orders to assist our military. They deserve the same protections afforded our men and women in uniform.

The third provision to be restored provides if a body were recovered and could not be identified by visual means, that a certification by a credible forensic authority must be made. There have been too many recent cases where misidentification of remains has caused undue trauma for families.

Finally, H.R. 4000 restores the provision which requires criminal penalties for Government officials who knowingly and willfully withhold information related to the disappearance, whereabouts and status of a missing person.

Prompt and proper notification of any new information is essential to the successful investigation of any POW/MIA case. This cannot be achieved if individual bureaucrats deliberately seek to derail the process.

The opponents of the Missing Service Personnel Act have to this day never offered any credible reasons for their opposition to the legislation. Rather than create more redtape I believe these provisions will help streamline the bureaucracy and improve the investigation process.

Moreover, the Missing Service Personnel Act has not been public law long enough to be adequately evaluated. To repeal provisions of a law after 5 months does not make sense, especially when that law has not yet had a chance to be tested.

Accordingly, I urge my colleagues today to join me in supporting H.R. 4000, the POW/MIA Restoration Act.

Mr. Speaker, I thank the gentleman for yielding time to me, and I commend him for his staunch support of this measure.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

(Mr. SOLOMON asked and was given permission to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, as former chairman of the Task Force on POW-MIA's, and a member of that task force, I just want to thank all of the Members for bringing this vital piece of legislation to the floor. It ought to be made part of the omnibus appropriation bill that is coming to this floor so it becomes a law, without any question about it.

☐ 1530

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD].

(Mr. PACKARD asked and was given permission to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, I wish to speak this afternoon to the civilian MIA's and POW's. There are far more qualified men in this body to speak about the military MIA's and prisoners of war. I was a young man of 10 years old and I was the 10th child of 17 children when my father went to Wake Island to help build a military air base. He was a civilian. He, of course, was taken prisoner shortly after the war broke out. Wake Island was bombed the same day that Pearl Harbor was bombed and every day thereafter until it fell to the Japanese. He served the entire war years in a prison camp. It was almost 2 years before my mother and his children found out whether he was alive or not. If we did not have the Government to follow and to look after and be able to report to the families of any prisoner of war, whether it be a military or a civilian prisoner of war, the families have no place to turn to. They are left without information. They have no resources or no source to get information about their family member who might be held in a prison camp.

Mr. Speaker, I strongly urge that this bill be passed and signed into law. It will require the Government to keep track of and to report to the families of military prisoners of war but it will also make the same requirement for the civilians who might be involved in Government contracting and thus the Government has a responsibility to report to the families and keep them posted. Had we had that information, we would have certainly not gone through the anguish, the bitterness, and the difficulty that we did.

It was a pleasure, of course, to see my father come home, but we should have known long before he did. Two years is too long to know whether your father is alive or not.

I urge the Members to pass this and then urge the President to sign it.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. TALENT], a very valuable member of our committee.

Mr. TALENT. Mr. Speaker, I thank my chairman for yielding me this time and I want to congratulate him for his work on this and the gentleman from Virginia [Mr. PICKETT] for his work as well and the leadership of the House for bringing this bill to the floor so quickly.

Like many of the people who have spoken on this, I want to relate my remarks from a personal standpoint. I do not have a personal connection, but a lot of my constituents do. When I got elected to Congress in 1992 they came and talked to me about the issue. I decided to study it some. After I studied it, it did not take all that long, I reached the conclusion that indeed we had left hundreds and hundreds of men behind in Vietnam and probably in Korea as well, and I reached that conclusion, Mr. Speaker, to my shame.

Well, in the years that have passed since then, I along with many of the other Members here have tried to get out what we believe is the truth about these men and to take whatever steps we can to recover them or at least to recover their bodies. It has been difficult to do and I am not naive enough to believe that it is going to be any easier in the future. But earlier this year we did something that I thought was very significant. We established a series of safeguards to try and make sure that at least it did not happen again. We put that in the defense authorization bill which the President eventually signed, and I was very proud of those changes and very sorry when many of them were taken out in the bill which recently passed the House and Senate and which the President signed. I know that my chairman and others from the House fought the deletion of those provisions at that time and I respect their work very much. I did not see why we needed to have 10 days for commanders in the field to decide whether a person was missing. I did not see why we did not need to require forensic, standard forensic certification before finding that a bone or a tooth was sufficient to identify a missing serviceman, and I did not see why we should not have periodic reviews of cases so that families could have current understandings of what had happened to their loved ones. We are remedying it now with this bill. I think it is an attempt, after the fact, but an attempt after the fact to keep faith with those we did leave behind.

Mr. Speaker, if there is one thing we can do for them, it is to try to make sure it does not happen again.

Mr. SPENCE. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Speaker, Red McDaniel, a returned Vietnam POW told Congress: ''We were prepared to be captured; we were prepared to die for our country. But we were never prepared to be abandoned!''

I thank BOB DORNAN for his leadership, and for introducing the POW/MIA Protection Act.

I ask that my colleagues support this bill to show those still missing and

otherwise unaccounted that we still care,—that we don't consider them ghosts, and that they have not been forgotten by an ungrateful nation!

Mr. SPENCE. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Speaker, I welcome this opportunity to rise in support for H.R. 4000. Under the leadership of my chairman on the Personnel Subcommittee, BOB DORNAN, this Congress has done more for the recovery of American servicemen than any Congress before.

I am proud to support this legislation that sends a clear message to the administration that it must drop the rhetoric and adopt the resolve to recover missing Americans in Asia.

I would also like to commend the hard work of the families and friends of our missing Americans like Ms. Joanne Shirley of Georgia who serves as the chairman of the board of the National League of POW/MIA Families. Her hard work, and the work of countless others like her, ensures that we remain committed to the promise printed on the POW flag that hangs in front of my office—''You are not forgotten.''

Mr. SPENCE. Mr. Speaker, I yield 30 seconds to the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS of Oklahoma. Mr. Speaker, I thank Chairman SPENCE and I thank Chairman DORNAN for offering this legislation.

Mr. Speaker, I want to express my strong support for H.R. 4000 and America's forgotten heroes, our POW's and MIA's. Recent hearings before the Military Personnel Subcommittee that revealed that more than 900 American fighting men were left behind in Korea by our Government, and on whom the most inhumane experimentation was done, is proof of the necessity to enact this legislation. I strongly urge my colleagues to support this important legislation if for no other reason than regard for those who await the fate of their loved ones, the families.

Mr. SPENCE. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. DORNAN], the chairman of our Military Personnel Subcommittee and the author of this legislation.

The SPEAKER pro tempore (Mr. NEY). The gentleman from California is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I want to correct two things. I am proud that I was the quarterback, with the help of the gentleman from Virginia [Mr. PICKETT], to get the legislation, written by veterans and sponsored in the Senate by the Republican presidential candidate, a World War II veteran, 100 percent disabled and an inspiration in a bipartisan way, to all the country that you can still serve when your body has been torn apart in combat, and serve well.

On this side of the aisle, it was the gentleman from New York, Mr. GILMAN, fighting for it and backed up by others, and I was proud to be one of them; on the Senate side, FRANK LAUTENBERG, Democrat of New Jersey; all of them fighting together; on our side, naval captain reserve, retired, the gentleman from South Carolina, Mr. SPENCE, and everybody on our side and everybody on the other side eventually. It was a unanimous vote in the full committee, 40 to 0. The six or seven that were not there all made it a point to come to me and say, ''I would have voted with you if I had been there.'' More original cosponsors, 262, than any bill introduced in 20 years. And people came to me, like the gentleman from Vermont, BERNIE SANDERS, the Independent, and 30 other Democrats came to me.

Mr. Speaker, it is amazing to me that we are here on suspension when one U.S. Senator, for reasons that are still mysterious, can blackball this tonight, or tomorrow.

Let me read a letter, and it is a leadership letter. It is from the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations. That is a leader.

The gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules. That is a leader.

The gentleman from South Carolina [Mr. SPENCE] is a leader.

Mr. PICKETT is a leader.

I am a chairman.

All five chairmen and almost every one of the chairmen of the military subcommittees in both Chambers. Are we not leaders?

We all want the following, but this is from Mr. GILMAN and Mr. SOLOMON:

''As you consider the Omnibus Appropriations Bill for fiscal year 1997, we respectfully request that you please attach H.R. 4000, the POW/MIA Protection Act.''

The continuing resolution, the CR, is our last chance to have this legislation enacted into law before the end of the session. One person will not dare filibuster the Senate over a whole CE to run the government and keep 535, minus our Bill Emerson watching us from heaven, to keep 533 other people from going home while he filibusters. But to blackball a suspension vote like this, even a unanimous one, a snap of the fingers, mysteriously, for some people.

The chairmen continue: ''As you are well aware,'' this bill ''will restore the provisions that were removed from the Missing Service Personnel Act,'' at 11:52 at night, without a phone call to me, ''by the McCain amendment to the 1997 Defense Authorization Conference Report. It requires no additional funding.

''Under the language in the Defense Authorization Act,'' which was law from February 10 to this Tuesday, a couple of days ago. And Clinton did not even know this was in the bill when he signed it, or he could have said ''I will veto it,'' and then he would have had a claim on the POW families because he always tried to get to the right of another war combat person, President Bush, on this.

I have to correct one tiny thing that this hero the gentleman from Texas, SAM JOHNSON, said. It is not 48 hours. We negotiated it with the POW who heroically withstood 6 years of deprivation and torture, the gentleman from Florida, PETE PETERSON. It is 10 full days for a CINC. That was the one amendment of this, 10 full days, to paraphrase Mr. JOHNSON. Is that an inconvenience on a combat commander, particularly Marines, who almost have it emblazoned in their brains we do not leave our wounded on the battlefield, let alone desert our missing? I do not think so.

''Missing servicepersons can be declared dead by the Pentagon without credible proof,'' as of Tuesday. If a body were recovered that was not identifiable by visual means, forensic certification is no longer required, as of Tuesday.

We restore that.

''Criminal penalties were removed for government officials'' get these words, ''who knowingly and willingly withhold information related to the disappearance, whereabouts, or status of a missing person.'' What clod would do that? Some criminal person once in every 10 years? But the families want this to prevent people not paying attention to them being included in the process 10, 20, 30, 40 years later.

''H.R. 4000 would restore the original language,'' the Dole-Gilman language, that has been public law for months, since February 10. 49–0 vote in the full committee.

''We realize that there are numerous difficult choices being made in organizing this Omnibus'' CR bill. ''However, it is critical that H.R. 4000 be included in the measure to,'' and this is Chairman GILMAN and Chairman JERRY SOLOMON, an Air Force veteran and a Marine veteran, to reestablish the core of the Missing Service Personnel Act.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. DORNAN. Mr. Speaker, could I ask the gentleman from Virginia [Mr. PICKETT] if I could have any remaining time he has?

Mr. PICKETT. If the gentleman will allow me to yield to the gentleman from Mississippi [Mr. MONTGOMERY] for a unanimous-consent request, then I will yield him time.

Mr. DORNAN. Absolutely.

Mr. PICKETT. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

(Mr. MONTGOMERY asked and was given permission to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4000. I commend the gentleman from California [Mr. DORNAN], the author of the bill. We have worked together for years on this issue. I thank the gentleman for giving me this opportunity.

Mr. PICKETT. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Before the gentleman continues, the Chair would remind Members of the House, it is not in order to cast reflections on the Senate or its Members individually or collectively.

The gentleman may proceed.

Mr. DORNAN. Mr. Speaker, before I continue, I was remiss in talking about heroes on both sides of the aisle. General MONTGOMERY has gone to Hanoi itself, has argued eyeball to eyeball in the 1970's starting, chaired a commission, has given so much time as he has to every aspect of military life, all services, and has been properly rewarded by every veterans group in this country. Every enlisted group and every officer group has commended him for his undying support of our men in the Reserves, the Guard, on active duty, and yes, those left by political and diplomatic circumstances behind while others walked across a freedom bridge or got on a freedom bird in Hanoi, those big Air Force C–141's.

□ 1545

I left out the last line of Chairmen GILMAN and SOLOMON. ''Our Nation's POWs and missing-in-action and their families deserve no less than this being put on the CR.''

I am not casting aspersions on anybody in the other body; I am talking about our leadership here. I am a NEWT GINGRICH fan. I supported him at every point in his career. He is a son of an Army artillery officer, as I am the son of an Army artillery officer. He promised me, he saw no reason this could not go on the CR. Kick into high gear, Mr. Speaker; do it for these families. They are counting on you. Mr. ARMEY, Mr. DELAY, to all the leadership, there is only a handful between JERRY SOLOMON and BEN GILMAN and the Speaker at the top. They all promised me this could be done.

Staff tells me, ''We can't put authorizing language on the CR.'' This does not cost a nickel. This is a point of honor. I deliberately wore my RAF, Royal Air Force, regimental tie today. Can you hear Churchill's words ringing down through history? ''Never in the course of human conflict have so many owed so much to so few.''

Well, we are the many here, and we owe it to the few left behind to do the right thing here and put it on the CR so it cannot be blackballed in the other distinguished Chamber.

Now, this POW–MIA Act will further ensure that the families are treated with respect by the U.S. Government and are provided with full disclosure of the facts regarding their loved one's fate.

Imagine taking a report of American pilots sent from Korea, not through China, but through Siberia, to the Soviet Union, for air combat tactics, information, and then to reside there as guinea pigs or God knows what, for any other intelligence or stealing identity schemes by the MVD and then the KGB?

Imagine a report of that thing being given to the Russians, and when former and current KGB people at the time objected to it, it came back here and was stamped ''working document.'' Thank heavens the guy named Ross who did that was fired within a week.

Imagine backing off from your own work product because former KGB people out of nothing but embarrassment or maybe ongoing operations say ''we reject this U.S. report.'' And then the families could not get that report? It was suppressed, so that the loved ones of the people involved here could not get the best work effort of our best intelligence sources on what happened to them? It is outrageous.

The gentleman from California [Mr. PACKARD] summed it up beautifully for his dad, Forrest Packard. Because he was 46 he was put to work in the hospital. All his young construction workers were given that old tin pot helmet that my dad wore in World War I, a Springfield 1903 rifle, and told, ''Defend Wake Island.''

Some of them died as civilians with a gun and helmet. The ones captured along with Forrest Packard, 200 of them were executed. The lucky ones that did not die in Manchuria or other coal mines under the Japanese warloads like RON PACKARD's dad, the older ones were sent off to prison camps in Japan. But the 200 best young kids that stayed, that were hired for $25 a month, they worked as slave labor for 2 years, still building pill boxes, and then were executed as we bypassed Wake Island. How could any Member of this or the other body say civilians do not count?

''Slang word, cuss word, write them off. They all make $100,000 a week.''

Give me a break. These kids were making nothing for 2 years until they were executed. Restore the requirement not for 40 hours, but as soon as possible, which is reasonable, not later than 10 hours, for the review board to provide a description to the parents and the primary relatives, principally other brothers and sisters and grown-up children who become primary relatives, if evidence comes forward and if they want it. It is not an immediate review of every case cycled over and over. The rest of it is pretty well-known in this House.

I beg my leadership on this last day, I beg you to put it in the CR.

Mr. Speaker, I include for the RECORD the letter referred to.

COMMITTEE ON INTERNATIONAL RELATIONS

SEPTEMBER 27, 1996

To: House Leadership

From: Chairman Benjamin A. Gilman, Committee on International Relations, Chairman Gerald Solomon, Committee on Rules.

Re H.R. 4000, the POW/MIA Protection Act.

As you consider the Omnibus Appropriations Bill for FY '97, we respectfully request that you please attach H.R. 4000, the POW/MIA Protection Act. The continuing resolution is our last chance to have this legislation enacted into law before the end of the session.

As you are well aware, H.R. 4000 will restore the provisions that were removed from the Missing Service Personnel Act of 1996 by the McCain amendment to the 1997 Defense Authorization Conference Report. It requires no additional funding or expenditures.

Under the language in the Defense Authorization Act:

Unit commanders are permitted to wait 10 full days (rather than 48 hours) before reporting that a service person a missing or unaccounted for.

Missing service persons can be declared dead by the Pentagon without credible proof. If a body were recovered that was not identifiable by visual means, forenic certification would no longer be required.

Criminal penalties were removed for government officials who knowingly and willingly withhold information related to the disappearance, whereabouts, or status of a missing person.

H.R. 4000 would restore the original language of the Missing Service Personnel Act. This bill, which at present has over 270 cosponsors, was passed unanimously out of the National Security Committee on September 17, 1996, 49–0!

We realize that there are numerous difficult choices being made in organizing this Omnibus Bill. However, it is critical that H.R. 4000 be included in the measure to reestablish the core of the Missing Service Personnel Act. Our nation's POW/MIA's and their families deserve no less.

Mr. BUYER. Mr. Speaker, when a young man or woman joins our military, they make a commitment to support and defend our Constitution. At that same time, our Government assumes a sacred commitment to care for those personnel throughout their service.

I am appalled by recent revelations, made in Chairman DORNAN's Military Forces and Personnel Subcommittee, that on two occasions, our Government knowingly left live POW's behind at the end of a conflict. This is outrageous and inexcusable.

This legislation restores provisions removed from the law by this year's Defense authorization bill that make it difficult for such a grave breach of confidence to happen again.

I urge my colleagues to support this bill.

Mr. ENSIGN. Mr. Speaker, in regard to rollcall No. 449, I would like to register my remarks in support of H.R. 4000, a bill to restore certain missing persons authorities applicable to the Department of Defense. I was unavoidably detained and was unable to vote on this measure. However, I am a cosponsor and strong supporter of H.R. 4000. It is the responsibility of the Federal Government to account for every U.S. service man and woman sent into combat to protect and defend the United States and its interests. If soldiers are taken as prisoners of war [POW] or are determined to be missing in action [MIA], the Department of Defense must investigate their cases until it has exhausted all hope of locating these individuals. They should not be declared dead merely because of the passage of time. I support H.R. 4000 because it establishes strict guidelines to account for POW's and MIA's and to monitor their status. This legislation will ensure that there are specific procedures for meeting these guidelines. We owe this to missing soldiers and their families. I would have voted ''yea'' on H.R. 4000.

Mr. SOLOMON. Mr. Speaker, as a young marine in my youth, I was proud to have

served in the U.S. Marine Corps during our Korean war, but never had the opportunity to serve in Korea. I still live by the fundamental lesson I learned from my beloved corps. This lesson is very simple—accomplish your mission and take care of your buddies.

A mission that has always guided me in my congressional career is an unwavering commitment to achieve the fullest possible accounting for those servicemen still missing in action. In accomplishing this mission we all take care of our buddies.

During my service, soldiers, sailors, airmen, and my fellow marines stood up and stopped communism dead in its tracks on the Korean Peninsula, making this country proud. And make no mistake about it—we won that war!

But tragically, all wars have a severe price, and many of my fellow warriors who will remain forever young in my minds were left behind. Remembering that mission—the fullest possible accounting of our buddies—recently in the 104th Congress, the tragic fate of POW's in Korea was revealed. Information has been made public that hundreds of Korean war veterans were indeed left behind.

The Korean war, called the ''forgotten war'', still reached out over 40 years later and beckons all of us to never have forgotten warriors.

I pledge that there will be unrelenting pressure from Congress on all individuals and organizations within our Government with any relevant information to come forward. We owe all family members an understanding as to what happened to their loved ones—silence is not an option.

We in Washington, in both political parties and on both ends of Pennsylvania Avenue, the Congress and the President, have a sacred and moral responsibility to resolve uncertainty of all cases of POW's and MIA's. That means not only those from the Korean war, but the unresolved cases from the Vietnam War as well.

Perhaps more than any war, Vietnam continues to illustrate the complexity of the POW/MIA issue, In 1973, 591 Americans were released by the North Vietnamese. And as of this date, the National League of Families of American Prisoners and Missing in Southeast Asia report that ''2,140 Americans are still missing and unaccounted for from the Vietnam war.''

Therefore, the fundamental lesson I learned from my experiences as an advocate in supporting POW/MIA's and their loved ones is to have unrelenting vigilance in always passing the strongest possible legislation. All Members of both parties are well aware, H.R. 4000 will restore the provisions that were removed from the Missing Service Personnel Act of 1996 by the McCain amendment to the 1997 Defense authorization conference report. It requires no additional funding or expenditures.

Under the language in the Defense Authorization Act:

Unit commanders are permitted to wait 10 full days before reporting that a service person is missing or unaccounted for.

Missing service persons can be declared dead by the Pentagon without credible proof. If a body were recovered that was not identifiable by visual means, forensic certification would no longer be required.

Criminal penalties were removed for Government officials who knowingly and willingly withhold information related to the disappearance, whereabouts, or status of a missing person.

H.R. 4000 would restore the original language of the Missing Service Personnel Act. The bill, which at present has over 270 cosponsors, was passed unanimously out of the National Security Committee on September 17, 1996.

It is critical that H.R. 4000 be passed and included in the omnibus appropriations bill for fiscal year 1997. Our Nation's POW/MIA's and their families deserve no less.

Mr. EVERETT. Mr. Speaker, I rise in strong support of H.R. 4000, legislation to restore a number of key provisions relating to the Department of Defense missing persons policy that were modified or deleted in the fiscal year 1997 Defense Authorization Act—H.R. 3230—as the request of the Clinton Administration and the Senate. I was pleased to be an original cosponsor of this measure which was unanimously reported out of the National Security Committee 45 to 0.

Among the provisions included in H.R. 4000, this bill will reestablish the 48-hour time period that a field commander must report a missing person, restores the requirement that the theater commander must assess the adequacy of actions taken to resolve the missing person's status, restores the requirement that the status of persons last known to be alive be reviewed every 3 years for 30 years, and restores criminal penalties for the knowing and willful withholding of information from a missing person's file.

The restoration of these provisions are significant in that the United States must never again leave behind American prisoners of war or those declared ''missing in action'' without exhausting every means available to determine the fate of all U.S. servicemen.

One of the most important commitments this government can make to those patriots who are willing to fight and die for our freedom, is to ensure that the United States will never abandon them in the hardships of war. Equally important is to instill this commitment with the families of our uniformed personnel. They both must have full confidence that their support from the United States will always be strong, and never fade. This legislation certainly helps us keep this commitment and I urge its adoption.

Mr. PICKETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina [Mr. SPENCE] that the House suspend the rules and pass the bill, H.R. 4000, as amended.

The question was taken.

Mr. DORNAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. GOODLING. Mr. Speaker, pursuant to House Resolution 525, the following suspension is expected to be considered today, September 27: H.R. 4139.

## OLDER AMERICANS ACT INDIAN TECHNICAL AMENDMENTS

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1972) to amend the Older Americans Act of 1965, and for other purposes, as amended.

The Clerk read as follows:

S. 1972

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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**TITLE I—OLDER AMERICANS ACT OF 1965**

**SEC. 101. INDIAN EMPLOYMENT; DEFINITION OF INDIAN RESERVATION.**

Section 502(b)(1)(B) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)(B)) is amended to read as follows:

''(B)(i) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities; or

''(ii) if such project is carried out by a tribal organization that enters into an agreement under this subsection or receives assistance from a State that enters into such an agreement, will provide employment for such individuals who are Indians residing on or near an Indian reservation, as the term is defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2));''.

**SEC. 102. POPULATION STATISTICS DEVELOPMENT.**

Section 614(b) of the Older Americans Act of 1965 (42 U.S.C. 3057e(b)) is amended by striking ''certification'' and inserting ''approval''.

**SEC. 103. REPORTING REQUIREMENTS.**

Section 614(c) of the Older Americans Act of 1965 (42 U.S.C. 3057e(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following new paragraph:

''(2) The Assistant Secretary shall provide waivers and exemptions of the reporting requirements of subsection (a)(3) for applicants

that serve Indian populations in geographically isolated areas, or applicants that serve small Indian populations, where the small scale of the project, the nature of the applicant, or other factors make the reporting requirements unreasonable under the circumstances. The Assistant Secretary shall consult with such applicants in establishing appropriate waivers and exemptions.''.

**SEC. 104. EXPENDITURE OF FUNDS FOR NUTRITION SERVICES.**

Section 614(c) of the Older Americans Act of 1965 (42 U.S.C. 3057e(c)), as amended by section 103, is further amended by adding at the end the following new paragraph:

''(3) In determining whether an application complies with the requirements of subsection (a)(8), the Assistant Secretary shall provide maximum flexibility to an applicant who seeks to take into account subsistence needs, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographical needs of the Indian populations to be served.''.

**SEC. 105. COORDINATION OF SERVICES.**

Section 614(c) of the Older Americans Act of 1965 (42 U.S.C. 3057e(c)), as amended by section 104, is further amended by adding at the end the following new paragraph:

''(4) In determining whether an application complies with the requirements of subsection (a)(12), the Assistant Secretary shall require only that an applicant provide an appropriate narrative description of the geographical area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients.''.

## TITLE II—EXTENSION OF PROGRAMS; MUSEUMS AND LIBRARIES

### Subtitle A—Extension of Programs

**SEC. 201. EXTENSION OF NATIONAL LITERACY ACT OF 1991.**

(a) NATIONAL WORKFORCE LITERACY ASSISTANCE COLLABORATIVE.—Subsection (c) of section 201 of the National Literacy Act of 1991 (20 U.S.C. 1211–1(c)) is amended by striking ''$5,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

(b) FUNCTIONAL LITERACY AND LIFE SKILLS PROGRAM FOR STATE AND LOCAL PRISONERS.—Paragraph (3) of section 601(i) of the National Literacy Act of 1991 (20 U.S.C. 1211–2(i)) is amended by striking ''$10,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.''.

**SEC. 202. ADULT EDUCATION ACT AMENDMENTS.**

The Adult Education Act (20 U.S.C. 1201 et seq.) is amended—

(1) in section 312—

(A) in each of subparagraphs (A) and (B) of paragraph (11), by moving the left margin two ems to the right;

(B) in each of paragraphs (11) through (15), by moving the left margin two ems to the right; and

(C) by adding at the end the following:

''(16) The term 'family literacy services' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

''(A) Interactive literacy activities between parents and their children.

''(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

''(C) Parent literacy training.

''(D) An age-appropriate education program for children.'';

(2) in section 313(a), by striking ''the fiscal year 1991,'' and all that follows through ''1995'' and inserting ''fiscal year 1997'';

(3) in section 321, by inserting ''and family literacy services'' after ''and activities'';

(4) in the first sentence of section 322(a)(1), by inserting ''and family literacy services'' after ''adult education programs'';

(5) in section 341(a), by inserting ''and for family literacy services'' after ''adult education'';

(6) in section 356(k), by striking ''$25,000,000'' and all that follows through the period and inserting ''such sums as may be necessary for fiscal year 1997.'';

(7) in section 371(e)(1), by striking ''the fiscal year 1991,'' and all that follows through the period and inserting ''fiscal year 1997.'';

(8) in section 384, by striking subsections (c) through (n); and

(9) by adding at the end the following:

**''SEC. 386. NATIONAL INSTITUTE FOR LITERACY.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the 'Institute'). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the 'Interagency Group'). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services whose purpose is determined by the Interagency Group to be related to the purpose of the Institute.

''(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

''(3) BOARD RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

''(4) DAILY OPERATIONS.—The daily operations of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

''(b) DUTIES.—

''(1) IN GENERAL.—The Institute shall improve the quality and accountability of the adult basic skills and literacy delivery system by—

''(A) providing national leadership for the improvement and expansion of the system for delivery of literacy services;

''(B) coordinating the delivery of such services across Federal agencies;

''(C) identifying effective models of basic skills and literacy education for adults and families that are essential to success in job training, work, the family, and the community;

''(D) supporting the creation of new methods of offering improved literacy services;

''(E) funding a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

''(i) encouraging the coordination of literacy services;

''(ii) carrying out evaluations of the effectiveness of adult education and literacy activities;

''(iii) enhancing the capacity of State and local organizations to provide literacy services; and

''(iv) serving as a reciprocal link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

''(F) supporting the development of models at the State and local level of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

''(G) providing information, and other program improvement activities to national, State, and local organizations, such as—

''(i) improving the capacity of national, State, and local public and private organizations that provide literacy and basic skills services, professional development, and technical assistance, such as the State or regional adult literacy resource centers referred to in subparagraph (E); and

''(ii) establishing a national literacy electronic database and communications network;

''(H) working with the Interagency Group, Federal agencies, and the Congress to ensure that such Group, agencies, and the Congress have the best information available on literacy and basic skills programs in formulating Federal policy with respect to the issues of literacy, basic skills, and workforce and career development; and

''(I) assisting with the development of policy with respect to literacy and basic skills.

''(2) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

''(c) LITERACY LEADERSHIP.—

''(1) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

''(2) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

''(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

''(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

''(i) are not otherwise officers or employees of the Federal Government; and

''(ii) are representative of entities or groups described in subparagraph (B).

''(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

''(i) literacy organizations and providers of literacy services, including—

''(I) nonprofit providers of literacy services;

''(II) providers of programs and services involving English language instruction; and

''(III) providers of services receiving assistance under this title;

''(ii) businesses that have demonstrated interest in literacy programs;

''(iii) literacy students;

''(iv) experts in the area of literacy research;

''(v) State and local governments; and

''(vi) representatives of employees.

''(2) DUTIES.—The Board—

''(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

''(B) shall provide independent advice on the operation of the Institute; and

''(C) shall receive reports from the Interagency Group and the Director.

''(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

''(4) TERMS.—

''(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

''(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

''(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

''(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

''(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

''(e) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both real and personal.

''(f) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(g) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

''(h) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

''(i) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(j) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

''(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

''(2) a description of how plans for the operation of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

''(3) any additional minority, or dissenting views submitted by members of the Board.

''(k) FUNDING.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, or the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this section.''.

**SEC. 203. EXTENSION OF CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.**

Subsection (a) of section 3 of the Carl D. Perkins Vocational and Applied Technology Act is amended by striking ''appropriated'' and all that follows through ''1995'' and inserting ''appropriated for fiscal year 1997 such sums as may be necessary''.

### Subtitle B—Museums and Libraries

**SEC. 211. MUSEUM AND LIBRARY SERVICES.**

The Museum Services Act (20 U.S.C. 961 et seq.) is amended to read as follows:

### ''TITLE II—MUSEUM AND LIBRARY SERVICES

### ''Subtitle A—General Provisions

**''SEC. 201. SHORT TITLE.**

''This title may be cited as the 'Museum and Library Services Act'.

**''SEC. 202. GENERAL DEFINITIONS.**

''As used in this title:

''(1) COMMISSION.—The term 'Commission' means the National Commission on Libraries and Information Science established under section 3 of the National Commission on Libraries and Information Sciences Act (20 U.S.C. 1502).

''(2) DIRECTOR.—The term 'Director' means the Director of the Institute appointed under section 204.

''(3) INSTITUTE.—The term 'Institute' means the Institute of Museum and Library Services established under section 203.

''(4) MUSEUM BOARD.—The term 'Museum Board' means the National Museum Services Board established under section 275.

**''SEC. 203. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.**

''(a) ESTABLISHMENT.—There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

''(b) OFFICES.—The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

**''SEC. 204. DIRECTOR OF THE INSTITUTE.**

''(a) APPOINTMENT.—

''(1) IN GENERAL.—The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

''(2) TERM.—The Director shall serve for a term of 4 years.

''(3) QUALIFICATIONS.—Beginning with the first individual appointed to the position of Director after the date of the enactment of the Act entitled 'An Act to amend the Older Americans Act of 1965, and for other purposes', every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after the date of enactment of the Act entitled 'An Act to amend the Older Americans Act of 1965, and for other purposes', every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

''(b) COMPENSATION.—The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(c) DUTIES AND POWERS.—The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this title.

''(d) NONDELEGATION.—The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

''(e) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

**''SEC. 205. DEPUTY DIRECTORS.**

''The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

**''SEC. 206. PERSONNEL.**

''(a) IN GENERAL.—The Director may, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

''(b) VOLUNTARY SERVICES.—The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

**''SEC. 207. CONTRIBUTIONS.**

''The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special interest-bearing account to the credit of the Institute for the purposes specified in each case.

### ''Subtitle B—Library Services and Technology

**''SEC. 211. SHORT TITLE.**

''This subtitle may be cited as the 'Library Services and Technology Act'.

**"SEC. 212. PURPOSE.**

''It is the purpose of this subtitle—

''(1) to consolidate Federal library service programs;

''(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

''(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

''(4) to provide linkages among and between libraries; and

''(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

**"SEC. 213. DEFINITIONS.**

''As used in this subtitle:

''(1) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(2) LIBRARY.—The term 'library' includes—

''(A) a public library;

''(B) a public elementary school or secondary school library;

''(C) an academic library;

''(D) a research library, which for the purposes of this subtitle means a library that—

''(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

''(ii) is not an integral part of an institution of higher education; and

''(E) a private library, but only if the State in which such private library is located determines that the library should be considered a library for purposes of this subtitle.

''(3) LIBRARY CONSORTIUM.—The term 'library consortium' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

''(4) STATE.—The term 'State', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(5) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

''(6) STATE PLAN.—The term 'State plan' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subtitle, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subtitle, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subtitle.

**"SEC. 214. AUTHORIZATION OF APPROPRIATIONS.**

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

''(2) TRANSFER.—The Secretary of Education shall—

''(A) transfer any funds appropriated under the authority of paragraph (1) to the Director to enable the Director to carry out this subtitle; and

''(B) not exercise any authority concerning the administration of this title other than the transfer described in subparagraph (A).

''(b) FORWARD FUNDING.—

''(1) IN GENERAL.—To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subtitle are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

''(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subtitle (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

''(c) ADMINISTRATION.—Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subtitle.

**"CHAPTER 1—BASIC PROGRAM REQUIREMENTS**

**"SEC. 221. RESERVATIONS AND ALLOTMENTS.**

''(a) RESERVATIONS.—

''(1) IN GENERAL.—From the amount appropriated under the authority of section 214 for any fiscal year, the Director—

''(A) shall reserve 1½ percent to award grants in accordance with section 261; and

''(B) shall reserve 4 percent to award national leadership grants or contracts in accordance with section 262.

''(2) SPECIAL RULE.—If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) for the fiscal year succeeding the fiscal year for which the funds were so reserved.

''(b) ALLOTMENTS.—

''(1) IN GENERAL.—From the sums appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

''(2) REMAINDER.—From the remainder of any sums appropriated under the authority of section 214 that are not reserved under subsection (a) and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

''(3) MINIMUM ALLOTMENT.—

''(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

''(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

''(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

''(4) DATA.—The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

**"SEC. 222. ADMINISTRATION.**

''(a) IN GENERAL.—Not more than 4 percent of the total amount of funds received under this subtitle for any fiscal year by a State may be used for administrative costs.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to limit spending for evaluation costs under section 224(c) from sources other than this subtitle.

**"SEC. 223. PAYMENTS; FEDERAL SHARE; AND MAINTENANCE OF EFFORT REQUIREMENTS.**

''(a) PAYMENTS.—Subject to appropriations provided pursuant to section 214, the Director shall pay to each State library administrative agency having a State plan approved under section 224 the Federal share of the cost of the activities described in the State plan.

''(b) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share shall be 66 percent.

''(2) NON-FEDERAL SHARE.—The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

''(c) MAINTENANCE OF EFFORT.—

''(1) STATE EXPENDITURES.—

''(A) REQUIREMENT.—

''(i) IN GENERAL.—The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this chapter shall be reduced if the level of State expenditures, as

described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

''(ii) CALCULATION.—Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

''(B) DECREASE IN FEDERAL SUPPORT.—If the amount made available under this subtitle for a fiscal year is less than the amount made available under this subtitle for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

''(2) LEVEL OF STATE EXPENDITURES.—The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subtitle. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

''(3) WAIVER.—The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

**''SEC. 224. STATE PLANS.**

''(a) STATE PLAN REQUIRED.—

''(1) IN GENERAL.—In order to be eligible to receive a grant under this subtitle, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

''(2) DURATION.—The State plan shall cover a period of 5 fiscal years.

''(3) REVISIONS.—If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

''(b) CONTENTS.—The State plan shall—

''(1) establish goals, and specify priorities, for the State consistent with the purposes of this subtitle;

''(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

''(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

''(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

''(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

''(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

''(c) EVALUATION AND REPORT.—Each State library administrative agency receiving a grant under this subtitle shall independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

''(d) INFORMATION.—Each library receiving assistance under this subtitle shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c).

''(e) APPROVAL.—

''(1) IN GENERAL.—The Director shall approve any State plan under this subtitle that meets the requirements of this subtitle and provides satisfactory assurances that the provisions of such plan will be carried out.

''(2) PUBLIC AVAILABILITY.—Each State library administrative agency receiving a grant under this subtitle shall make the State plan available to the public.

''(3) ADMINISTRATION.—If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

''(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

''(B) offer the State library administrative agency the opportunity to revise its State plan;

''(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

''(D) provide the State library administrative agency the opportunity for a hearing.

## ''CHAPTER 2—LIBRARY PROGRAMS

**''SEC. 231. GRANTS TO STATES.**

''(a) IN GENERAL.—Of the funds provided to a State library administrative agency under section 214, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

''(1) establishing or enhancing electronic linkages among or between libraries and library consortia; and

''(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

''(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the purposes described in subsection (a) between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

## ''CHAPTER 3—ADMINISTRATIVE PROVISIONS

### ''Subchapter A—State Requirements

**''SEC. 251. STATE ADVISORY COUNCILS.**

''Each State desiring assistance under this subtitle may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

### ''Subchapter B—Federal Requirements

**''SEC. 261. SERVICES FOR INDIAN TRIBES.**

''From amounts reserved under section 221(a)(1)(A) for any fiscal year the Director shall award grants to organizations primarily serving and representing Indian tribes to enable such organizations to carry out the activities described in section 231.

**''SEC. 262. NATIONAL LEADERSHIP GRANTS OR CONTRACTS.**

''(a) IN GENERAL.—From the amounts reserved under section 221(a)(1)(B) for any fiscal year the Director shall establish and carry out a program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

''(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

''(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

''(3) preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

''(4) model programs demonstrating cooperative efforts between libraries and museums.

''(b) GRANTS OR CONTRACTS.—

''(1) IN GENERAL.—The Director may carry out the activities described in subsection (a) by awarding grants to, or entering into contracts with, libraries, agencies, institutions of higher education, or museums, where appropriate.

''(2) COMPETITIVE BASIS.—Grants and contracts under this section shall be awarded on a competitive basis.

''(c) SPECIAL RULE.—The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

**''SEC. 263. STATE AND LOCAL INITIATIVES.**

''Nothing in this subtitle shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subtitle, the determination of the best uses of the funds provided under this subtitle, shall be reserved for the States and their local subdivisions.

## ''Subtitle C—Museum Services

**''SEC. 271. PURPOSE.**

''It is the purpose of this subtitle—

''(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education, and with programs of nonformal education for all age groups;

''(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

''(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

**''SEC. 272. DEFINITIONS.**

''As used in this subtitle:

''(1) MUSEUM.—The term 'museum' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

''(2) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

**''SEC. 273. MUSEUM SERVICES ACTIVITIES.**

''(a) GRANTS.—The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

''(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

''(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

''(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

''(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

''(5) assisting museums in the conservation of their collections;

''(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

''(7) model programs demonstrating cooperative efforts between libraries and museums.

''(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—

''(1) PROJECTS TO STRENGTHEN MUSEUM SERVICES.—The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations acts.

''(2) LIMITATION ON AMOUNT.—The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subtitle for such fiscal year.

''(3) OPERATIONAL EXPENSES.—No financial assistance may be provided under this subsection to pay for operational expenses.

''(c) FEDERAL SHARE.—

''(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsections (a) and (b) shall be not more than 50 percent.

''(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to make grants under subsection (a), or enter into contracts or agreements under subsection (b), for which the Federal share may be greater than 50 percent.

''(d) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subtitle. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subtitle shall not be subject to any review outside of the Institute.

**''SEC. 274. AWARD.**

''The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

**''SEC. 275. NATIONAL MUSEUM SERVICES BOARD.**

''(a) ESTABLISHMENT.—There is established in the Institute a National Museum Services Board.

''(b) COMPOSITION AND QUALIFICATIONS.—

''(1) COMPOSITION.—The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—The appointive members of the Museum Board shall be selected from among citizens of the United States—

''(A) who are members of the general public;

''(B) who are or have been affiliated with—

''(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

''(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

''(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

''(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

''(c) TERMS.—

''(1) IN GENERAL.—Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

''(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

''(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(2) REAPPOINTMENT.—No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

''(3) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

''(d) DUTIES AND POWERS.—The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

''(1) financial assistance awarded under this subtitle for museum services; and

''(2) projects described in section 262(a)(4).

''(e) CHAIRPERSON.—The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

''(f) MEETINGS.—

''(1) IN GENERAL.—The Museum Board shall meet—

''(A) not less than 3 times each year, including—

''(i) not less than 2 times each year separately; and

''(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 262(a)(4); and

''(B) at the call of the Director.

''(2) VOTE.—All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the Museum Board who are present.

''(g) QUORUM.—A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

''(h) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—Each member of the Museum Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

''(2) TRAVEL EXPENSES.—The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

''(i) COORDINATION.—The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

**''SEC. 276. AUTHORIZATION OF APPROPRIATIONS.**

''(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director $28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

''(b) ADMINISTRATION.—Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subtitle.

''(c) SUMS REMAINING AVAILABLE.—Sums appropriated pursuant to subsection (a) for

any fiscal year shall remain available for obligation until expended.''.

**SEC. 212. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.**

(a) FUNCTIONS.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (a) the following:

''(b) The Commission shall have the responsibility to advise the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute of Museum and Library Services relating to library services, including—

''(1) general policies with respect to—

''(A) financial assistance awarded under the Museum and Library Services Act for library services; and

''(B) projects described in section 262(a)(4) of such Act; and

''(2) measures to ensure that the policies and activities of the Institute of Museum and Library Services are coordinated with other activities of the Federal Government.

''(c)(1) The Commission shall meet not less than 1 time each year in a joint meeting with the National Museum Services Board, convened for purposes of providing advice on general policy with respect to financial assistance for projects described in section 262(a)(4) of such Act.

''(2) All decisions by the Commission and the National Museum Services Board with respect to the advice on general policy described in paragraph (1) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the National Museum Services Board who are present.

''(3) A majority of the members of the Commission and a majority of the members of the National Museum Services Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the National Museum Services Board.''.

(b) MEMBERSHIP.—Section 6 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),'';

(B) in the second sentence—

(i) by striking ''special competence or interest in'' and inserting ''special competence in or knowledge of''; and

(ii) by inserting before the period the following: ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'';

(C) in the third sentence, by inserting ''appointive'' before ''members''; and

(D) in the last sentence, by striking ''term and at least'' and all that follows and inserting ''term.''; and

(2) in subsection (b), by striking ''the rate specified'' and all that follows through ''and while'' and inserting ''the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including traveltime) during which the members are engaged in the business of the Commission. While''.

**SEC. 213. TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES.**

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code;

(2) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act—

(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section (including all related functions of any officer or employee of the Institute of Museum Services); and

(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(i) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any

application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

(1) the services of such officers, employees, and other personnel of the Institute of Museum Services with respect to functions transferred to the Institute of Museum and Library Services by this section; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

(m) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section, the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).

**SEC. 214. SERVICE OF INDIVIDUALS SERVING ON DATE OF ENACTMENT.**

Notwithstanding section 204 of the Museum and Library Services Act, the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services Act (as such section was in effect on the day before the date of enactment of this Act) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section 211 of this title), and shall serve at the pleasure of the President.

**SEC. 215. CONSIDERATION.**

Consistent with title 5, United States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.

**SEC. 216. TRANSITION AND TRANSFER OF FUNDS.**

(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this title. Such measures may include the transfer of appropriated funds.

(b) TRANSFER.—The Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than $200,000.

## TITLE III—HIGHER EDUCATION

### Subtitle A—Debt Reduction

**SEC. 301. UNSUBSIDIZED STUDENT LOANS.**

(a) AMENDMENT.—Paragraph (1) of section 428H(f) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(f)(1)) is amended to read as follows:

''(1) AMOUNT OF ORIGINATION FEE.—Except as provided in paragraph (5), an origination fee shall be paid to the Secretary with respect to each loan under this section in the amount of 3.0 percent of the principal amount of the loan. Each lender under this section is authorized to charge the borrower for such origination fee, provided that the lender assesses the same fee to all student borrowers. Any such fee charged to the borrower shall be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.''.

(b) CONFORMING AMENDMENTS.—Section 428H(f) of such Act is further amended—

(1) in paragraph (3), by striking ''the origination fee'' and inserting ''any origination fee that is charged to the borrower'';

(2) in paragraph (4), by striking ''origination fees authorized to be collected from borrowers'' and inserting ''origination fees required under paragraph (1)''; and

(3) by adding at the end the following new paragraph:

''(6) EXCEPTION.—Notwithstanding paragraph (1), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower's adjusted gross family income.''.

(c) REPORT ON COMPETITIVE ALLOCATION.—Within 60 days after the date of enactment of this Act, the Secretary of Education shall submit to each House of the Congress a legislative proposal that would permit the Secretary to allocate the right to make subsidized and unsubsidized student loans on the basis of competitive bidding. Such proposal shall include provision to ensure that any payments received from such competitive bidding are equally allocated to deficit reduction and to pro rata reduction of origination fees in both guaranteed and direct student loans.

**SEC. 302. STUDY OF LOAN FEES.**

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a statistical analysis of the subsidized and unsubsidized student loan programs under part B of title IV of the Higher Education Act of 1965 to gather data on lenders' use of loan fees and to determine if there are any anomalies that would indicate any institutional, programmatic or socioeconomic discrimination in the assessing or waiving such fees.

(b) REPORT.—The Secretary of Education shall submit to each House of the Congress a report on the study required by subsection (a) within 2 years after the date of enactment of this Act.

(c) STATISTICAL CHARACTERISTICS TO BE STUDIED.—In conducting the study required by subsection (a), the Secretary of Education shall compare recipients of loans on the basis of income, residence location, type and location of higher education, program of instruction and type of lender.

### Subtitle B—Financial Responsibility Standards

**SEC. 311. EXTENSION OF PUBLIC COMMENT PERIOD.**

The Secretary of Education shall extend until December 1, 1996, the period for public comment on rules published in the Federal Register on September 20, 1996 (61 Fed. Reg. 49552), relating to financial responsibility standards for institutions participating in higher education programs (34 C.F.R. part 668). The Secretary shall publish such rules in final form by February 1, 1997. Notwithstanding section 482(c) of the Higher Education Act of 1965 (20 U.S.C. 1089(c)), such rules shall, if so published by such date, be effective for award year 1997–98.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Montana [Mr. WILLIAMS] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering S. 1972, a bill which makes technical amendments to the Older Americans Act. In the waning days of this Congress, we have added a number of other legislative provisions that we believe are of great importance to parents, children, and families.

I want to also take this opportunity on the floor today to alert the other body that these provisions are important to the House and must be enacted into law prior to adjournment.

Briefly, let me describe the provisions contained in this bill. Let me begin with the Older Americans Act Technical Amendments which the other body has sent to the House and expects to be enacted into law during

this session. This bill clarifies certain provisions of the Older Americans Act to provide more flexibility to Indian tribal applicants in meeting certain application and reporting requirements. In general, they would allow the Assistant Secretary for Aging to take into consideration the unique cultural and geographical circumstances facing American Indian and Alaska Native populations. As a result, tribes will be able to tailor supportive and nutrition services to better meet the diverse needs of American Indian and Alaska Native communities. Strict accountability standards would be also retained to ensure results.

The provisions that we have attached to S. 1972 have all previously passed this House and include the following:

H.R. 3863, the Student Debt Reduction Act which passed the House 2 weeks ago by a vote of 414 to 1. At a time when students and parents everywhere are worrying about paying for college, every extra dollar becomes more and more important. This bill is designed to make college more affordable for students, make no mistake about it. The first and most important thing this bill does is lower costs for students. This technical correction simply allows lenders or others to pay the origination fees on behalf of students who borrow unsubsidized Stafford loans. This benefit is already available to students borrowing subsidized Stafford loans. The correction has no cost to the Federal Government. It specifically prohibits any discrimination on the part of lenders when offering programs that reduce a student's origination fees. It increases competition in the student loan program among lenders and is clearly the right thing to do. Let me make it perfectly clear: The House will not consider this legislation if it comes back and does not include the Student Debt Reduction Act.

The House has also added a provision to strengthen and improve the Federal commitment to this Nation's libraries and museums. This provision will streamline and consolidate Federal library programs into a more efficient, more flexible, and easier-to-use singular Federal program. This newer, more modern library program will help bring our Nation's libraries into the next century by ensuring that all libraries have access to new technologies, are better able to share resources, and can better serve our citizens, including the disadvantaged and those with special needs.

This legislation will increase cooperation between libraries and museums by placing management of these programs in the Institute of Museums and Library Services, to be headed on an alternating basis by someone with expertise in museums or libraries. Today, libraries and museums are beginning to cooperate to improve the services that both provide. This bill will foster this cooperation, and our Nation's libraries and museums will be the better for it.

One-year extensions for the National Literacy Act, the Adult Education and Literacy Act, and the Carl D. Perkins Vocational and Applied Technology Act. Along with the extension of the Adult Education Act for 1 year we have included one important change to clarify that funds under the Adult Education Act may be used for family literacy programs.

This bill also authorizes the National Institute for Literacy and revises current law to allow the Institute to more effectively assist with national efforts to improve the literacy level of our country's citizens. If we are going to effectively reduce the number of adults who are illiterate, we must work with families. Children with parents who can help them with their school work have a greater likelihood of succeeding in school. Family literacy programs provide adults with the education and parenting skills necessary to help their children succeed in school. While some States do use their adult education funds for family literacy programs, it is important that we amend current law to clarify that this is an allowable use of funds.

All of these are important provisions which have bipartisan support but for some reason cannot get through the other body. It is my hope that in these waning days the other body will pass this legislation that we are sending them and enact all of these provisions into law. I urge my colleagues in the Senate to pass this bill and send it to the President to enact into law. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the full committee, the distinguished gentleman and my friend from Pennsylvania, in supporting S. 1972, the Older American Indian Technical Amendments Act. under the Older Americans Act, grants are provided to native Americans and Native Hawaiian organizations to provide a range of services that allow native American elders to live longer with dignity and independence in their communities and on their reservations, and this bill is Congress' continual effort to simply enhance that dignity and independence.

The bill modifies the definition of reservation to clarify that tribes in Oklahoma and California, as well as Alaska Native communities, represented by our friend Chairman YOUNG, are eligible to provide critically needed nutrition and support services to their native Americans. As the gentleman from Pennsylvania has mentioned, this bill tailors support services to better address the needs of Indian people living in very rural areas, and I have such native Americans in tribes in my State of Montana.

Additionally, the bill provides that the Assistant Secretary for Aging may waive or exempt certain reporting requirements for tribal applicants in these isolated areas. The flexibility provided under this bill will better allow native American elders to receive critically needed nutrition and social services. However, and this is important, the bill still maintains strict accountability standards for all program applicants, including native Americans.

This bill also contains provisions establishing the Library Services and Technology Act. This authority creates a new Institute for Museum and Library Services that will integrate our Federal library and museum programs, to consolidate funds, and hopefully promote increased cooperation between libraries and museums across America.

This new partnership, we are hopeful, will focus funds on assisting libraries in acquiring new technologies and increasing access to library services for individuals with special needs, including America's children.

This new merger, by the way, was developed in cooperation with and strongly supported by the American Library Association, of which I am a member, the U.S. Commission on Libraries and Information Sciences, and the Institute of Museum Services, of which this Congress is justifiably proud.

This bill contains an extension of a specific Department of Education comment period for regulations dealing with financial responsibility standards without delaying the implementation of those regulations. The House is hopeful that this will allow additional input from the higher education community and give the department additional time to consider their suggestions before issuing final regulations.

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This package also contains a 1-year extension of the Adult Education Act, the Carl Perkins Vocational Education Act, and the National Institute for Literacy.

I was hopeful, as were my colleagues on this side of the aisle, that it would also contain a reauthorization of the National Environmental Education Act. However, there was contention and disagreement, particularly from our Republican colleagues, to reauthorize the National Environmental Education Act, despite the good attempts of the sponsor of this reauthorization, the gentleman from Michigan [Mr. KILDEE].

The Democrats want to express our concern that the National Environmental Education Act will expire because of this action. We were hopeful to continue an appropriate, although small, but important Federal role in environmental education. Because it is not in this bill, the act will apparently expire, and I express on behalf of my Democratic colleagues our objection to that.

I want to thank the gentleman from Pennsylvania, Chairman GOODLING, and the others for their work on the American Indian Technical Amendments Act.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in strong support of this legislation. My special interest in it is the Older Americans Indian technical fix. The bill clarifies certain provisions of the Older Americans Act to provide more flexibility to Indian tribal applicants in meeting application reporting requirements.

It allows the Assistant Secretary for Aging to take into consideration the unique cultural and geographical circumstances facing the American Indians and the Alaskan Native populations, thus allowing the tribes to tailor supportive and nutrition services to better meet the diverse needs of the American Indian and Alaskan Native communities.

Strict accountability, though, will still be retained, and standards will be retained. I think it is a great provision for this legislation, and I want to compliment the gentleman for bringing it to the floor.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to say, in relationship to the Environmental Education Act, all of us 5 years ago had agreed, and I made a powerful closing speech at the end of those 5 years, we want to make sure that the private sector understands that they will pick it up.

Mr. Speaker, I want to take this closing time to honor one who decided to leave this body. The gentleman from Wyoming [Mr. WILLIAMS] has served for a long time in the Congress of the United States. An awful lot of young people, parents, colleges, universities, Native Americans, owe him a great deal of thanks for all of his efforts.

I can remember many times and many hours that he spent trying to reauthorize a Higher Education Act that would be far better than the act that we had before.

And of course Native Americans truly owe him a debt of gratitude because he and the gentleman from Michigan [Mr. KILDEE], a few others who were there, and the gentleman from Alaska [Mr. YOUNG], were the staunchest supporters to provide a better way of life for our Native Americans.

So on this side of the aisle, we thank the gentleman from Wyoming [Mr. WILLIAMS] for all his efforts on behalf of children and parents.

Mr. Speaker, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

I will close on this side by primarily thanking the chairman of the Committee on Economic and Educational Opportunities for his long and continuing service, and especially acknowledge what a pleasure it has been to serve with the gentleman from Pennsylvania, BILL GOODLING, particularly, and his remarks today are very generous, and I am appreciative of them.

I also want to thank the gentleman on behalf of the Members on this side for all his years of service, which are, most likely, continuing. It has been a specific enjoyment for me to work with him during the past nine terms that I have served on that committee.

Mr. Speaker, I encourage my colleagues to support this legislation with no objection.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the Senate bill, S. 1972, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1972, a bill to amend the Older Americans Act of 1965 and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

***N O T I C E***

***Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.***

## CONFERENCE REPORT ON S. 1004, COAST GUARD AUTHORIZATION ACT OF 1996

Mr. SHUSTER submitted the following conference report and statement on the Senate bill (S. 1004) to authorize appropriations for the U.S. Coast Guard, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–854)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1004) to authorize appropriations for the United States Coast Guard, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Coast Guard Authorization Act of 1996''.*

***SEC. 2. TABLE OF CONTENTS.***

*The table of contents for this Act is as follows:*

## *TITLE I—AUTHORIZATION*

***SEC. 101. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard, as follows:*

*(1) For the operation and maintenance of the Coast Guard—*

*(A) for fiscal year 1996, $2,618,316,000; and*

*(B) for fiscal year 1997, $2,637,800,000;*

*of which $25,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund.*

*(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto—*

*(A) for fiscal year 1996, $428,200,000; and*

*(B) for fiscal year 1997, $411,600,000;*

*to remain available until expended, of which $32,500,000 for fiscal year 1996 and $20,000,000 for fiscal year 1997 shall be derived each fiscal year from the Oil Spill Liability Trust fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.*

*(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness—*

*(A) for fiscal year 1996, $22,500,000; and*

*(B) for fiscal year 1997, $20,300,000;*

*to remain available until expended, of which $3,150,000 for fiscal year 1996 and $5,020,000 for fiscal year 1997 shall be derived each fiscal year from the Oil Spill Liability Trust Fund.*

*(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code—*

*(A) for fiscal year 1996, $582,022,000; and*

*(B) for fiscal year 1997, $608,100,000.*

*(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—*

(A) for fiscal year 1996, $25,300,000, to remain available until expended; and

(B) for fiscal year 1997, $25,100,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000 for each of fiscal years 1996 and 1997, to remain available until expended.

(b) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—(1) Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

''(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.''.

(2) Notwithstanding any other provision of law, the Secretary of Transportation shall allocate out of funds available, $9,100,000 for the John F. Limehouse Memorial Bridge, Charleston, South Carolina. The allocation shall be deposited in the Truman-Hobbs bridge program account. The Secretary shall transfer this allocation and responsibility for administration of these funds to the United States Coast Guard.

**SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 38,400 as of September 30, 1996; and

(2) 37,561 as of September 30, 1997.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) for fiscal year 1996, 1604 student years; and

(B) for fiscal year 1997, 1604 student years.

(2) For flight training—

(A) for fiscal year 1996, 85 student years; and

(B) for fiscal year 1997, 95 student years.

(3) For professional training in military and civilian institutions—

(A) for fiscal year 1996, 330 student years; and

(B) for fiscal year 1997, 295 student years.

(4) For officer acquisition—

(A) for fiscal year 1996, 874 student years; and

(B) for fiscal year 1997, 878 student years.

**SEC. 103. QUARTERLY REPORTS ON DRUG INTERDICTION.**

Not later than 30 days after the end of each fiscal year quarter, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on all expenditures related to drug interdiction activities of the Coast Guard during that quarter.

**SEC. 104. SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.**

It is the sense of the Congress that in appropriating amounts for the Coast Guard, the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

## TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

**SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.**

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

**''§ 515. Child development services**

''(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

''(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

''(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

''(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

''(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

''(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection,and appropriate emergency medical procedures.

''(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

''(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

''(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

''(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

''515. Child development services.''.

**SEC. 202. HURRICANE ANDREW RELIEF.**

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

**SEC. 203. DISSEMINATION OF RESULTS OF 0–6 CONTINUATION BOARDS.**

Section 289(f) of title 14, United States Code, is amended by striking ''Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.''.

**SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.**

Section 712 of title 14, United States Code, is amended by adding at the end the following:

''(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.''.

**SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.**

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)'';

(2) by striking the last sentence; and

(3) by adding at the end the following:

''(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

''(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

''(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

''(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.''.

**SEC. 206. RECRUITING.**

(a) CAMPUS RECRUITING.—Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (108 Stat. 2776) is amended—

(1) by inserting ''or the Department of Transportation'' in subsection (a)(1) after ''the Department of Defense'';

(2) by inserting ''or the Secretary of Transportation'' after ''the Secretary of Defense'' in subsection (a)(1); and

(3) by inserting ''and the Secretary of Transportation'' after ''the Secretary of Education'' in subsection (b).

(b) FUNDS FOR RECRUITING.—The text of section 468 of title 14, United States Code, is amended to read as follows:

''The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

''(1) obtain recruits for the Service and cadet applicants; and

''(2) gain support of recruiting objectives from those who may assist in the recruiting effort.''.

(c) RECRUITMENT OF WOMEN AND MINORITIES.—Not later than January 31, 1997, the Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the status of and the problems in recruitment of women and minorities into the Coast Guard. The report shall contain specific plans to increase the recruitment of women and minorities and legislative recommendations needed to increase the recruitment of women and minorities.

**SEC. 207. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.**

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, is amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (t);

(2) by striking the period at the end of paragraph (u) and inserting ''; and''; and

*(3) by adding at the end the following new paragraph:*

*''(v) require that any member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.''.*

*(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:*

*''(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.''.*

***SEC. 208. COAST GUARD HOUSING AUTHORITIES.***

*(a) IN GENERAL.—Title 14, United States Code, is amended by adding after chapter 17 the following new chapter:*

***''CHAPTER 18—COAST GUARD HOUSING AUTHORITIES***



***''§ 680. Definitions***

*''In this chapter:*

*''(1) The term 'construction' means the construction of military housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.*

*''(2) The term 'contract' includes any contract, lease, or other agreement entered into under the authority of this chapter.*

*''(3) The term 'military unaccompanied housing' means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.*

*''(4) The term 'United States' includes the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, and the District of Columbia.*

***''§ 681. General authority***

*''(a) AUTHORITY.—In addition to any other authority providing for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary may exercise any authority or any combination of authorities provided under this chapter in order to provide for the acquisition or construction by private persons of the following:*

*''(1) Family housing units on or near Coast Guard installations within the United States and its territories and possessions.*

*''(2) Unaccompanied housing units on or near such Coast Guard installations.*

*''(b) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made to acquire or construct military family housing or military unaccompanied housing under this chapter if that acquisition or construction has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.*

***''§ 682. Loan guarantees***

*''(a) LOAN GUARANTEES.—*

*''(1) Subject to subsection (b), the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.*

*''(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—*

*''(A) 80 percent of the value of the project; or*

*''(B) the outstanding principal of the loan.*

*''(3) The Secretary shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of the United States with respect to such guarantees.*

*''(4) The funds for the loan guarantees entered into under this section shall be held in the Coast Guard Housing Fund under section 687 of this title. The Secretary is authorized to purchase mortgage insurance to guarantee loans in lieu of guaranteeing loans directly against funds held in the Coast Guard Housing Fund.*

*''(b) LIMITATION ON GUARANTEE AUTHORITY.—Loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))) which shall be available for the disbursement of payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of guarantees made under this section.*

***''§ 683. Leasing of housing to be constructed***

*''(a) BUILD AND LEASE AUTHORIZED.—The Secretary may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this chapter.*

*''(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary determines appropriate and may provide for the owner of the leased property to operate and maintain the property.*

***''§ 684. Limited partnerships with nongovernmental entities***

*''(a) LIMITED PARTNERSHIPS AUTHORIZED.—The Secretary may enter into limited partnerships with nongovernmental entities carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.*

*''(b) LIMITATION ON VALUE OF INVESTMENT IN LIMITED PARTNERSHIP.—(1) The cash amount of an investment under this section in a nongovernmental entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.*

*''(2) If the Secretary conveys land or facilities to a nongovernmental entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.*

*''(3) In this subsection, the term 'capital cost', with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.*

*''(c) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary shall enter into collateral incentive agreements with nongovernmental entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.*

***''§ 685. Conveyance or lease of existing property and facilities***

*''(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary may convey or lease property or facilities (including ancillary support facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this chapter.*

*''(b) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary considers appropriate for the purposes of this chapter and to protect the interests of the United States.*

*''(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) may enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.*

*''(c) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:*

*''(1) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).*

*''(2) Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (47 Stat. 412, chapter 314; 40 U.S.C. 303b).*

*''(3) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).*

***''§ 686. Assignment of members of the armed forces to housing units***

*''(a) IN GENERAL.—The Secretary may assign members of the armed forces to housing units acquired or constructed under this chapter.*

*''(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(b) of title 37.*

*''(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for quarters under section 403 of title 37, and, if in a high housing cost area, a variable housing allowance under section 403a of that title.*

*''(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary may require members of the armed forces who lease housing in housing units acquired or constructed under this chapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.*

***''§ 687. Coast Guard Housing Fund***

*''(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account*

to be known as the Coast Guard Housing Fund (in this section referred to as the 'Fund').

''(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

''(1) Amounts authorized for and appropriated to that Fund.

''(2) Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Transportation or Coast Guard for the acquisition or construction of military family housing or unaccompanied housing.

''(3) Proceeds from the conveyance or lease of property or facilities under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family and military unaccompanied housing.

''(4) Income from any activities under this chapter, including interest on loan guarantees made under section 682 of this title, income and gains realized from investments under section 684 of this title, and any return of capital invested as part of such investments.

''(c) USE OF AMOUNTS IN FUND.—(1) In such amounts as provided in appropriation Acts and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family and military unaccompanied housing units, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this chapter.

''(2) Amounts made available under this subsection shall remain available until expended.

''(d) LIMITATION ON OBLIGATIONS.—The Secretary may not incur an obligation under a contract or other agreements entered into under this chapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

''(e) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to the Fund under subsection (b)(2) or (b)(3) of this section may be made only after the end of a 30-day period beginning on the date the Secretary submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

''(f) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this chapter shall not exceed $20,000,000.

**''§ 688. Reports**

''The Secretary shall include each year in the materials the Secretary submits to the Congress in support of the budget submitted by the President pursuant to section 1105 of title 31, the following:

''(1) A report on each contract or agreement for a project for the acquisition or construction of military family or military unaccompanied housing units that the Secretary proposes to solicit under this chapter, describing the project and the method of participation of the United States in the project and providing justification of such method of participation.

''(2) A report describing each conveyance or lease proposed under section 685 of this title.

''(3) A methodology for evaluating the extent and effectiveness of the use of the authorities under this chapter during such preceding fiscal year.

''(4) A description of the objectives of the Department of Transportation for providing military family housing and military unaccompanied housing for members of the Coast Guard.

**''§ 689. Expiration of authority**

''The authority to enter into a transaction under this chapter shall expire October 1, 2001.''.

(b) FINAL REPORT.—Not later than March 1, 2000, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the use by the Secretary of the authorities provided by chapter 18 of title 14, United States Code, as added by subsection (a). The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing.

(c) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 14, United States Code, is amended by inserting after the item relating to chapter 17 the following:

**''18. Coast Guard Housing Authorities 680''.**

(d) PILOT PROJECT.—Notwithstanding section 681(b) of title 14, United States Code, as amended by this Act, and subject to the other requirements of chapter 18 of such title, as amended by this Act, the Secretary of Transportation may use the authority provided in sections 682, 683, 684, 685, and 686 of such chapter to provide for the acquisition or construction of up to 60 family housing units and unaccompanied housing units on or near Coast Guard Integrated Support Command, Ketchikan, Alaska.

**SEC. 209. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.**

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 424 the following new section:

**''§ 425. Board for Correction of Military Records deadline**

''(a) DEADLINE FOR COMPLETION OF ACTION.—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

''(b) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

''(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; or

''(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

''(A) an order under section 706(1) of title 5, directing final action be taken within 30 days from the date the order is entered; and

''(B) from amounts appropriated to the department in which the Coast Guard is operating, the costs of obtaining the order, including a reasonable attorney's fee.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 424 the following new item:

''425. Board for Correction of Military Records deadline.''.

(c) SPECIAL RIGHT OF APPLICATIONS UNDER THIS SECTION.—This section applies to any applicant who had an application filed with or pending before the Board or the Secretary of the department in which the Coast Guard is operating on or after June 12, 1990, who files with the Board for Correction of Military Records of the Coast Guard an application for relief under the amendment made by subsection (a). If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline under that amendment, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.

(d) EFFECTIVE DATE.—This section shall be effective on and after June 12, 1990.

**SEC. 210. REPEAL TEMPORARY PROMOTION OF WARRANT OFFICERS.**

(a) REPEAL.—Section 277 of title 14, United States Code, is repealed. The repeal of such section shall not be construed to affect the status of any warrant officer currently serving under a temporary promotion.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by striking the item relating to section 277.

**SEC. 211. APPOINTMENT OF TEMPORARY OFFICERS.**

(a) IN GENERAL.—Section 214 of title 14, United States Code, is amended—

(1) in the heading by striking ''**Original appointment**'' and inserting ''**Appointment**'';

(2) by redesignating subsections (d), (e), and (f) in order as subsections (b), (c), and (d); and

(3) in subsection (c), as so redesignated, by inserting '', or a subsequent promotion appointment of a temporary officer,'' after ''section''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended in the item relating to section 214 by striking ''Original appointment'' and inserting ''Appointment''.

**SEC. 212. INFORMATION TO BE PROVIDED TO OFFICER SELECTION BOARDS.**

Section 258(2) of title 14, United States Code, is amended by striking '', with identification of those officers who are in the promotion zone''.

**SEC. 213. RESCUE DIVER TRAINING FOR SELECTED COAST GUARD PERSONNEL.**

(a) IN GENERAL.—Section 88 of title 14, United States Code, is amended by adding at the end the following new subsection:

''(d) The Secretary shall establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills, which may include rescue diver training.''.

(b) CONFORMING AMENDMENT.—Section 9 of the Coast Guard Authorization Act of 1984 (98 Stat. 2862; 14 U.S.C. 88 note) is repealed.

**SEC. 214. SPECIAL AUTHORITIES REGARDING COAST GUARD.**

(a) REIMBURSEMENT OF EXPENSES FOR MESS OPERATIONS.—Section 1011 of title 37, United States Code, is amended by adding at the end the following new subsection:

''(d) When the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation shall establish rates for meals sold at Coast Guard dining facilities, provide for reimbursement of operating expenses and food costs to the appropriations concerned, and reduce the rates for such meals when the Secretary determines that it is in the best interest of the United States to do so.''.

(b) SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.—Section 2410a of title 10, United States Code, is amended—

(1) by striking ''Funds'' and inserting ''(a) Funds''; and

(2) by adding at the end the following new subsection:

''(b) The Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year. Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of this subsection.''.

## TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

**SEC. 301. CHANGES TO DOCUMENTATION LAWS.**

(a) CIVIL PENALTY.— Section 12122(a) of title 46, United States Code, is amended by striking ''$500'' and inserting ''$10,000''.

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.— Section 12122(b) of title 46, United States Code, is amended to read as follows:

''(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

''(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

''(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

''(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

''(4) when a vessel is employed in a trade without an appropriate trade endorsement;

''(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

''(6) when a documented vessel, other than a vessel with only a recreational endorsement, is placed under the command of a person not a citizen of the United States.''.

(2) CONFORMING AMENDMENT.—Section 12122(c) of title 46, United States Code, is repealed.

(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

''(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.''.

(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting '', other than a vessel with only a recreational endorsement,'' after ''A documented vessel''; and

(2) CONFORMING AMENDMENTS.—

(A) Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: ''in violation of section 12110(d) of this title''.

(B) Section 317 of Public Law 101–595 is amended by striking ''and 12111'' and inserting ''12111, and 12122(b)''.

(e) FISHERY ENDORSEMENTS.—Section 12108 of title 46, United States Code, is amended by adding at the end the following:

''(d) A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.''.

**SEC. 302. NONDISCLOSURE OF PORT SECURITY PLANS.**

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

''(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.''.

**SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.**

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

**''§2115. Civil penalty to enforce alcohol and dangerous drug testing**

''Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

''2115. Civil penalty to enforce alcohol and dangerous drug testing.''.

**SEC. 304. RENEWAL OF ADVISORY GROUPS.**

(a) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking ''September 30, 1995'' and inserting ''September 30, 2000''.

(b) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking ''September 30, 1994'' and inserting ''September 30, 2000''.

(c) TOWING SAFETY ADVISORY COMMITTEE.—Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)) is amended by striking ''September 30, 1995'' and inserting ''September 30, 2000''.

(d) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by adding at the end of section 18 the following:

''(h) The Committee shall terminate on September 30, 2000.''.

(e) LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by adding at the end of section 19 the following:

''(g) The Committee shall terminate on September 30, 2000.''.

(f) NATIONAL BOATING SAFETY ADVISORY COUNCIL.—Section 13110(e) of title 46, United States Code, is amended by striking ''September 30, 1996'' and inserting ''September 30, 2000''.

(g) CLERICAL AMENDMENT.—The section heading for section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking ''Rules of the Road Advisory Council'' and inserting ''Navigation Safety Advisory Council''.

**SEC. 305. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.**

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

''(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.''.

**SEC. 306. CIVIL PENALTIES.**

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking ''$1,000'' and inserting ''not more than $25,000''.

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking ''$1,000'' and inserting ''not more than $25,000''.

**SEC. 307. AMENDMENT TO REQUIRE EPIRBS ON THE GREAT LAKES.**

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting ''or beyond 3 nautical miles from the coastline of the Great Lakes'' after ''high seas''.

**SEC. 308. REPORT ON LORAN-C REQUIREMENTS.**

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of Commerce, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan prepared in consultation with users of the LORAN-C radionavigation system defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The plan shall provide for—

(1) mechanisms to make full use of compatible satellite and LORAN-C technology by all modes of transportation, the telecommunications industry, and the National Weather Service;

(2) an appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation and taking into consideration the need to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life; and

(3) agencies in the Department of Transportation and other relevant Federal agencies to share the Federal government's costs related to LORAN-C technology.

**SEC. 309. SMALL BOAT STATIONS.**

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

**''§673. Small boat station rescue capability**

''The Secretary of Transportation shall ensure that each Coast Guard small boat station (including a seasonally operated station) maintains, within the area of responsibility for the station, at least 1 vessel that is fully capable of performing offshore rescue operations, taking into consideration prevailing weather, marine conditions, and depositional geologic features such as sand bars.

**''§674. Small boat station closures**

''(a) CLOSURES.—The Secretary of Transportation may not close a Coast Guard multimission small boat station or subunit unless the Secretary—

''(1) determines that—

''(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the station or subunit;

''(B) regional or local prevailing weather and marine conditions, including water temperature or unusual tide and current conditions, do not require continued operation of the station or subunit; and

''(C) Coast Guard search and rescue standards related to search and rescue response times are met; and

''(2) provides an opportunity for public comment and for public meetings in the area of the station or subunit with regard to the decision to close the station or subunit.

''(b) OPERATIONAL FLEXIBILITY.—The Secretary may implement any management efficiencies within the small boat station system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide. No stations or subunits may be closed under this subsection except in accordance with subsection (a).''.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new items:

''673. Small boat station rescue capability.

''674. Small boat station closures.''.

**SEC. 310. PENALTY FOR ALTERATION OF MARINE SAFETY EQUIPMENT.**

Section 3318(b) of title 46, United States Code, is amended—

(1) by inserting ''(1)'' before ''A person''; and

(2) by adding at the end thereof the following:

''(2) A person commits a class D felony if the person—

''(A) alters or services lifesaving, fire safety, or any other equipment subject to this part for compensation; and

''(B) by that alteration or servicing, intentionally renders that equipment unsafe and unfit for the purpose for which it is intended.''.

**SEC. 311. PROHIBITION ON OVERHAUL, REPAIR, AND MAINTENANCE OF COAST GUARD VESSELS IN FOREIGN SHIPYARDS.**

(a) PROHIBITION.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

**''§ 96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards**

''A Coast Guard vessel the home port of which is in a State of the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States, other than in the case of voyage repairs.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

''96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.''.

**SEC. 312. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.**

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or individual in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.''.

(b) PORT AND WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

''(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.''.

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

''(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

''(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.''.

(d) TITLE 46, UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

''(e)(1) If any owner, operator, or individual in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

''(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.''.

**SEC. 313. INFORMATION BARRED IN LEGAL PROCEEDINGS.**

(a) IN GENERAL.—Chapter 63 of title 46, United States Code, is amended by inserting after section 6307 the following:

**''§ 6308. Information barred in legal proceedings**

''(a) Notwithstanding any other provision of law, no part of a report of a marine casualty investigation conducted under section 6301 of this title, including findings of fact, opinions, recommendations, deliberations, or conclusions, shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States. Any employee of the Department of Transportation, and any member of the Coast Guard, investigating a marine casualty pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify in such proceedings relevant to a marine casualty investigation, without the permission of the Secretary of Transportation. The Secretary shall not withhold permission for such employee or member to testify, either orally or upon written questions, on solely factual matters at a time and place and in a manner acceptable to the Secretary if the information is not available elsewhere or is not obtainable by other means.

''(b) Nothing in this section prohibits the United States from calling the employee or member as an expert witness to testify on its behalf. Further, nothing in this section prohibits the employee or member from being called as a fact witness in any case in which the United States is a party. If the employee or member is called as an expert or fact witness, the applicable Federal Rules of Civil Procedure govern discovery. If the employee or member is called as a witness, the report of a marine casualty investigation conducted under section 6301 of this title shall not be admissible, as provided in subsection (a), and shall not be considered the report of an expert under the Federal Rules of Civil Procedure.

''(c) The information referred to in subsections (a) and (b) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions and statements.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 46, United States Code, is amended by adding after the item relating to section 6307 the following new item:

''6308. Information barred in legal proceedings.''.

**SEC. 314. MARINE CASUALTY REPORTING.**

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting ''or 6102'' after ''6101'' the second place it appears.

## TITLE IV—COAST GUARD AUXILIARY

**SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.**

(a) IN GENERAL.—Section 821 of title 14, United States Code, is amended to read as follows:

**''§ 821. Administration of the Coast Guard Auxiliary**

''(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the 'Auxiliary headquarters unit'), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

''(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

''(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

''(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

''(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).

''(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

''(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

''(6) Other matters related to noncontractual civil liability.

''(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 821, and inserting the following:

''821. Administration of the Coast Guard Auxiliary.''.

**SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.**

(a) IN GENERAL.—Section 822 of title 14, United States Code, is amended to read as follows:

**''§ 822. Purpose of the Coast Guard Auxiliary**

''The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 822 and inserting the following:

''822. Purpose of the Coast Guard Auxiliary.''.

**SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.**

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 823 the following new section:

**''§ 823a. Members of the Auxiliary; status**

''(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes

*and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.*

*''(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:*

*''(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).*

*''(2) Section 2733 of title 10 (popularly known as the Military Claims Act).*

*''(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).*

*''(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).*

*''(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).*

*''(6) Other matters related to noncontractual civil liability.*

*''(7) Compensation for work injuries under chapter 81 of title 5.*

*''(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).*

*''(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 14, United States Code, is amended by inserting the following new item after the item relating to section 823:*

*''823a. Members of the Auxiliary; status.''.*

***SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.***

*(a) TRAVEL AND SUBSISTENCE EXPENSE.—Section 830(a) of title 14, United States Code, is amended by striking ''specific''.*

*(b) ASSIGNMENT OF GENERAL DUTIES.—Section 831 of title 14, United States Code, is amended by striking ''specific'' each place it appears.*

*(c) BENEFITS FOR INJURY OR DEATH.—Section 832 of title 14, United States Code, is amended by striking ''specific'' each place it appears.*

***SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.***

*(a) IN GENERAL.—Section 141 of title 14, United States Code, is amended—*

*(1) by striking the section heading and inserting the following:*

***''§141. Cooperation with other agencies, States, territories, and political subdivisions'';***

*(2) in the first sentence of subsection (a), by inserting after ''personnel and facilities'' the following: ''(including members of the Auxiliary and facilities governed under chapter 23)''; and*

*(3) by adding at the end of subsection (a) the following new sentence: ''The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.''.*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by striking the item relating to section 141 and inserting the following:*

*''141. Cooperation with other agencies, States, territories, and political subdivisions.''.*

***SEC. 406. VESSEL DEEMED PUBLIC VESSEL.***

*Section 827 of title 14, United States Code, is amended to read as follows:*

***''§827. Vessel deemed public vessel***

*''While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.''.*

***SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.***

*Section 828 of title 14, United States Code, is amended to read as follows:*

***''§828. Aircraft deemed public aircraft***

*''While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.''.*

***SEC. 408. DISPOSAL OF CERTAIN MATERIAL.***

*Section 641(a) of title 14, United States Code, is amended—*

*(1) by inserting after ''with or without charge,'' the following: ''to the Coast Guard Auxiliary, including any incorporated unit thereof,''; and*

*(2) by striking ''to any incorporated unit of the Coast Guard Auxiliary,''.*

## *TITLE V—DEEPWATER PORT MODERNIZATION*

***SEC. 501. SHORT TITLE.***

*This title may be cited as the ''Deepwater Port Modernization Act''.*

***SEC. 502. DECLARATIONS OF PURPOSE AND POLICY.***

*(a) PURPOSES.—The purposes of this title are to—*

*(1) update and improve the Deepwater Port Act of 1974;*

*(2) assure that the regulation of deepwater ports is not more burdensome or stringent than necessary in comparison to the regulation of other modes of importing or transporting oil;*

*(3) recognize that deepwater ports are generally subject to effective competition from alternative transportation modes and eliminate, for as long as a port remains subject to effective competition, unnecessary Federal regulatory oversight or involvement in the ports' business and economic decisions; and*

*(4) promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or license provisions.*

*(b) POLICY.—Section 2(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1501(a)) is amended—*

*(1) by striking ''and'' at the end of paragraph (3);*

*(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and*

*(3) by inserting at the end the following:*

*''(5) promote the construction and operation of deepwater ports as a safe and effective means of importing oil into the United States and transporting oil from the outer continental shelf while minimizing tanker traffic and the risks attendant thereto; and*

*''(6) promote oil production on the outer continental shelf by affording an economic and safe means of transportation of outer continental shelf oil to the United States mainland.''.*

***SEC. 503. DEFINITIONS.***

*(a) ANTITRUST LAWS.—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—*

*(1) by striking paragraph (3); and*

*(2) by redesignating paragraphs (4) through (19) as paragraphs (3) through (18), respectively.*

*(b) DEEPWATER PORT.—The first sentence of section 3(9) of such Act, as redesignated by subsection (a), is amended by striking ''such structures,'' and all that follows through ''section 23.'' and inserting the following: ''structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this title, including transportation of oil from the United States outer continental shelf.''.*

***SEC. 504. LICENSES.***

*(a) ELIMINATION OF UTILIZATION RESTRICTIONS.—Section 4(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(a)) is amended by striking all that follows the second sentence.*

*(b) ELIMINATION OF PRECONDITION TO LICENSING.—Section 4(c) of such Act is amended—*

*(1) by striking paragraph (7); and*

*(2) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.*

*(c) CONDITIONS PRESCRIBED BY SECRETARY.—Section 4(e)(1) of such Act is amended by striking the first sentence and inserting the following: ''In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe those conditions which the Secretary deems necessary to carry out the provisions and requirements of this title or which are otherwise required by any Federal department or agency pursuant to the terms of this title. To the extent practicable, conditions required to carry out the provisions and requirements of this title shall be addressed in license conditions rather than by regulation and, to the extent practicable, the license shall allow a deepwater port's operating procedures to be stated in an operations manual, approved by the Coast Guard, in accordance with section 10(a) of this title, rather than in detailed and specific license conditions or regulations; except that basic standards and conditions shall be addressed in regulations.''.*

*(d) ELIMINATION OF RESTRICTION ON TRANSFERS.—Section 4(e)(2) of such Act is amended by striking ''application'' and inserting ''license''.*

*(e) FINDINGS REQUIRED FOR TRANSFERS.—Section 4(f) of such Act is amended to read as follows:*

*''(f) AMENDMENTS, TRANSFERS, AND REINSTATEMENTS.—The Secretary may amend, transfer, or reinstate a license issued under this title if the Secretary finds that the amendment, transfer, or reinstatement is consistent with the requirements of this Act.''.*

***SEC. 505. INFORMATIONAL FILINGS.***

*Section 5(c) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)) is amended by adding the following:*

*''(3) Upon written request of any person subject to this subsection, the Secretary may make a determination in writing to exempt such person from any of the informational filing provisions enumerated in this subsection or the regulations implementing this section if the Secretary determines that such information is not necessary to facilitate the Secretary's determinations under section 4 of this Act and that such exemption will not limit public review and evaluation of the deepwater port project.''.*

***SEC. 506. ANTITRUST REVIEW.***

*Section 7 of the Deepwater Port Act of 1974 (33 U.S.C. 1506) is repealed.*

***SEC. 507. OPERATION.***

*(a) AS COMMON CARRIER.—Section 8(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1507(a)) is amended by inserting after ''subtitle IV of title 49, United States Code,'' the following: ''and shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued,''.*

*(b) CONFORMING AMENDMENT.—Section 8(b) of such Act is amended by striking the first sentence and the first 3 words of the second sentence and inserting the following: ''A licensee is not discriminating under this section and''.*

***SEC. 508. MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY.***

*Section 10(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(a)) is amended—*

*(1) by inserting after ''international law'' the following: ''and the provision of adequate opportunities for public involvement''; and*

*(2) by striking ''shall prescribe by regulation and enforce procedures with respect to any*

deepwater port, including, but not limited to,'' and inserting the following: ''shall prescribe and enforce procedures, either by regulation (for basic standards and conditions) or by the licensee's operations manual, with respect to''.

## TITLE VI—COAST GUARD REGULATORY REFORM

### SEC. 601. SHORT TITLE.

This title may be cited as the ''Coast Guard Regulatory Reform Act of 1996''.

### SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

**''CHAPTER 32—MANAGEMENT OF VESSELS**



**''§ 3201. Definitions**

''In this chapter—

''(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

''(2) 'responsible person' means—

''(A) the owner of a vessel to which this chapter applies; or

''(B) any other person that has—

''(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

''(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

''(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

''(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

''(B) making a voyage between places outside the United States; or

''(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

**''§ 3202. Application**

''(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

''(1) Beginning July 1, 1998—

''(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

''(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

''(2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.

''(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

''(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

''(1) a barge;

''(2) a recreational vessel not engaged in commercial service;

''(3) a fishing vessel;

''(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

''(5) a public vessel.

**''§ 3203. Safety management system**

''(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

''(1) a safety and environmental protection policy;

''(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

''(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

''(4) procedures for reporting accidents and nonconformities with this chapter;

''(5) procedures for preparing for and responding to emergency situations; and

''(6) procedures for internal audits and management reviews of the system.

''(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

**''§ 3204. Implementation of safety management system**

''(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

''(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

''(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

**''§3205. Certification**

''(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

''(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

''(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

''(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

''(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

''(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

''32. Management of vessels ..... 3201''.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a); or

(B) the date that is 1 year after the date of enactment of this Act.

### SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

**''§ 3103. Use of reports, documents, and records**

''The Secretary may rely, as evidence of compliance with this subtitle, on—

''(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

''(2) other methods the Secretary has determined to be reliable.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

''3103. Use of reports, documents, and records.''.

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting ''or have examined'' after ''examine''.

### SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

''(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

''(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

''(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

''(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

''(C) for lifesaving equipment, the foreign government—

''(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

''(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.''.

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking ''clauses (1)–(3)'' and inserting ''paragraphs (1), (2), and (3)''.

**SEC. 605. FREQUENCY OF INSPECTION.**

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''and nautical school vessel'' and inserting '', nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage''; and

(B) by adding ''and'' after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking ''2 years'' and inserting ''5 years''.

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking ''24 months'' and inserting ''5 years''.

**SEC. 606. CERTIFICATE OF INSPECTION.**

Section 3309(c) of title 46, United States Code, is amended by striking ''(but not more than 60 days)''.

**SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.**

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) by striking ''Bureau'' in subsection (a), as redesignated, and inserting ''American Bureau of Shipping''; and

(4) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

''(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

''(A) review and approve plans required for issuing a certificate of inspection required by this part;

''(B) conduct inspections and examinations; and

''(C) issue a certificate of inspection required by this part and other related documents.

''(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

''(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

''(B) if the foreign classification society has offices and maintains records in the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

**''§3316. Classification societies''.**

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

''3316. Classification societies.''.

## TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

**SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.**

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

''(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).'';

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting ''power-driven'' after ''Secretary, a'';

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after ''masthead light forward''; by striking ''except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;'';

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

''(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

''(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

''(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

''(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.'';

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking ''a vessel of less than 20 meters in length may instead of this shape exhibit a basket;''; and

(B) by amending subsection (d) to read as follows:

''(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing.''; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

''(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.''.

**SEC. 702. MEASUREMENT OF VESSELS.**

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

''(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Any such regulation shall be considered to be an interpretive regulation for purposes of section 553 of title 5. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.

''(c) The head of each Federal agency shall ensure that regulations issued by the agency that specify particular tonnages comply with the alternate tonnages implemented by the Secretary.''.

**SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.**

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after ''1,600 tons gross'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

**SEC. 704. RADIOTELEPHONE REQUIREMENTS.**

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after ''one hundred gross tons'' the following ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,''.

**SEC. 705. VESSEL OPERATING REQUIREMENTS.**

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

**SEC. 706. MERCHANT MARINE ACT, 1920.**

Section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1), is amended by inserting after ''five hundred gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,''.

**SEC. 707. MERCHANT MARINE ACT, 1956.**

Section 2 of the Act of June 14, 1956 (46 App. U.S.C. 883a), is amended by inserting after ''five hundred gross tons'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

**SEC. 708. MARITIME EDUCATION AND TRAINING.**

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after ''1,000 gross tons or more'' the following: ''as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title''.

**SEC. 709. GENERAL DEFINITIONS.**

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after ''15 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(2) in paragraph (13a), by inserting after ''3,500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(3) in paragraph (19), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(4) in paragraph (22), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(5) in paragraph (30)(A), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(6) in paragraph (32), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(7) in paragraph (33), by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title

as prescribed by the Secretary under section 14104 of this title'';

(8) in paragraph (35), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(9) in paragraph (42), by inserting after ''100 gross tons'' each place it appears, the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.***

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after ''at least 100 gross tons but less than 300 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(2) in paragraph (5), by inserting after ''at least 100 gross tons but less than 500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 711. INSPECTION OF VESSELS.***

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(2) in subsection (c)(2), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(3) in subsection (c)(4)(A), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(4) in subsection (d)(1), by inserting after ''150 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(5) in subsection (i)(1)(A), by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(6) in subsection (j), by inserting after ''15 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 712. REGULATIONS.***

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after ''at least 100 gross tons but less than 300 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(2) in subsection (i), by inserting after ''at least 100 gross tons but less than 500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 713. PENALTIES—INSPECTION OF VESSELS.***

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(2) in subsection (j)(1), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 714. APPLICATION—TANK VESSELS.***

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(2) in subsection (c), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(3) in subsection (d), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.***

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(2) in subsection (c)(2), by inserting after ''5,000 gross tons'' each place it appears the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(3) in subsection (c)(3)(A), by inserting after ''15,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(4) in subsection (c)(3)(B), by inserting after ''30,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(5) in subsection (c)(3)(C), by inserting after ''30,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 716. TANKER MINIMUM STANDARDS.***

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after ''10,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(2) in subsection (b), by inserting after ''10,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.***

Section 3708 of title 46, United States Code, is amended by inserting after ''10,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 718. DEFINITION—ABANDONMENT OF BARGES.***

Section 4701(1) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 719. APPLICATION—LOAD LINES.***

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(2) in paragraph (5), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(3) in paragraph (10), by inserting after ''150 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 720. LICENSING OF INDIVIDUALS.***

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 721. ABLE SEAMEN—LIMITED.***

Section 7308 of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.***

Section 7310 of title 46, United States Code, is amended by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.

***SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.***

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(2) in subsection (c)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(3) in subsection (d), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';

(4) in subsection (f)(1), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and

(5) in subsection (f)(2), by inserting after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this

*title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.***

*Section 7313(a) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 725. COMPLEMENT OF INSPECTED VESSELS.***

*Section 8101(h) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 726. WATCHMEN.***

*Section 8102(b) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.***

*Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 728. WATCHES.***

*Section 8104 of title 46, United States Code, is amended—*

*(1) in subsection (b), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(2) in subsection (d), by inserting after ''100 gross tons'' and after ''5,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(3) in subsection (l)(1), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(4) in subsection (m)(1), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(5) in subsection (o)(1), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and*

*(6) in subsection (o)(2), by inserting after ''500 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.***

*Section 8301 of title 46, United States Code, is amended—*

*(1) in subsection (a)(2), by inserting after ''1,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(2) in subsection (a)(3), by inserting after ''at least 200 gross tons but less than 1,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(3) in subsection (a)(4), by inserting after ''at least 100 gross tons but less than 200 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'';*

*(4) in subsection (a)(5), by inserting after ''300 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and*

*(5) in subsection (b), by inserting after ''200 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.***

*Section 8304(b)(4) of title 46, United States Code, is amended by inserting after ''200 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.***

*Section 8701 of title 46, United States Code, is amended—*

*(1) in subsection (a), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and*

*(2) in subsection (a)(6), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 732. CERTAIN CREW REQUIREMENTS.***

*Section 8702 of title 46, United States Code, is amended—*

*(1) in subsection (a), by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''; and*

*(2) in subsection (a)(6), by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 733. FREIGHT VESSELS.***

*Section 8901 of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 734. EXEMPTIONS.***

*Section 8905(b) of title 46, United States Code, is amended by inserting after ''200 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.***

*Section 9303(a)(2) of title 46, United States Code, is amended by inserting after ''4,000 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.***

*Section 10101(4)(B) of title 46, United States Code, is amended by inserting after ''1,600 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.***

*Section 10301(a)(2) of title 46, United States Code, is amended by inserting after ''75 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 738. APPLICATION—COASTWISE VOYAGES.***

*Section 10501(a) of title 46, United States Code, is amended by inserting after ''50 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 739. FISHING AGREEMENTS.***

*Section 10601(a)(1) of title 46, United States Code, is amended by inserting after ''20 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 740. ACCOMMODATIONS FOR SEAMEN.***

*Section 11101(a) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 741. MEDICINE CHESTS.***

*Section 11102(a) of title 46, United States Code, is amended by inserting after ''75 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.***

*Section 11301(a)(2) of title 46, United States Code, is amended by inserting after ''100 gross tons'' the following: ''as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 743. COASTWISE ENDORSEMENTS.***

*Section 12106(c)(1) of title 46, United States Code, is amended by striking ''two hundred gross tons'' and inserting ''200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 744. FISHERY ENDORSEMENTS.***

*Section 12108(c)(1) of title 46, United States Code, is amended by striking ''two hundred gross tons'' and inserting ''200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title''.*

***SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.***

*(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:*

***''§ 7506. Convention tonnage for licenses, certificates, and documents***

*''Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—*

*''(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the*

tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

''(2) issue the license, certificate, or document based on that service.''.

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

''7506. Convention tonnage for licenses, certificates, and documents.''.

**SEC. 746. TECHNICAL CORRECTIONS.**

(a) Title 46, United States Code, is amended—

(1) by striking the first section 12123 in chapter 121;

(2) by striking the first item relating to section 12123 in the table of sections for such chapter 121;

(3) by striking ''proceeding'' in section 13108(a)(1) and inserting ''preceding''; and

(4) by striking ''Secertary'' in section 13108(a)(1) and inserting ''Secretary''.

(b) Section 645 of title 14, United States Code, is amended by redesignating the second subsection (d) and subsections (e) through (h) as subsection (e) and subsections (f) through (i), respectively.

(c) Effective September 30, 1996, the Act of November 6, 1966 (Public Law 89–777), is amended—

(1) in section 2(d) (46 U.S.C. App. 817d(d)) by striking ''Shipping Act, 1916,'' and inserting ''Shipping Act of 1984''; and

(2) in section 3(d) (46 U.S.C. App. 817e(d)) by striking ''Shipping Act, 1916,'' and inserting ''Shipping Act of 1984''.

(d) Section 672 of title 14, United States Code, is amended by striking the section heading and inserting the following:

**''§672. Long-term lease authority for navigation and communications systems sites''.**

**SEC. 747. TECHNICAL CORRECTIONS TO REFERENCES TO ICC.**

Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended—

(1) in the third proviso—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''said Commission'' and inserting ''the Board''; and

(2) in the fifth proviso—

(A) by striking ''Interstate Commerce Commission'' the first place it appears and inserting ''Surface Transportation Board''; and

(B) by striking ''Interstate Commerce Commission'' the second place it appears and inserting ''Board''.

## TITLE VIII—POLLUTION FROM SHIPS

**SEC. 801. PREVENTION OF POLLUTION FROM SHIPS.**

(a) IN GENERAL.—Section 6 of the Act to Prevent Pollution From Ships (33 U.S.C. 1905) is amended—

(1) by striking ''(2) If'' in subsection (c)(2) and inserting ''(2)(A) Subject to subparagraph (B), if''; and

(2) by adding at the end of subsection (c)(2) the following:

''(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities of the port or terminal that is the subject of the certificate.

''(C) The Secretary may, with respect to certificates issued under this paragraph prior to the date of enactment of the Coast Guard Authorization Act of 1996, prescribe by regulation differing periods of validity for such certificates.'';

(3) by striking subsection (c)(3)(A) and inserting the following:

''(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

''(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate—

''(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

''(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

''(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and''; and

(4) by striking subsection (d) and inserting the following:

''(d)(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

''(A) is in effect; or

''(B) has been revoked or suspended.

''(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.''.

(b) RECEPTION FACILITY PLACARDS.—Section 6(f) of the Act to Prevent Pollution From Ships (33 U.S.C. 1905(f)) is amended—

(1) by inserting ''(1)'' before ''The Secretary''; and

(2) by adding at the end the following new paragraph:

''(2)(A) Not later than 18 months after the date of enactment of the Coast Guard Authorization Act of 1996, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.''.

**SEC. 802. MARINE PLASTIC POLLUTION RESEARCH AND CONTROL.**

(a) COMPLIANCE REPORTS.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended—

(1) by striking ''for a period of 6 years''; and

(2) by inserting before the period at the end the following: ''and, not later than 1 year after the date of enactment of the Coast Guard Authorization Act of 1996, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)''.

(b) COORDINATION.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (101 Stat. 1466) is amended to read as follows:

**''SEC. 2203. COORDINATION.**

''(a) ESTABLISHMENT OF MARINE DEBRIS COORDINATING COMMITTEE.—The Secretary of Commerce shall establish a Marine Debris Coordinating Committee.

''(b) MEMBERSHIP.—The Committee shall include a senior official from—

''(1) the National Oceanic and Atmospheric Administration, who shall serve as the Chairperson of the Committee;

''(2) the Environmental Protection Agency;

''(3) the United States Coast Guard;

''(4) the United States Navy; and

''(5) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

''(c) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

''(d) MONITORING.—The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

''(1) the Committee in ensuring coordination of research, monitoring, education and regulatory actions; and

''(2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships in ensuring compliance under section 2201.''.

(c) PUBLIC OUTREACH PROGRAM.—Section 2204(a) of the Marine Plastic Pollution Research and Control Act of 1987 (42 U.S.C. 6981 note) is amended—

(1) by striking ''for a period of at least 3 years,'' in paragraph (1) in the matter preceding subparagraph (A);

(2) by striking ''and'' at the end of paragraph (1)(C);

(3) by striking the period at the end of subparagraph (1)(D) and inserting ''; and'';

(4) by adding at the end of paragraph (1) the following:

''(E) the requirements under this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to ships and ports, and the authority of citizens to report violations of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).''; and

(5) by striking paragraph (2) and inserting the following:

''(2) AUTHORIZED ACTIVITIES.—

''(A) PUBLIC OUTREACH PROGRAM.—A public outreach program under paragraph (1) may include—

''(i) developing and implementing a voluntary boaters' pledge program;

''(ii) workshops with interested groups;

''(iii) public service announcements;

''(iv) distribution of leaflets and posters; and

''(v) any other means appropriate to educating the public.

''(B) GRANTS AND COOPERATIVE AGREEMENTS.—To carry out this section, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency are authorized to award grants, enter into cooperative agreements with appropriate officials of other Federal agencies and agencies of States and political subdivisions of States and with public and private entities, and provide other financial assistance to eligible recipients.

''(C) CONSULTATION.—In developing outreach initiatives for groups that are subject to the requirements of this title and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, shall consult with—

''(i) the heads of State agencies responsible for implementing State boating laws; and

''(ii) the heads of other enforcement agencies that regulate boaters or commercial fishermen.''.

## TITLE IX—TOWING VESSEL SAFETY

**SEC. 901. REDUCTION OF OIL SPILLS FROM NON-SELF-PROPELLED TANK VESSELS.**

(a) IN GENERAL.—Chapter 37 of title 46, United States Code, is amended by adding at the end the following new section:

**''§3719. Reduction of oil spills from single hull non-self-propelled tank vessels**

''The Secretary shall, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and the size and nature of service of single hull non-self-propelled tank vessels

and towing vessels, prescribe regulations requiring a single hull non-self-propelled tank vessel that operates in the open ocean or coastal waters, or the vessel towing it, to have at least one of the following:

''(1) A crew member and an operable anchor on board the tank vessel that together are capable of arresting the tank vessel without additional assistance under reasonably foreseeable sea conditions.

''(2) An emergency system on the tank vessel or towing vessel that without additional assistance under reasonably foreseeable sea conditions will allow the tank vessel to be retrieved by the towing vessel if the tow line ruptures.

''(3) Any other measure or combination of measures that the Secretary determines will provide protection against grounding of the tank vessel comparable to that provided by the measures described in paragraph (1) or (2).''.

(b) DEADLINE.—The Secretary of the department in which the Coast Guard is operating shall issue regulations required under section 3719 of title 46, United States Code, as added by subsection (a), by not later than October 1, 1997.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of title 46, United States Code, is amended by adding at the end the following new item:

''3719. Reduction of oil spills from non-self-propelled tank vessels.''.

**SEC. 902. REQUIREMENT FOR FIRE SUPPRESSION DEVICES.**

(a) IN GENERAL.—Section 4102 of title 46, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) The Secretary, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and nature of service of towing vessels, may require the installation, maintenance, and use of a fire suppression system or other measures to provide adequate assurance that fires on board towing vessels can be suppressed under reasonably foreseeable circumstances.

''(2) The Secretary shall require under paragraph (1) the use of a fire suppression system or other measures to provide adequate assurance that a fire on board a towing vessel that is towing a non-self-propelled tank vessel can be suppressed under reasonably foreseeable circumstances.''.

(b) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall issue regulations establishing the requirement described in subsection (f)(2) of section 4102 of title 46, United States Code, as added by this section, by not later than October 1, 1997.

**SEC. 903. STUDIES ADDRESSING VARIOUS SOURCES OF OIL SPILL RISK.**

(a) STUDY OF GROUP-5 FUEL OIL SPILLS.—

(1) DEFINITION.—In this subsection, the term ''group-5 fuel oil'' means a petroleum-based oil that has a specific gravity of greater than 1.0.

(2) COORDINATION OF STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the relative environmental and public health risks posed by discharges of group-5 fuel oil.

(3) MATTERS TO BE INCLUDED.—The study under this subsection shall include a review and analysis of—

(A) the specific risks posed to the public health or welfare of the United States, including fish, shellfish and wildlife, public and private property, shorelines, beaches, habitat, and other natural resources under the jurisdiction or control of the United States, as a result of an actual or threatened discharge of group-5 fuel oil from a vessel or facility;

(B) cleanup technologies currently available to address actual or threatened discharge of group-5 fuel oil; and

(C) any technological and financial barriers that prevent the prompt remediation of discharges of group-5 fuel oil.

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

(5) RULEMAKING.—If the Secretary of Transportation determines, based on the results of the study under this subsection, that there are significant risks to public health or the environment resulting from the actual or threatened discharge of group-5 fuel oil from a vessel or facility that cannot be technologically or economically addressed by existing or anticipated cleanup efforts, the Secretary may initiate a rulemaking to take such action as is necessary to abate the threat.

(b) STUDY OF AUTOMATIC FUELING SHUTOFF EQUIPMENT.—

(1) COORDINATION OF STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the unintentional or accidental discharge of fuel oil during lightering or fuel loading or off-loading activity.

(2) MATTERS TO BE INCLUDED.—The study under this subsection shall include a review and analysis of current monitoring and fueling practices to determine the need for automatic fuel shutoff equipment to prevent the accidental discharge of fuel oil, and whether such equipment is needed as a supplement to or replacement of existing preventive equipment or procedures.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

(4) RULEMAKING.—If the Secretary of Transportation determines, based on the results of the study conducted under this subsection, that the use of automatic oil shutoff equipment is necessary to prevent the actual or threatened discharge of oil during lightering or fuel loading or off loading activity, the Secretary may initiate a rulemaking to take such action as is necessary to abate a threat to public health or the environment.

(c) LIGHTERING STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council on a study into the actual incidence and risk of oil spills from lightering operations off the coast of the United States. Among other things, the study shall address the manner in which existing regulations are serving to reduce oil spill risks. The study shall take into account current or proposed international rules and standards and also include recommendations on measures that would be likely to further reduce the risks of oil spills from lightering operations. Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

## TITLE X—CONVEYANCES

**SEC. 1001. CONVEYANCE OF LIGHTHOUSES.**

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation or the Secretary of the Interior, as appropriate, shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Cape Ann Lighthouse, located on Thachers Island, Massachusetts, to the town of Rockport, Massachusetts.

(B) Light Station Montauk Point, located at Montauk, New York, to the Montauk Historical Association in Montauk, New York.

(C) Squirrel Point Light, located in Arrowsic, Maine, to Squirrel Point Associates, Incorporated.

(D) Point Arena Light Station, located in Mendocino County, California, to the Point Arena Lighthouse Keepers, Incorporated.

(E) Saint Helena Island Light Station, located in MacKinac County, Moran Township, Michigan, to the Great Lakes Lighthouse Keepers Association.

(F) Presque Isle Light Station, located in Presque Isle Township, Michigan, to Presque Isle Township, Presque Isle County, Michigan.

(G) Cove Point Lighthouse, located in Calvert County, Maryland, to Calvert County, Maryland.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) EXCEPTION.—The Secretary may not convey any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by this section and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this subsection shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(ii) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(iii) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary of Transportation provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—A conveyance of property under this section shall be made subject to the conditions that the Secretary of Transportation considers to be necessary to assure that—

(A) the lights, antennas, sound signal, electronic navigation equipment, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The owner of property conveyed under this section is not required to maintain any active aid to navigation equipment on the property.

(5) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The owner of property conveyed under this section shall maintain

*the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and other applicable laws.*

*(c) MAINTENANCE STANDARD.—The owner of any property conveyed under this section, at its own cost and expense, shall maintain the property in a proper, substantial, and workmanlike manner.*

*(d) DEFINITIONS.—For purposes of this section:*

*(1) The term ''Montauk Light Station'' includes the keeper's dwellings, adjacent Coast Guard rights-of-way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker.*

*(2) The term ''owner'' means the person identified in subsection (a)(1)(A) through (G), and includes any successor of assign of that person.*

*(3) The term ''Point Arena Light Station'' includes the light tower building, fog signal building, 2 small shelters, 4 residential quarters, and a restroom facility.*

*(4) The term ''Squirrel Point Light'' includes the light tower, dwelling, boat house, oil house, barn, any other ancillary buildings, and any other land as may be necessary for the owner to operate a nonprofit center for public benefit.*

*(5) The term ''Presque Isle Light Station'' includes the light tower, attached dwelling, detached dwelling, 3-car garage, and any other improvements on that parcel of land.*

***SEC. 1002. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE.***

*(a) AUTHORITY TO CONVEY.—*

*(1) IN GENERAL.—The Secretary of Transportation (in this section referred to as the ''Secretary'') shall convey to an entity recommended by the Island Institute, Rockland, Maine (in this section referred to as the ''Institute''), and approved by the Selection Committee established in subsection (d)(3)(A), by an appropriate means of conveyance, all right, title, and interest of the United States in and to any of the facilities and real property and improvements described in paragraph (2).*

*(2) IDENTIFICATION OF PROPERTIES.—Paragraph (1) applies to lighthouses, together with any real property and other improvements associated therewith, located in the State of Maine as follows:*

*(A) Burnt Island Light.*
*(B) Rockland Harbor Breakwater Light.*
*(C) Monhegan Island Light.*
*(D) Eagle Island Light.*
*(E) Curtis Island Light.*
*(F) Moose Peak Light.*
*(G) Great Duck Island Light.*
*(H) Goose Rocks Light.*
*(I) Isle au Haut Light.*
*(J) Goat Island Light.*
*(K) Wood Island Light.*
*(L) Doubling Point Light.*
*(M) Doubling Point Front Range Light.*
*(N) Doubling Point Rear Range Light.*
*(O) Little River Light.*
*(P) Spring Point Ledge Light.*
*(Q) Ram Island Light (Boothbay).*
*(R) Seguin Island Light.*
*(S) Marshall Point Light.*
*(T) Fort Point Light.*
*(U) West Quoddy Head Light.*
*(V) Brown's Head Light.*
*(W) Cape Neddick Light.*
*(X) Halfway Rock Light.*
*(Y) Ram Island Ledge Light.*
*(Z) Mount Desert Rock Light.*
*(AA) Whitlock's Mill Light.*
*(BB) Nash Island Light.*
*(CC) Manana Island Fog Signal Station.*
*(DD) Franklin Island Light.*

*(3) DEADLINE FOR CONVEYANCE.—(A) The conveyances authorized by this subsection shall take place not later than 2 years after the date of the enactment of this Act.*

*(B) During the period described in subparagraph (A), the Secretary may not transfer or convey any right, title, or interest in the properties listed in paragraph (2) in any manner that is inconsistent with this section, nor shall the Secretary transfer these properties to the General Services Administration for disposal, unless the Selection Committee notifies the Secretary that an eligible entity referred to in subsection (d)(2) will not be identified during that period.*

*(C) During the period described in subparagraph (A), no other provision of law concerning the disposal of Federal property that is inconsistent in any manner with the provisions of this section shall apply to the properties listed in paragraph (2).*

*(4) ADDITIONAL CONVEYANCES.—The Secretary may transfer, in accordance with the terms and conditions of subsection (b), the following lighthouses, together with any real property and improvements associated therewith—*

*(A) directly to the United States Fish and Wildlife Service:*
*(i) Two Bush Island Light.*
*(ii) Egg Rock Light.*
*(iii) Libby Island Light.*
*(iv) Matinicus Rock Light.*

*(B) to the Institute, with the concurrence of the Maine Lighthouse Selection Committee:*
*(i) Whitehead Island Light.*
*(ii) Deer Island Thorofare (Mark Island) Light.*

*(b) TERMS OF CONVEYANCE.—*

*(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—*

*(A) without payment of consideration; and*

*(B) subject to the conditions required by this section and other terms and conditions the Secretary may consider appropriate.*

*(2) MAINTENANCE OF NAVIGATION FUNCTION.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers necessary to assure that—*

*(A) the lights, antennas, sound signal, electronic navigation equipment, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;*

*(B) the Institute, the United States Fish and Wildlife Service, and an entity to which property is conveyed under this section may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;*

*(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to property conveyed under this section as may be necessary for navigational purposes;*

*(D) the United States shall have the right, at any time, to enter property conveyed under this section without notice for the purpose of maintaining aids to navigation; and*

*(E) the United States shall have an easement of access to and across property conveyed under this section for the purpose of maintaining the aids to navigation in use on the property.*

*(3) OBLIGATION LIMITATION.—The Institute, or any entity to which a lighthouse is conveyed under subsection (d), is not required to maintain any active aid to navigation equipment on a property conveyed under this section.*

*(4) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to this section, the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—*

*(A) such property or any part of such property ceases to be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for such other uses as the Secretary determines to be not inconsistent or incompatible with such uses;*

*(B) such property or any part of such property ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or*

*(C) such property or any part of such property ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).*

*(c) INSPECTION.—The State Historic Preservation Officer of the State of Maine may at any time inspect any lighthouse, and any real property and improvements associated therewith, that is conveyed under this section to an entity that is not a Federal agency, without notice, for purposes of ensuring that the lighthouse is being maintained in the manner required under subsection (b). The Institute, and conveyees under subsection (d) that are not Federal agencies, shall cooperate with the official referred to in the preceding sentence in the inspections of that official under this subsection.*

*(d) CONVEYANCE OF LIGHTHOUSES.—*

*(1) REQUIREMENT.—The Secretary shall convey, without consideration, all right, title, and interest of the United States in and to the lighthouses identified in subsection (a)(2), together with any real property and improvements associated therewith, to one or more entities identified under paragraph (2) and approved by the committee established under paragraph (3) in accordance with the provisions of such paragraph (3).*

*(2) IDENTIFICATION OF ELIGIBLE ENTITIES.—*

*(A) IN GENERAL.—Subject to subparagraph (B), the Institute shall identify entities eligible for the conveyance of a lighthouse under this subsection. Such entities shall include any department or agency of the Federal Government, any department or agency of the government of the State of Maine, any local government in that State, or any nonprofit corporation, educational agency, or community development organization that—*

*(i) is financially able to maintain the lighthouse (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (b);*

*(ii) has agreed to permit the inspections referred to in subsection (c); and*

*(iii) has agreed to comply with the conditions set forth in subsection (b); and to have such conditions recorded with the deed of title to the lighthouse and any real property and improvements that may be conveyed therewith.*

*(B) ORDER OF PRIORITY.—In identifying entities eligible for the conveyance of a lighthouse under this paragraph, the Institute shall give priority to entities in the following order, which are also the exclusive entities eligible for the conveyance of a lighthouse under this section:*

*(i) Agencies of the Federal Government.*
*(ii) Entities of the government of the State of Maine.*
*(iii) Entities of local governments in the State of Maine.*
*(iv) Nonprofit corporations, educational agencies, and community development organizations.*

*(3) SELECTION OF CONVEYEES AMONG ELIGIBLE ENTITIES.—*

*(A) COMMITTEE.—*

*(i) IN GENERAL.—There is hereby established a committee to be known as the Maine Lighthouse Selection Committee (in this paragraph referred to as the ''Committee'').*

*(ii) MEMBERSHIP.—The Committee shall consist of five members appointed by the Secretary, in consultation with the Advisory Council on Historic Preservation, as follows:*

*(I) One member, who shall serve as the Chairman of the Committee, shall be appointed from among individuals recommended by the Governor of the State of Maine.*

*(II) One member shall be the State Historic Preservation Officer of the State of Maine, with the consent of that official, or a designee of that official.*

*(III) One member shall be appointed from among individuals recommended by State and local organizations in the State of Maine that are concerned with lighthouse preservation or maritime heritage matters.*

*(IV) One member shall be appointed from among individuals recommended by officials of local governments of the municipalities in which the lighthouses are located.*

*(V) One member shall be appointed from among individuals recommended by the Secretary of the Interior.*

*(iii) APPOINTMENT DEADLINE.—The Secretary shall appoint the members of the Committee not later than 90 days after the date of the enactment of this Act.*

*(iv) MEMBERSHIP TERM.—*

*(I) Members of the Committee shall serve for such terms not longer than 2 years as the Secretary shall provide. The Secretary may stagger the terms of initial members of the Committee in order to ensure continuous activity by the Committee.*

*(II) Any member of the Committee may serve after the expiration of the term of the member until a successor to the member is appointed. A vacancy in the Committee shall be filled in the same manner in which the original appointment was made.*

*(v) VOTING.—The Committee shall act by an affirmative vote of a majority of the members of the Committee.*

*(B) RESPONSIBILITIES.—*

*(i) IN GENERAL.—The Committee shall—*

*(I) review the entities identified by the Institute under paragraph (2) as entities eligible for the conveyance of a lighthouse; and*

*(II) approve one such entity, or disapprove all such entities, as entities to which the Secretary may make the conveyance of the lighthouse under this subsection.*

*(ii) APPROVAL.—If the Committee approves an entity for the conveyance of a lighthouse, the Committee shall notify the Institute of such approval. The Institute shall forward such recommendations to the Secretary.*

*(iii) DISAPPROVAL.—If the Committee disapproves of the entities, the Committee shall notify the Institute and the Institute shall identify other entities eligible for the conveyance of the lighthouse under paragraph (2). The Committee shall review and approve or disapprove entities identified pursuant to the preceding sentence in accordance with this subparagraph and the criteria set forth in subsection (b).*

*(C) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the Committee, however, all meetings of the Committee shall be open to the public and preceded by appropriate public notice.*

*(D) TERMINATION.—The Committee shall terminate 2 years from the date of the enactment of this Act.*

*(E) FUNDING.—Nothing in this section shall imply a commitment or obligation of any department or agency of the Federal Government to fund the expenses of the Committee.*

*(4) CONVEYANCE.—Upon notification under paragraph (3)(B)(ii) of the approval of an identified entity for conveyance of a lighthouse under this subsection, the Secretary shall, with the consent of the entity, convey the lighthouse to the entity.*

*(5) RESPONSIBILITIES OF CONVEYEES.—Each entity to which the Secretary conveys a lighthouse under this subsection, or any successor or assign of such entity in perpetuity, shall—*

*(A) use and maintain the lighthouse in accordance with subsection (b) and have such terms and conditions recorded with the deed of title to the lighthouse and any real property conveyed therewith; and*

*(B) permit the inspections referred to in subsection (c).*

*(e) DESCRIPTION OF PROPERTY.—The legal description of any lighthouse, and any real property and improvements associated therewith, conveyed under subsection (a) shall be determined by the Secretary. The Secretary shall retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the lighthouses conveyed under this subsection, whether located at the lighthouse or elsewhere. The Secretary shall identify any equipment, system, or object covered by this paragraph.*

***SEC. 1003. TRANSFER OF COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS.***

*(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation may convey to the town of Gosnold, Massachusetts, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the ''United States Coast Guard Cuttyhunk Boathouse and Wharf'', as described in subsection (c).*

*(b) CONDITIONS.—Any conveyance of property under subsection (a) shall be subject to the condition that the Coast Guard shall retain in perpetuity and at no cost—*

*(1) the right of access to, over, and through the boathouse, wharf, and land comprising the property at all times for the purpose of berthing vessels, including vessels belonging to members of the Coast Guard Auxiliary; and*

*(2) the right of ingress to and egress from the property for purposes of access to Coast Guard facilities and performance of Coast Guard functions.*

*(c) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the town of Gosnold, Massachusetts (including all buildings, structures, equipment, and other improvements), as determined by the Secretary of Transportation.*

***SEC. 1004. CONVEYANCE OF PROPERTY IN KETCHIKAN, ALASKA.***

*(a) AUTHORITY TO CONVEY.—The Secretary of Transportation or the Administrator of General Services, as appropriate, shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the ''Former Marine Safety Detachment'' as identified in Report of Excess Number CG–689 (GSA Control Number 9–U–AK–0747) and described in subsection (b), for use as a health or social services facility.*

*(b) IDENTIFICATION OF PROPERTY.—The Secretary or the Administrator, as appropriate, shall identify, describe, and determine the property to be conveyed pursuant to this section.*

*(c) REVERSIONARY INTEREST.—(1) The conveyance of property described in subsection (b) shall be subject to the conditions that—*

*(A) the existing buildings on such property shall be demolished and removed by not later than July 3, 1997; and*

*(B) such property, and all right, title and interest in such property, shall transfer to the City of Ketchikan if, within 24 months of the date of enactment of this Act, the Ketchikan Indian Corporation has not completed design and construction plans for a health and social services facility (including local permitting requirements, but not financing plans) and received approval from the City of Ketchikan for such plans or the written consent of the City to exceed this period.*

*(2) If the property described in subsection (b) is transferred to the City of Ketchikan under subsection (c), the transfer shall be subject to the condition that all right, title, and interest in and to the property shall immediately revert to the United States if the property ceases to be used by the City of Ketchikan in a health-related or hospital-related capacity.*

***SEC. 1005. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.***

*(a) AUTHORITY TO CONVEY.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property identified, described, and determined by the Secretary under subsection (b), subject to all easements and other interests in the property held by any other person.*

*(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.*

*(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a) or (d), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City Area Public School District.*

*(d) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—*

*(1) the pump room located on the property shall continue to be operated and maintained by the United States for as long as it is needed for this purpose;*

*(2) the United States shall have an easement of access to the property for the purpose of operating and maintaining the pump room; and*

*(3) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating and maintaining the pump room.*

***SEC. 1006. TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHAM, RHODE ISLAND.***

*(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) may convey to the town of New Shoreham, Rhode Island, without consideration, all right, title, and interest of the United States in and to the property known as the United States Coast Guard Station Block Island, as described in subsection (b), subject to all easements and other interest in the property held by any other person.*

*(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property (including buildings and improvements) located on the west side of Block Island, Rhode Island, at the entrance to the Great Salt Pond and referred to in the books of the Tax Assessor of the town of New Shoreham, Rhode Island, as lots 10 and 12, comprising approximately 10.7 acres.*

*(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property under subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the town of New Shoreham, Rhode Island.*

***SEC. 1007. CONVEYANCE OF PROPERTY IN SANTA CRUZ, CALIFORNIA.***

*(a) AUTHORITY TO CONVEY.—*

*(1) IN GENERAL.—The Secretary of Transportation (referred to in this section as the ''Secretary'') may convey to the Santa Cruz Port District by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property described in paragraph (2).*

*(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.*

*(b) CONSIDERATION.—Any conveyance of property pursuant to this section shall be made without payment of consideration.*

*(c) CONDITION.—The conveyance provided for in subsection (a) may be made contingent upon agreement by the Port District that—*

*(1) the utility systems, building spaces, and facilities or any alternate, suitable facilities and buildings on the harbor premises would be available for joint use by the Port District and the Coast Guard when deemed necessary by the Coast Guard; and*

(2) the Port District would be responsible for paying the cost of maintaining, operating, and replacing (as necessary) the utility systems and any buildings and facilities located on the property as described in subsection (a) or on any alternate, suitable property on the harbor premises set aside for use by the Coast Guard.

(d) REVERSIONARY INTEREST.—Any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in Subunit Santa Cruz shall immediately revert to the United States—

(1) if Subunit Santa Cruz ceases to be maintained as a nonprofit center for education, training, administration, and other public service to include use by the Coast Guard; or

(2) at the end of the thirty day period beginning on any date on which the Secretary provides written notice to the Santa Cruz Port District that Subunit Santa Cruz is needed for national security purposes.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) DEFINITIONS.—For purposes of this section—

(1) ''Subunit Santa Cruz'' means the Coast Guard property and improvements located at Santa Cruz, California;

(2) ''Secretary'' means the Secretary of the department in which the Coast Guard is operating; and

(3) ''Port District'' means the Santa Cruz Port District, or any successor or assign.

**SEC. 1008. CONVEYANCE OF VESSEL S/S RED OAK VICTORY.**

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation (referred to in this section as the ''Secretary'') may convey the right, title, and interest of the United States Government in and to the vessel S/S RED OAK VICTORY (Victory Ship VCS–AP2; United States Navy Hull No. AK235) to the City of Richmond Museum Association, Inc., located in Richmond, California (in this section referred to as ''the recipient''), if—

(1) the recipient agrees to use the vessel for the purposes of a monument to the wartime accomplishments of the City of Richmond;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or a national emergency;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and PCB's, after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3);

(5) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000; and

(6) the recipient agrees to any other conditions the Secretary considers appropriate.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet for use to restore the S/S RED OAK VICTORY to museum quality.

(d) RETENTION OF VESSEL IN NDRF.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

**SEC. 1009. CONVEYANCE OF EQUIPMENT.**

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

**SEC. 1010. PROPERTY EXCHANGE.**

(a) PROPERTY ACQUISITION.—The Secretary may, by means of an exchange of property, acceptance as a gift, or other means that does not require the use of appropriated funds, acquire all right, title, and interest in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska.

(b) ACQUISITION THROUGH EXCHANGE.—For the purposes of acquiring property under subsection (a) by means of an exchange, the Secretary may convey all right, title, and interest of the United States in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska and in the control of the Coast Guard if the Secretary determines that the exchange is in the best interest of the Coast Guard.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 1011. AUTHORITY TO CONVEY WHITEFISH POINT LIGHT STATION LAND.**

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of the Interior (in this section referred to as the ''Secretary'') may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in 1 of the 3 parcels comprising the land on which the United States Coast Guard Whitefish Point Light Station is situated (in this section referred to as the ''Property''), to each of the Great Lakes Shipwreck Historical Society, located in Sault Ste. Marie, Michigan, the United States Fish and Wildlife Service, and the Michigan Audubon Society (each of which is referred to in this section as a ''recipient''), subject to all easements, conditions, reservations, exceptions, and restrictions contained in prior conveyances of record.

(2) LIMITATION.—Notwithstanding paragraph (1), the Secretary shall retain for the United States all right, title, and interest in—

(A) any historical artifact, including any lens or lantern, and

(B) the light, antennas, sound signal, towers, associated lighthouse equipment, and any electronic navigation equipment, which are active aids to navigation,

which is located on the Property, or which relates to the Property.

(3) IDENTIFICATION OF THE PROPERTY.—The Secretary may identify, describe, and determine the parcels to be conveyed pursuant to this section.

(4) RIGHTS OF ACCESS.—If necessary to ensure access to a public roadway for a parcel conveyed under this section, the Secretary shall convey with the parcel an appropriate appurtenant easement over another parcel conveyed under this section.

(5) EASEMENT FOR PUBLIC ALONG SHORELINE.—In each conveyance under this section of property located on the shoreline of Lake Superior, the Secretary shall retain for the public, for public walkway purposes, a right-of-way along the shoreline that extends 30 feet inland from the mean high water line.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary considers appropriate.

(2) MAINTENANCE OF NAVIGATION FUNCTIONS.—The Secretary shall ensure that any conveyance pursuant to this section is subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, towers, and associated lighthouse equipment, and any electronic navigation equipment, which are located on the Property and which are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the recipients may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation, or make any changes on any portion of the Property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the Property without notice for the purpose of maintaining aids to navigation;

(E) the United States shall have—

(i) an easement of access to and across the Property for the purpose of maintaining the aids to navigation and associated equipment in use on the Property; and

(ii) an easement for an arc of visibility; and

(F) the United States shall not be responsible for the cost and expense of maintenance, repair, and upkeep of the Property.

(3) MAINTENANCE OBLIGATION.—The recipients shall not have any obligation to maintain any active aid to navigation equipment on any parcel conveyed pursuant to this section.

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—Each recipient shall maintain the parcel conveyed to the recipient pursuant to subsection (a) in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other applicable laws.

(d) MAINTENANCE STANDARD.—Each recipient shall maintain the parcel conveyed to the recipient pursuant to subsection (a), at its own cost and expense, in a proper, substantial, and workmanlike manner, including the easements of access, the easement for an arc of visibility, the nuisance easement, and the underground easement.

(e) SHARED USE AND OCCUPANCY AGREEMENT.—The Secretary shall require, as a condition of each conveyance of property under this section, that all of the recipients have entered into the same agreement governing the shared use and occupancy of the existing Whitefish Point Light Station facilities. The agreement shall be drafted by the recipients and shall include—

(1) terms governing building occupancy and access of recipient staff and public visitors to public restrooms, the auditorium, and the parking lot; and

(2) terms requiring that each recipient shall be responsible for paying a pro rata share of the costs of operating and maintaining the existing Whitefish Point Light Station facilities, that is based on the level of use and occupancy of the facilities by the recipient.

(f) LIMITATIONS ON DEVELOPMENT AND IMPAIRING USES.—It shall be a term of each conveyance under this section that—

(1) no development of new facilities or expansion of existing facilities or infrastructure on property conveyed under this section may occur, except for purposes of implementing the Whitefish Point Comprehensive Plan of October 1992 or for a gift shop, unless—

(A) each of the recipients consents to the development or expansion in writing;

(B) there has been a reasonable opportunity for public comment on the development or expansion, and full consideration has been given to such public comment as is provided; and

(C) the development or expansion is consistent with preservation of the Property in its predominantly natural, scenic, historic, and forested condition; and

(2) any use of the Property or any structure located on the property which may impair or interfere with the conservation values of the Property is expressly prohibited.

(g) REVISIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interests in and to property and interests conveyed under this section shall revert to the United States and thereafter be administered by the Secretary of Interior acting through the Director of the United States Fish and Wildlife Service, if—

(A) in the case of such property and interests conveyed to the Great Lakes Shipwreck Historical Society, the property or interests cease to be used for the purpose of historical interpretation;

(B) in the case of such property and interests conveyed to the Michigan Audubon Society, the property or interests cease to be used for the purpose of environmental protection, research, and interpretation; or

(C) in the case any property and interests conveyed to a recipient referred to in subparagraph (A) or (B)—

(i) there is any violation of any term or condition of the conveyance to that recipient; or

(ii) the recipient has ceased to exist.

(2) AUTHORITY TO ENFORCE REVERSIONARY INTEREST.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall have the authority—

(A) to determine for the United States Government whether any act or omission of a recipient results in a reversion of property and interests under paragraph (1); and

(B) to initiate a civil action to enforce that reversion, after notifying the recipient of the intent of the Secretary of the Interior to initiate that action.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—In the event of a reversion of property under this subsection, the Secretary of the Interior shall administer the property subject to any conditions the Secretary of Transportation considers to be necessary to maintain the navigation functions.

**SEC. 1012. CONVEYANCE OF PARRAMORE BEACH COAST GUARD STATION, VIRGINIA.**

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall convey to the Nature Conservancy (a nonprofit corporation established under the laws of the District of Columbia and holder of ownership interest in Parramore Island, Virginia), by not later than 30 days after the date of the enactment of this Act and without consideration, all right, title, and interest of the United States in and to all real property comprising the Parramore Beach Coast Guard Station, located on Parramore's Island near the town of Wachapreague in Accomack County, Virginia.

(b) COMPLETION OF ENVIRONMENTAL REVIEWS, ASSESSMENTS, AND CLEANUP.—

(1) AUTHORITY TO CONVEY BEFORE COMPLETION.—Notwithstanding any other provision of law that would require completion of an environmental review, assessment, or cleanup with respect to the Parramore Beach Coast Guard Station before the conveyance under subsection (a), the Secretary may make that conveyance before the completion of that review, assessment, or cleanup, as applicable.

(2) TIME FOR COMPLETION.—Any environmental review, assessment, or cleanup with respect to the Parramore Beach Coast Guard Station shall be completed by as soon as practicable after the date of the enactment of this Act.

**SEC. 1013. CONVEYANCE OF JEREMIAH O'BRIEN.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation (in this section referred to as the ''Secretary'') may convey, subject to the conditions set forth in subsection (b), the right, title, and interest of the United States Government in the vessel JEREMIAH O'BRIEN (United States official number 243622; in this section referred to as the ''Vessel''), to a nonprofit corporation (in this section referred to as the ''Recipient'') for use as a merchant marine memorial museum, if on the date of enactment of this Act the Recipient has at least 10 consecutive years experience in restoring and operating a Liberty Ship as a merchant marine memorial museum.

(b) CONDITIONS.—The conveyance of the Vessel under subsection (a) shall be subject to the following conditions:

(1) The Recipient agrees—

(A) to use the Vessel as a nonprofit merchant marine memorial museum;

(B) not to use the Vessel for commercial transportation purposes;

(C) to make the Vessel available to the Government without cost if and when the Secretary requires use of the Vessel by the Government;

(D) in the event the Recipient no longer requires the Vessel for use as a merchant marine memorial museum, to—

(i) reconvey, at the discretion of the Secretary, the Vessel to the Government in as good condition as when it was received from the Government, except for ordinary wear and tear; and

(ii) deliver the Vessel to the Government at the place where the Vessel was delivered to the Recipient;

(E) to hold the Government harmless for any claims founded on occurrences after conveyance of the Vessel, except for claims against the Government arising from use by the Government under subparagraphs (C) and (D) of this paragraph, which claims shall include any claims resulting from exposure to asbestos and other substances; and

(F) to any other conditions the Secretary considers appropriate.

(2) If a conveyance is made under this section, the Secretary shall deliver the Vessel to the Recipient at the place where the Vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) CONVEYANCE OF EQUIPMENT AND MATERIAL.—The Secretary may convey to the Recipient any unneeded equipment and material from other vessels at any time in the National Defense Reserve Fleet in order to assist in placing and maintaining the Vessel in operating condition.

(d) EXPIRATION OF AUTHORITY.—The authority of the Secretary to convey the Vessel under this section shall expire 2 years after the date of enactment of this Act.

## TITLE XI—MISCELLANEOUS

**SEC. 1101. FLORIDA AVENUE BRIDGE.**

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), the Secretary shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

**SEC. 1102. OIL SPILL RECOVERY INSTITUTE.**

(a) ADVISORY BOARD AND EXECUTIVE COMMITTEE.—Section 5001 of the Oil Pollution Act of 1990 (33 U.S.C. 2731) is amended—

(1) by striking ''to be administered by the Secretary of Commerce'' in subsection (a);

(2) by striking ''and located'' in subsection (a) and inserting ''located'';

(3) by striking ''the EXXON VALDEZ oil spill'' each place it appears in subsection (b)(2) and inserting ''Arctic or Subarctic oil spills'';

(4) by striking ''18'' in subsection (c)(1) and inserting ''16'';

(5) by striking '', Natural Resources, and Commerce and Economic Development'' in subsection (c)(1)(A) and inserting a comma and ''and Natural Resources'';

(6) by striking subsection (c)(1)(B), (C), and (D);

(7) by redesignating subparagraphs (E) and (F) of subsection (c)(1) as subparagraphs (G) and (H), respectively;

(8) by inserting after subparagraph (A) of subsection (c)(1) the following:

''(B) One representative appointed by each of the Secretaries of Commerce, the Interior, and Transportation, who shall be Federal employees.

''(C) Two representatives from the fishing industry appointed by the Governor of the State of Alaska from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill, who shall serve terms of 2 years each. Interested organizations from within the fishing industry may submit the names of qualified individuals for consideration by the Governor.

''(D) Two Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, appointed by the Governor of Alaska from a list of 4 qualified individuals submitted by the Alaska Federation of Natives, who shall serve terms of 2 years each.

''(E) Two representatives from the oil and gas industry to be appointed by the Governor of the State of Alaska who shall serve terms of 2 years each. Interested organizations from within the oil and gas industry may submit the names of qualified individuals for consideration by the Governor.

''(F) Two at-large representatives from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about the marine environment and wildlife within Prince William Sound, and who shall serve terms of 2 years each, appointed by the remaining members of the Advisory Board. Interested parties may submit the names of qualified individuals for consideration by the Advisory Board.'';

(9) adding at the end of subsection (c) the following:

''(4) SCIENTIFIC REVIEW.—The Advisory Board may request a scientific review of the research program every five years by the National Academy of Sciences which shall perform the review, if requested, as part of its responsibilities under section 7001(b)(2).'';

(10) by striking ''the EXXON VALDEZ oil spill'' in subsection (d)(2) and inserting ''Arctic or Subarctic oil spills'';

(11) by striking ''Secretary of Commerce'' in subsection (e) and inserting ''Advisory Board'';

(12) by striking '', the Advisory Board,'' in the second sentence of subsection (e);

(13) by striking ''Secretary's'' in subsection (e) and inserting ''Advisory Board's'';

(14) by inserting ''authorization in section 5006(b) providing funding for the'' in subsection (i) after ''The'';

(15) by striking ''this Act'' in subsection (i) and inserting ''the Coast Guard Authorization Act of 1996'';

(16) by striking the first sentence of subsection (j); and

(17) by inserting ''The Advisory Board may compensate its Federal representatives for their reasonable travel costs.'' in subsection (j) after ''Institute.''.

(b) FUNDING.—Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended by—

(1) striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) striking ''5003'' in the caption of subsection (a), as redesignated, and inserting ''5001, 5003,'';

(3) inserting ''to carry out section 5001 in the amount as determined in section 5006(b), and'' after ''limitation,'' in the text of subsection (a), as redesignated; and

(4) adding at the end thereof the following:

''(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund's investment of the $22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising

the Fund. The National Pollution Funds Center shall transfer all such accrued interest, including the interest earned from the date funds in the Trans-Alaska Liability Pipeline Fund were transferred into the Oil Spill Liability Trust Fund pursuant to section 8102(a)(2)(B)(ii), to the Prince William Sound Oil Spill Recovery Institute annually, beginning 60 days after the date of enactment of the Coast Guard Authorization Act of 1996.

''(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking ''5006(b)'' and inserting ''5006''.

(2) Section 7001(c)(9) the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(9)) is amended by striking the period at the end thereof and inserting ''until the authorization for funding under section 5006(b) expires.''.

**SEC. 1103. LIMITED DOUBLE HULL EXEMPTIONS.**

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b), by—

(A) striking ''or'' at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting a semicolon; and

(C) adding at the end the following new paragraphs:

''(4) a vessel documented under chapter 121 of this title that was equipped with a double hull before August 12, 1992;

''(5) a barge of less than 1,500 gross tons (as measured under chapter 145 of this title) carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

''(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).''; and

(2) by adding at the end the following new subsection:

''(d) The operation of barges described in subsection (b)(5) outside waters described in that subsection shall be on any conditions as the Secretary may require.''.

**SEC. 1104. OIL SPILL RESPONSE VESSELS.**

(a) DESCRIPTION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as paragraph (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

''(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.''.

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end thereof the following:

''(f) This chapter does not apply to an oil spill response vessel if—

''(1) the vessel is used only in response-related activities; or

''(2) the vessel is—

''(A) not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

''(B) designated in its certificate of inspection as an oil spill response vessel; and

''(C) engaged in response-related activities.''.

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

''(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.''.

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

''(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.''.

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting a semicolon and ''and''; and

(3) by adding at the end thereof the following new paragraph:

''(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.''.

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

''(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.''.

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

''(14) oil spill response vessels.''.

**SEC. 1105. SERVICE IN CERTAIN SUITS IN ADMIRALTY.**

Section 2 of the Act of March 9, 1920 (popularly known as the Suits in Admiralty Act; 46 App. U.S.C. 742), is amended by striking ''The libelant'' and all that follows through ''and such corporation.''.

**SEC. 1106. AMENDMENTS TO THE JOHNSON ACT.**

(a) CALIFORNIA CRUISE INDUSTRY REVITALIZATION.—Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the ''Johnson Act'', is amended by adding at the end thereof the following:

''(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

''(i) that begins and ends in the same State;

''(ii) that is part of a voyage to another State or to a foreign country; and

''(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.''.

(b) AUTHORITY OF THE STATE OF INDIANA OVER VESSELS ON VOYAGES IN THE TERRITORIAL JURISDICTION OF THE STATE OF INDIANA.—Section 5(b)(1) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(1)), commonly known as the ''Johnson Act'', is amended—

(1) in subparagraph (A) by striking ''or'' after the semicolon at the end;

(2) in subparagraph (B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(C) the repair, transport, possession, or use of a gambling device on a vessel on a voyage that begins in the State of Indiana and that does not leave the territorial jurisdiction of that State, including such a voyage on Lake Michigan.''.

(c) APPLICABILITY TO CERTAIN VOYAGES IN ALASKA.—Section 5 of the Act of January 2, 1951 (15 U.S.C. 1175), commonly referred to as the ''Johnson Act'', is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—(1) This section does not prohibit, nor may any State make it a violation of law for there to occur, the repair, transport, possession, or use of any gambling device on board a vessel which provides sleeping accommodations for all of its passengers and that is on a voyage or segment of a voyage described in paragraph (2), except that a State may, within its boundaries—

''(A) prohibit the use of a gambling device on a vessel while it is docked or anchored or while it is operating within 3 nautical miles of a port at which it is scheduled to call; and

''(B) require the gambling devices to remain on board the vessel.

''(2) A voyage referred to in paragraph (1) is a voyage that—

''(A) begins, ends, or otherwise includes a stop in Canada;

''(B) includes stops in at least 2 different ports situated in the State of Alaska;

''(C) does not begin, end, or otherwise include a stop in any other State; and

''(D) is of at least 60 hours duration.''.

**SEC. 1107. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.**

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard not more than $940,000 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Maritime Fire and Safety Association.

**SEC. 1108. OIL POLLUTION RESEARCH TRAINING.**

Section 7001(c)(2)(D) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(2)(D)) is amended by striking ''Texas;'' and inserting ''Texas, and the Center for Marine Training and Safety in Galveston, Texas;''.

**SEC. 1109. LIMITATION ON RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.**

The Secretary of Transportation may not relocate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas. Nothing in this section prevents the consolidation of management functions of these Coast Guard authorities.

**SEC. 1110. UNINSPECTED FISH TENDER VESSELS.**

Section 3302 of title 46, United States Code, as amended by this Act, is further amended as follows:

(1) Subsection (b) is amended by striking ''A fishing vessel,'' and inserting ''Except as provided in subsection (c)(3) of this section, a fishing vessel''.

(2) Subsection (c)(1) is amended by striking ''A fish processing vessel'' and inserting ''Except as provided in paragraph (3) of this subsection, a fish processing vessel''.

(3) Subsection (c)(2) is amended by striking ''A fish tender vessel'' and inserting ''Except as provided in paragraphs (3) and (4) of this subsection, a fish tender vessel''.

(4) Subsection (c)(3) is amended to read as follows:

''(3)(A) A fishing vessel or fish processing vessel is exempt from section 3301(1), (6), and (7) of this title when transporting cargo (including fisheries-related cargo) to or from a place in Alaska if—

''(i) that place does not receive weekly common carrier service by water from a place in the United States;

''(ii) that place receives such common carrier service and the cargo is of a type not accepted by that common carrier service; or

''(iii) the cargo is proprietary cargo owned by the owner of the vessel or any affiliated entity or subsidiary.

''(B) A fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, which is qualified to engage in the Aleutian trade is exempt from section 3301(1), (6), and (7) of this title when transporting cargo (including fisheries-related cargo) to or from a place in Alaska outside the Aleutian trade geographic area if—

''(i) that place does not receive weekly common carrier service by water from a place in the United States;

''(ii) that place receives such common carrier service and the cargo is of a type not accepted by that common carrier service; or

''(iii) the cargo is proprietary cargo owned by the owner of the vessel or any affiliated entity or subsidiary.

''(C) In this paragraph, the term 'proprietary cargo' means cargo that—

''(i) is used by the owner of the vessel or any affiliated entity or subsidiary in activities directly related to fishing or the processing of fish;

''(ii) is consumed by employees of the owner of the vessel or any affiliated entity or subsidiary who are engaged in fishing or in the processing of fish; or

''(iii) consists of fish or fish products harvested or processed by the owner of the vessel or any affiliated entity or subsidiary.

''(D) Notwithstanding the restrictions in subparagraph (B) of this paragraph, vessels qualifying under subparagraph (B) may transport cargo (including fishery-related products) from a place in Alaska receiving weekly common carrier service by water to a final destination in Alaska not receiving weekly service by water from common carriers.''.

**SEC. 1111. FOREIGN PASSENGER VESSEL USER FEES.**

Section 3303 of title 46, United States Code, is amended—

(1) by striking ''(a)'' in subsection (a); and

(2) by striking subsection (b).

**SEC. 1112. COAST GUARD USER FEES.**

(a) LIMITS ON USER FEES.—Section 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by adding after ''annually.'' the following: ''The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than $300 annually for such vessels under 65 feet in length, or more than $600 annually for such vessels 65 feet in length and greater.''.

(b) FERRY EXEMPTION.—Such section is further amended by adding at the end the following: ''The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.''.

**SEC. 1113. VESSEL FINANCING.**

(a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—Section 31322(a) of title 46, United States Code, is amended to read as follows:

''(a) A preferred mortgage is a mortgage, whenever made, that—

''(1) includes the whole of the vessel;

''(2) is filed in substantial compliance with section 31321 of this title; and

''(3)(A) covers a documented vessel; or

''(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.''.

(b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

(1) REPEAL.—Section 31328 of title 46, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking ''31328 or'' each place it appears.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31328.

(c) REMOVAL OF MORTGAGE RESTRICTIONS.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended—

(1) in subsection (c)—

(A) by striking ''31328'' and inserting ''12106(e)''; and

(B) in paragraph (1) by striking ''mortgage,'' each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking ''transfer, or mortgage'' and inserting ''or transfer'';

(B) in paragraph (2) by striking ''transfers, or mortgages'' and inserting ''or transfers'';

(C) in paragraph (3)(B) by striking ''transfers, or mortgages'' and inserting ''or transfers''; and

(D) in paragraph (4) by striking ''transfers, or mortgages'' and inserting ''or transfers''.

(d) LEASING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following:

''(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

''(A) the vessel is eligible for documentation;

''(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is primarily engaged in leasing or other financing transactions;

''(C) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

''(D) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

''(E) the vessel is otherwise eligible for documentation under section 12102.

''(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

''(3) Upon termination by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

''(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.''.

(e) CONFORMING AMENDMENT.—Section 9(c) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(c)) is amended by striking ''sections 31322(a)(1)(D)'' and inserting ''sections 12106(e), 31322(a)(1)(D),''.

(f) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Transportation shall conduct a study of the methods for leasing, demise chartering, and financing of vessels operating in the coastal trades of other countries and whether the laws of other countries provide reciprocity for United States banks, leasing companies, or other financial institutions with respect to the rights granted under the amendment made by subsection (d). The study shall develop recommendations whether additional laws requiring reciprocity should be considered for non-United States banks, leasing companies, or other financial institutions.

(2) REPORT.—The Secretary shall submit to the Congress a report 1 year after the date of enactment of this Act of the results of the study required under paragraph (1), including recommendations developed in the study.

**SEC. 1114. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.**

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking ''or permitted''; and

(2) by inserting after ''day'' the following: ''or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period''.

(b) Section 8104(e) of title 46, United States Code, is amended by striking ''subsections (c) and (d)'' and inserting ''subsection (d)''.

(c) Section 8104(g) of title 46, United States Code, is amended by striking ''(except a vessel to which subsection (c) of this section applies)''.

**SEC. 1115. REPEAL OF GREAT LAKES ENDORSEMENTS.**

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking ''or 12107''.

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking ''coastwise, Great Lakes endorsement'' and all that follows through ''foreign ports,'' and inserting ''registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,''; and

(B) by striking '', as if from or to foreign ports''.

(5) Section 9302(a)(1) of title 46, United States Code, is amended by striking ''subsections (d) and (e)'' and inserting ''subsections (d), (e) and (f)''.

(6) Section 9302(e) of title 46, United States Code, is amended by striking ''subsections (a) and (b)'' and inserting ''subsection (a)''.

(7) Section 9302 of title 46, United States Code, is amended by adding at the end the following new subsection:

''(f) A documented vessel regularly operating on the Great Lakes or between ports on the Great Lakes and the St. Lawrence River is exempt from the requirements of subsection (a) of this section.''.

**SEC. 1116. RELIEF FROM UNITED STATES DOCUMENTATION REQUIREMENTS.**

(a) IN GENERAL.—Notwithstanding any other law or any agreement with the United States Government, a vessel described in subsection (b) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) MV PLATTE (United States official number number 653210).

(2) SOUTHERN (United States official number 591902).

(3) ARZEW (United States official number 598727).

(4) LAKE CHARLES (United States official number 619531).

(5) LOUISIANA (United States official number 619532).

(6) GAMMA (United States official number 598730).

(7) BAY RIDGE (United States official number 600128).

(8) COASTAL GOLDEN (United States official number 598731).

**SEC. 1117. USE OF FOREIGN REGISTRY OIL SPILL RESPONSE VESSELS.**

Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

(2) that foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of that foreign country under this section.

***SEC. 1118. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.***

*Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:*

*''(f) This section does not apply to a documented vessel that has been operated only for pleasure.''.*

***SEC. 1119. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL.***

*Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: '', except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant''.*

***SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.***

*(a) GENERAL CERTIFICATES.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (24 Stat. 81; chapter 421; 46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:*

*(1) ABORIGINAL (United States official number 942118).*

*(2) ALPHA TANGO (United States official number 945782).*

*(3) ANNAPOLIS (United States official number 999008).*

*(4) ARK (United States official number 912726).*

*(5) AURA (United States official number 1027807).*

*(6) BABS (United States official number 1030028).*

*(7) BAGGER (State of Hawaii registration number HA1809E).*

*(8) BAREFOOT'N (United States official number 619766).*

*(9) BARGE 76 (United States official number 1030612).*

*(10) BARGE 77 (United States official number 1030613).*

*(11) BARGE 78 (United States official number 1030614).*

*(12) BARGE 100 (United States official number 1030615).*

*(13) BEACON (United States official number 501539).*

*(14) BEAR (United States official number 695002).*

*(15) BEULA LEE (United States official number 928211).*

*(16) BEWILDERED (United States official number 902354).*

*(17) BIG DAD (United States official number 565022).*

*(18) BILLY BUCK (United States official number 939064).*

*(19) BROKEN PROMISE (United States official number 904435).*

*(20) CAPTAIN DARYL (United States official number 580125).*

*(21) CAROLYN (State of Tennessee registration number TN1765C).*

*(22) CHARLOTTE (State of Maryland certification number MN1397AM).*

*(23) CHESAPEAKE (United States official number 999010).*

*(24) CHRISSY (State of Marine registration certification number ME4778B).*

*(25) COLT INTERNATIONAL (United States official number 913637).*

*(26) CONSORT (United States official number 999005).*

*(27) CONSORTIUM (British registration number 303328).*

*(28) COURIER SERVICE (Vanuatu registration number 688).*

*(29) CURTIS BAY (United States official number 999007).*

*(30) DAMN YANKEE (United States official number 263611).*

*(31) DANTE (United States official number 556188).*

*(32) DELTA KING (United States official number 225874).*

*(33) DORDY III (United States official number 286553).*

*(34) DRAGONESSA (United States official number 646512).*

*(35) EAGLE MAR (United States official number 575349).*

*(36) EMERALD AYES (United States official number 986099)*

*(37) EMMA (United States official number 946449).*

*(38) EMPRESS (United States official number 975018).*

*(39) ENDEAVOUR (United States official number 947869).*

*(40) EVENING STAR (State of Hawaii registration number HA8337D).*

*(41) EXPLORER (United States official number 918080).*

*(42) EXTREME (United States official number 1022278).*

*(43) EXUBERANCE (United States official number 698516).*

*(44) FIFTY ONE (United States official number 1020419).*

*(45) FINESSE (State of Florida registration number 7148).*

*(46) FOCUS (United States official number 909293).*

*(47) FREJA VIKING (Danish registration number A395).*

*(48) 3 barges owned by the Harbor Maine Corporation (a corporation organized under the laws of the State of Rhode Island) and referred to by that company as Harbor 221, Harbor 223, and Gene Elizabeth*

*(49) GIBRALTAR (United States official number 668634).*

*(50) GLEAM (United States official number 921594).*

*(51) GOD'S GRACE II (State of Alaska registration number AK5916B).*

*(52) HALCYON (United States official number 690219).*

*(53) HAMPTON ROADS (United States official number 999009).*

*(54) HERCO TYME (United States official number 911599).*

*(55) HER WEIGH (United States official number 919074).*

*(56) HIGH HOPES (United States official number 935174).*

*(57) HIGH HOPES II (United States official number 959439).*

*(58) HOPTOAD (Hull Identification number 528162 NET 12).*

*(59) HOT WATER (United States official number 965985).*

*(60) IDUN VIKING (Danish registation number A433).*

*(61) INTREPID (United States official number 508185).*

*(62) ISABELLE (United States official number 600655).*

*(63) ISLAND STAR (United States official number 673537).*

*(64) JAJO (Hull ID number R1Z200207H280).*

*(65) JAMESTOWN (United States official number 999006).*

*(66) JIVE DEVIL (United States official number 685348).*

*(67) JOAN MARIE (State of North Carolina registration number NC2319AV).*

*(68) KALYPSO (United States official number 566349).*

*(69) KARMA (United States official number 661709).*

*(70) LADY HAWK (United States official number 961095).*

*(71) LIBERTY (United States official number 375248).*

*(72) LIV VIKING (Danish registration number A394).*

*(73) M/V MARION C II (United States official number 570892).*

*(74) MAGIC CARPET (United States official number 278971).*

*(75) MAGIC MOMENTS (United States official number 653689).*

*(76) MADRINE (United States official number 663842).*

*(77) MARALINDA (State of Florida registration number C023203–97).*

*(78) MARANTHA (United States official number 638787).*

*(79) MARSH GRASS II (Hull ID number AUKEV51139K690).*

*(80) MEMORY MAKER (Hull No 3151059, State of Maryland registration number MD8867AW).*

*(81) MOONRAKER (United States official number 645981).*

*(82) MORGAN (State of Ohio registration number OH–0358–EA).*

*(83) MOVIN ON (United States official number 585100).*

*(84) MY LITTLE SHIP (State of Washington registration number WN9979MF5).*

*(85) NAMASTE (United States official number 594472).*

*(86) OLD HAT (United States official number 508299).*

*(87) ONRUST (United States official number 515058).*

*(88) PAUL JOHANSEN (United States official number 1033607).*

*(89) PHOENIX (United States official number 940997).*

*(90) PLAY HARD (State of North Carolina registration number NC1083CE).*

*(91) POLICY MAKER III (United States official number 569223).*

*(92) PRIME TIME (United States official number 660944).*

*(93) QUIET SQUAW (United States official number 998717).*

*(94) QUIETLY (United States official number 658315).*

*(95) QUINTESSENCE (United States official number 934393).*

*(96) RAFFLES LIGHT (United States official number 501584).*

*(97) RAINBOW'S END (United States official number 1026899; Hull ID number MY13708C787).*

*(98) RATTLESNAKE (Canadian registration number 802702).*

*(99) REEL TOY (United States official number 698383).*

*(100) RELENTLESS (United States official number 287008).*

*(101) 2 barges owned by Roen Salvage (a corporation organized under the laws of the State of Wisconsin) and numbered by that company as barge 103 and barge 203.*

*(102) ROYAL AFFAIRE (United States official number 649292).*

*(103) SALLIE D (State of Maryland registration number MD2655A).*

*(104) SARAH-CHRISTEN (United States official number 342195).*

*(105) SEA MISTRESS (United States official number 696806).*

*(106) SEA SISTER (United States official number 951817).*

*(107) SERENITY (United States official number 1021393).*

*(108) SHAKA MARU (United States official number 983176).*

*(109) SHAMROCK V (United States official number 900936).*

*(110) SHOGUN (United States official number 577839).*

*(111) SISU (United States official number 293648).*

*(112) SMALLEY (6808 Amphibious Dredge: State of Florida registration number FL1855FF).*

*(113) SNOW HAWK (United States official number 955–637).*

*(114) SOUTHERN CRUZ (United States official number 556797).*

*(115) SUNDOWN (United States official number 293434).*

*(116) SUNRISE (United States official number 950381).*

*(117) TECUMSEH (United States official number 668633).*

*(118) THE SUMMER WIND (United States official number 905819).*

*(119) TIVOLI (United States official number 582516).*

*(120) TOO MUCH FUN (United States official number 936565).*

*(121) TOP GUN (United States official number 623642).*

*(122) TRIAD (United States official number 988602).*

*(123) TWO CAN (United States official number 932361).*

*(124) VICTORIA CLIPPER II (United States official number 725338).*

*(125) WATERFRONT PROPERTY (United States official number 987686).*

*(126) WESTFJORD (Hull ID number X–53–109).*

*(127) WESTERN ATLANTIC (Panamanian registration number 10484–80–CEO).*

*(128) WHITE WING (United States official number 283818).*

*(129) WHY KNOT (United States official number 688570).*

*(130) WOLF GANG II (United States official number 984934).*

*(131) YES DEAR (United States official number 578550).*

*(132) Former United States military vessels, as follows:*

*(A) LACV–30 hovercraft hulls numbered 1 through 26.*

*(B) AP–188 hovercraft hulls numbered 8701 and 8901.*

*For the purposes of chapter 121 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the engine twin paks, the thrust and lift engines, and all spare parts, appurtenances, and accessories transferred by the United States with the vessels referred to in this paragraph are deemed to have been built in the United States.*

*(b) M/V TWIN DRILL.—Section 601(d) of the Coast Guard Authorization Act of 1993 (Public Law 103–206) is amended—*

*(1) in paragraph (3) by striking ''June 30, 1995'' and inserting ''June 30, 1998''; and*

*(2) in paragraph (4)—*

*(A) by striking ''12 months'' and inserting ''36 months''; and*

*(B) by inserting ''or convert under the same terms and conditions as provided in paragraphs (1) and (2)'' after ''construct''; and*

*(3) in paragraph (5) by striking ''constructed'' and inserting ''delivered''.*

*(c) CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—*

*(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with an appropriate endorsement for employment in coastwise trade for each of the following vessels:*

*(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).*

*(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).*

*(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to the carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.*

*(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1998, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.*

*(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1) shall take effect—*

*(A) for the vessel referred to in paragraph (1)(A), on the date of the issuance of the certificate; and*

*(B) for the vessel referred to in paragraph (1)(B), on the date of delivery of the vessel to the owner.*

*(5) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under paragraph (1) shall expire—*

*(A) on the date of the sale of the vessel by the owner;*

*(B) on April 1, 1998, if the owner of the vessel referred to in paragraph (1)(B) has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under paragraph (3); or*

*(C) on such date as a contract referred to in paragraph (2) is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner of the vessel referred to in paragraph (1)(B).*

*(d) CERTIFICATES OF DOCUMENTATION FOR ENCHANTED ISLE AND ENCHANTED SEAS.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the vessels ENCHANTED ISLE (Panamanian official number 14087–84B) and ENCHANTED SEAS (Panamanian official number 14064–84D), except that the vessels may not operate between or among islands in the State of Hawaii.*

*(e) EXCEPTION TO CHAIN OF TITLE RESTRICTION.—Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended in the first proviso after ''no vessel'' by inserting ''of more than 200 gross tons (as measured under chapter 143 of title 46, United States Code)''.*

*(f) CERTIFICATE OF DOCUMENTATION FOR A LIQUIFIED GAS TANKER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156) and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to the Commonwealth of Puerto Rico from other ports in the United States, if the vessel—*

*(1) is a foreign built vessel that was built prior to the date of enactment of this Act; or*

*(2) is documented under chapter 121 of title 46, United States Code, before the date of enactment of this Act, even if the vessel is placed under a foreign registry and subsequently redocumented under that chapter for operation under this section.*

*(g) VESSELS DEEMED CONSTRUCTED IN UNITED STATES.—Notwithstanding any other provision of law, the coastwise qualified vessels COASTAL SEA (United States official number 666754), COASTAL NOMAD (United States official number 686157), and COASTAL MERCHANT (United States official number 1038382) are deemed to have been constructed in the United States as of the date of their original delivery.*

*(h) LIMITED WAIVER FOR THE TUG MV JANIS GUZZLE.—Notwithstanding any other law or any agreement with the United States Government, the tug MV JANIS GUZZLE (ex-G.R. MOIR; United States official number 608018) may be permanently operated in the domestic trade of the United States upon the repayment of $1,140,619 to the Secretary of Transportation.*

*(i) REGENT RAINBOW.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel REGENT RAINBOW (Bahamas official number 715557), after the completion of the sale of the REGENT RAINBOW to an operator of another passenger vessel measuring more that 20,000 gross tons that on the day before the date of the enactment of this Act is in operation with a coastwise endorsement.*

*(j) MILITARY HOVERCRAFT.—Notwithstanding any other provision of law, the Administrator of General Services shall waive all conditions and restrictions relating to transfer or use of the property described in subsection (a)(132) (including the engine twin paks, the thrust and lift engines, and all spare parts, appurtenances, and accessories referred to in that subsection) and shall transfer unconditional and unrestricted title to all such property to the recipient eligible donee.*

***SEC. 1121. VESSEL DEEMED TO BE A RECREATIONAL VESSEL.***

*(a) IN GENERAL.—The vessel described in subsection (b) is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons, if—*

*(1) it does not carry cargo or passengers for hire; and*

*(2) it does not engage in commercial fisheries or oceanographic research.*

*(b) VESSEL DESCRIBED.—The vessel referred to in subsection (a) is an approximately 96 meter twin screw motor yacht, the construction of which commenced in October, 1993, and that has been assigned the builder's number 13583 (to be named the LIMITLESS).*

***SEC. 1122. SMALL PASSENGER VESSEL PILOT INSPECTION PROGRAM WITH THE STATE OF MINNESOTA.***

*(a) IN GENERAL.—The Secretary may enter into an agreement with the State under which the State may inspect small passenger vessels operating in waters of that State designated by the Secretary, if—*

*(1) the State plan for the inspection of small passenger vessels meets such requirements as the Secretary may require to ensure the safety and operation of such vessels in accordance with the standards that would apply if the Coast Guard were inspecting such vessels; and*

*(2) the State will provide such information obtained through the inspection program to the Secretary annually in such form and in such detail as the Secretary may require.*

*(b) FEES.—The Secretary may adjust or waive the user fee imposed under section 3317 of title 46, United States Code, for the inspection of small passenger vessels inspected under the State program.*

*(c) TERMINATION.—The authority provided by subsection (a) terminates on December 31, 1999.*

*(d) DEFINITIONS.—For purposes of this section—*

*(1) SECRETARY.—The term ''Secretary'' means the Secretary of the department in which the Coast Guard is operating.*

*(2) STATE.—The term ''State'' means the State of Minnesota.*

*(3) SMALL PASSENGER VESSEL.—The term ''small passenger vessel'' means a small passenger vessel (as defined in section 2101(35) of title 46, United States Code) of not more than 40 feet overall in length.*

***SEC. 1123. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FISHING.***

*Section 8103(i)(1) of title 46, United States Code, is amended—*

*(1) by striking ''or'' in subparagraph (B);*

*(2) by striking the period at the end of subparagraph (C) and inserting a semicolon and ''or''; and*

*(3) by adding at the end thereof the following:*

*''(D) an alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel is engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.''.*

***SEC. 1124. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.***

*(a) AVAILABILITY OF EXTRAJUDICIAL REMEDIES.—Section 31325(b) of title 46, United States Code, is amended—*

*(1) in the matter preceding paragraph (1) by striking ''mortgage may'' and inserting ''mortgagee may'';*

*(2) in paragraph (1) by—*

*(A) striking ''perferred'' and inserting ''preferred''; and*

*(B) striking ''; and'' and inserting a semicolon; and*

*(3) by adding at the end the following:*

*''(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—*

*''(A) the remedy is allowed under applicable law; and*

*''(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).''.*

*(b) NOTICE.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:*

*''(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.*

*''(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.*

*''(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.''.*

*(c) RULE OF CONSTRUCTION.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels.*

***SEC. 1125. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.***

*(a) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016 of the Oil Pollution Act of 1990 (33 U.S.C. 2716) is amended—*

*(1) by amending subsection (c)(1) to read as follows:*

*''(1) IN GENERAL.—*

*''(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), a responsible party with respect to an offshore facility that—*

*''(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or*

*''(II) is located in coastal inland waters, such as bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;*

*''(ii) is used for exploring for, drilling for, producing, or transporting oil from facilities engaged in oil exploration, drilling, or production; and*

*''(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it),*

*shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.*

*''(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria of subparagraph (A) is—*

*''(i) $35,000,000 for an offshore facility located seaward of the seaward boundary of a State; or*

*''(ii) $10,000,000 for an offshore facility located landward of the seaward boundary of a State.*

*''(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility for a responsible party greater than the amount required by subparagraph (B) is justified based on the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding $150,000,000.*

*''(D) MULTIPLE FACILITIES.—In a case in which a person is a responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.*

*''(E) DEFINITION.—For the purpose of this paragraph, the seaward boundary of a State shall be determined in accordance with section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)).'';*

*(2) by amending subsection (f) to read as follows:*

*''(f) CLAIMS AGAINST GUARANTOR.—*

*''(1) IN GENERAL.—Subject to paragraph (2), a claim for which liability may be established under section 1002 may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for removal costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke—*

*''(A) all rights and defenses which would be available to the responsible party under this Act;*

*''(B) any defense authorized under subsection (e); and*

*''(C) the defense that the incident was caused by the willful misconduct of the responsible party.*

*The guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.*

*''(2) FURTHER REQUIREMENT.—A claim may be asserted pursuant to paragraph (1) directly against a guarantor providing evidence of financial responsibility under subsection (c)(1) with respect to an offshore facility only if—*

*''(A) the responsible party for whom evidence of financial responsibility has been provided has denied or failed to pay a claim under this Act on the basis of being insolvent, as defined under section 101(32) of title 11, United States Code, and applying generally accepted accounting principles;*

*''(B) the responsible party for whom evidence of financial responsibility has been provided has filed a petition for bankruptcy under title 11, United States Code; or*

*''(C) the claim is asserted by the United States for removal costs and damages or for compensation paid by the Fund under this Act, including costs incurred by the Fund for processing compensation claims.*

*''(3) RULEMAKING AUTHORITY.—Not later than 1 year after the date of enactment of this paragraph, the President shall promulgate regulations to establish a process for implementing paragraph (2) in a manner that will allow for the orderly and expeditious presentation and resolution of claims and effectuate the purposes of this Act.''; and*

*(3) by amending subsection (g) to read as follows:*

*''(g) LIMITATION ON GUARANTOR'S LIABILITY.—Nothing in this Act shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceed, in the aggregate, the amount of financial responsibility which that guarantor has provided for a responsible party pursuant to this section. The total liability of the guarantor on direct action for claims brought under this Act with respect to an incident shall be limited to that amount.''.*

*(b) LIMITATION ON APPLICATION.—The amendment made by subsection (a)(2) shall not apply to any final rule issued before the date of enactment of this section.*

***SEC. 1126. DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.***

*The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled ''An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.*

***SEC. 1127. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.***

*(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.*

*(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the official responsible for providing the assistance, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.*

***SEC. 1128. REQUIREMENT FOR PROCUREMENT OF BUOY CHAIN.***

*(a) REQUIREMENT.—Chapter 5 of title 14, United States Code, as amended by section 311 of this Act, is further amended by adding at the end the following:*

***''§ 97. Procurement of buoy chain***

*''(a) Except as provided in subsection (b), the Coast Guard may not procure buoy chain—*

*''(1) that is not manufactured in the United States; or*

*''(2) substantially all of the components of which are not produced or manufactured in the United States.*

*''(b) The Coast Guard may procure buoy chain that is not manufactured in the United States if the Secretary determines that—*

*''(1) the price of buoy chain manufactured in the United States is unreasonable; or*

*''(2) emergency circumstances exist.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 14, United States Code, as amended by section 311 of this Act, is further amended by adding at the end the following:*

*''97. Procurement of buoy chain.''.*

***SEC. 1129. CRUISE SHIP LIABILITY.***

*(a) APPLICABILITY OF STATUTORY LIMITATIONS.—Section 4283 of the Revised Statutes (46 App. U.S.C. 183) is amended by adding at the end the following new subsection:*

*''(g) In a suit by any person in which the operator or owner of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, such operator, owner, or employer shall be entitled to rely upon any and all statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.''.*

*(b) CONTRACT LIMITATIONS ALLOWED.—Section 4283b of the Revised Statutes of the United States (46 App. U.S.C. 183c) is amended by redesignating the existing text as subsection (a) and by adding at the end the following new subsection:*

*''(b)(1) Subsection (a) shall not prohibit provisions or limitations in contracts, agreements, or ticket conditions of carriage with passengers which relieve a crewmember, manager, agent, master, owner, or operator of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as such provisions or limitations do not limit such liability if the emotional distress, mental suffering, or psychological injury was—*

*''(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the manager, agent, master, owner, or operator;*

*''(B) the result of the claimant having been at actual risk of physical injury, and such risk was caused by the negligence or fault of a crewmember or the manager, agent, master, owner, or operator; or*

*''(C) intentionally inflicted by a crewmember or the manager, agent, master, owner, or operator.*

*''(2) Nothing in this subsection is intended to limit the liability of a crewmember or the manager, agent, master, owner, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.''.*

***SEC. 1130. SENSE OF CONGRESS ON THE IMPLEMENTATION OF REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.***

*(a) SENSE OF CONGRESS.—It is the sense of Congress that, in an effort to reduce unnecessary regulatory burdens, a regulation issued or enforced and an interpretation or guideline established pursuant to Public Law 104–55 should in any manner possible recognize and provide for the differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes of fats, oils, and greases described under that law.*

*(b) REPORT.—Within 60 days after the date of enactment of this section and on January 1 of each year thereafter, the Secretary of Transportation shall submit a report to Congress on the extent to which the implementation by the United States Coast Guard of regulations issued or enforced, or interpretations or guidelines established, pursuant to public Law 104–55, carry out the intent of Congress and recognize and provide for the differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes of fats, oils, and greases described under that law.*

***SEC. 1131. TERM OF DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS.***

*Section 111(b)(4) of title 49, United States Code, is amended by adding at the end the following sentence: ''The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.''.*

***SEC. 1132. WAIVER OF CERTAIN REQUIREMENTS FOR HISTORIC FORMER PRESIDENTIAL YACHT SEQUOIA.***

*The vessel M/V SEQUOIA (United States official number 225115) is deemed to be less than 100 gross tons, and the Secretary of Transportation may exempt that vessel from certain requirements of section 3306 of title 46, United States Code, and the regulations thereunder. The Secretary may impose special operating restrictions on that vessel as to route, service, manning, and equipment, necessary for the safe operation of that vessel.*

***SEC. 1133. VESSEL REQUIREMENTS.***

*Section 3503(a) of title 46, United States Code, is amended by striking the last sentence and inserting in lieu thereof the following: ''Before November 1, 2008, this section does not apply to any vessel in operation before January 1, 1968, and operating only within the Boundary Line.''.*

***SEC. 1134. EXISTING TANK VESSEL RESEARCH.***

*(a) FUNDING.—The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section, is fully funded for completion by the end of fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.*

*(b) USE OF PUBLIC VESSELS.—The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.*

***SEC. 1135. PLAN FOR THE ENGINEERING, DESIGN, AND RETROFITTING OF THE ICEBREAKER MACKINAW.***

*(a) IN GENERAL.—Not later than May 1, 1997, the Secretary of the department in which the Coast Guard is operating shall submit to the Committees a plan and cost estimate for the engineering, design, and retrofitting of the icebreaker MACKINAW (WAGB–83) to equip the vessel with new engines, command and control features, habitability improvements, and other features needed to allow operation of the vessel by a significantly reduced crew, including 24-hour continuous operation when necessary.*

*(b) COMMITTEES DEFINED.—In subsection (a), the term ''Committees'' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.*

***SEC. 1136. CROSS-BORDER FINANCING.***

*(a) DOCUMENTATION OF VESSELS OWNED BY TRUSTS.—Section 12102 of title 46, United States Code, is amended by adding at the end the following new subsection:*

*''(d)(1) For the issuance of a certificate of documentation with only a registry endorsement, subsection (a)(2)(A) of this section does not apply to a beneficiary of a trust that is qualified under paragraph (2) of this subsection if the vessel is subject to a charter to a citizen of the United States.*

*''(2)(A) Subject to subparagraph (B) of this paragraph, a trust is qualified under this paragraph with respect to a vessel only if—*

*''(i) each of the trustees is a citizen of the United States; and*

*''(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.*

*''(B) If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.*

*''(3) Paragraph (2) of this subsection shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.*

*''(4) If a person chartering a vessel from a trust that is qualified under paragraph (2) of this subsection is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), then the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except for subtitle B of title VI of the Merchant Marine Act, 1936.''.*

*(b) APPROVAL OF CERTAIN VESSEL TRANSACTIONS BEFORE DOCUMENTATION OF THE VESSEL.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended by adding at the end the following new subsection:*

*''(e) To promote financing with respect to a vessel to be documented under chapter 121 of title 46, United States Code, the Secretary may grant approval under subsection (c) before the date the vessel is documented.''.*

*(c) TRUST CHARTERERS—Notwithstanding section 12102(d)(4) of title 46, United States Code,*

as amended by this section, for purposes of subtitle B of title VI of the Merchant Marine Act, 1936 a vessel is deemed to be owned and operated by a citizen of the United States (as that term is used in that subtitle) if—

(1) the person chartering the vessel from a trust under section 12102(d)(2) of that title is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); and

(2)(A) the vessel—

(i) is delivered by a shipbuilder, following completion of construction, on or after May 1, 1995 and before January 31, 1996; or

(ii) is owned by a citizen of the United States under section 2 of the Shipping Act, 1916 on September 1, 1996, or is a replacement for such a vessel; or

(B) payments have been made with respect to the vessel under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

(d) INDIRECT VESSEL OWNERS—Notwithstanding any other provision of law, for purposes of subtitle B of title VI of the Merchant Marine Act, 1936 the following vessels are deemed to be owned and operated by a citizen of the United States (as that term is used in that subtitle) if the vessels are owned, directly or indirectly, by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802):

(1) Any vessel constructed under a shipbuilding contract signed on December 21, 1995, and having hull number 3077, 3078, 3079, or 3080.

(2) Any vessel delivered by a shipbuilder, following completion of construction, on or after May 1, 1995, and before January 31, 1996.

(3) Any vessel owned on September 1, 1996, by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916, or a replacement for such a vessel.

(4) Any vessel with respect to which payments have been made under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

**SEC. 1137. VESSEL STANDARDS.**

(a) CERTIFICATE OF INSPECTION.—A vessel used to provide transportation service as a common carrier which the Secretary of Transportation determines meets the criteria of section 651(b) of the Merchant Marine Act, 1936, but which on the date of enactment of this Act is not a documented vessel (as that term is defined in section 2101 of title 46, United States Code), shall be eligible for a certificate of inspection if the Secretary determines that—

(1) the vessel is classed by and designed in accordance with the rules of the American Bureau of Shipping or another classification society accepted by the Secretary;

(2) the vessel complies with applicable international agreements and associated guidelines, as determined by the country in which the vessel was documented immediately before becoming a documented vessel (as defined in that section); and

(3) that country has not been identified by the Secretary as inadequately enforcing international vessel regulations as to that vessel.

(b) CONTINUED ELIGIBILITY FOR CERTIFICATE.—Subsection (a) does not apply to a vessel after any date on which the vessel fails to comply with the applicable international agreements and associated guidelines referred to in subsection (a)(2).

(c) RELIANCE ON CLASSIFICATION SOCIETY.—

(1) IN GENERAL.—The Secretary may rely on a certification from the American Bureau of Shipping or, subject to paragraph (2), another classification society accepted by the Secretary to establish that a vessel is in compliance with the requirements of subsections (a) and (b).

(2) FOREIGN CLASSIFICATION SOCIETY.—The Secretary may accept certification from a foreign classification society under paragraph (1) only—

(A) to the extent that the government of the foreign country in which the society is headquartered provides access on a reciprocal basis to the American Bureau of Shipping; and

(B) if the foreign classification society has offices and maintains records in the United States.

**SEC. 1138. VESSELS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.**

(a) IN GENERAL.—Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(2) by striking ''and'' after the semicolon in subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(C) a vessel aboard which the master or person in charge makes a claim of registry and the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.'';

(2) in subsection (c)(1) by striking ''and may be'' and inserting ''and is conclusively'';

(3) in subsection (c)(2) by striking ''nation may be'' and inserting ''nation is conclusively'';

(4) in subsection (d) by inserting before the first sentence the following: ''Any person charged with a violation of this section shall not have standing to raise the claim of failure to comply with international law as a basis for a defense.''; and

(5) by adding at the end of subsection (f) the following: ''Jurisdiction of the United States with respect to vessels subject to this chapter is not an element of any offense. All jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.''.

(b) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by inserting ''or (C)'' after ''under subparagraph (A)''.

**SEC. 1139. REACTIVATION OF CLOSED SHIPYARDS.**

(a) IN GENERAL.—The Secretary may issue a guarantee or a commitment to guarantee obligations under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), upon such terms as the Secretary may prescribe, to assist in the reactivation and modernization of any shipyard in the United States that is closed on the date of the enactment of this Act, if the Secretary finds that—

(1) the closed shipyard historically built military vessels and responsible entities now seek to reopen it as an internationally competitive commercial shipyard;

(2)(A) the closed shipyard has been designated by the President as a public-private partnership project; or

(B) has a reuse plan approved by the Navy in which commercial shipbuilding and repair are primary activities and has a revolving economic conversion fund approved by the Department of Defense; and

(3) the State in which the shipyard is located, and each other involved State, or a State-chartered agency, is making a significant financial investment in the overall cost of reactivation and modernization as its contribution to the reactivation and modernization project, in addition to the funds required by subsection (d)(2) of this section.

(b) WAIVERS.—Notwithstanding any other provision of title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), the Secretary shall not apply the requirements of section 1104A(d) of that Act when issuing a guarantee or a commitment to guarantee an obligation under this section.

(c) CONDITIONS.—The Secretary shall impose such conditions on the issuance of a guarantee or a commitment to guarantee under this section as are necessary to protect the interests of the United States from the risk of a default. The Secretary shall consider the interdependency of such shipyard modernization and reactivation projects and related vessel loan guarantee requests pending under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) before issuing a guarantee or a commitment to guarantee under this section.

(d) FUNDING PROVISIONS.—

(1) The Secretary may not guarantee or commit to guarantee obligations under this section that exceed $100,000,000 in the aggregate.

(2) The amount of appropriated funds required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.) in advance of the Secretary's issuance of a guarantee or a commitment to guarantee under this section shall be provided by the State in which the shipyard is located, and other involved States, or by a State-chartered agency, and deposited by the Secretary in the financing account established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.) for loan guarantees issued by the Secretary under title XI of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271 et seq.). No federally appropriated funds shall be available for this purpose. The funds deposited into that financing account shall be held and applied by the Secretary in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.), except that, unless the Secretary shall have earlier paid an obligee or been required to pay an obligee pursuant to the terms of a loan guarantee, the funds deposited in that financing account shall be returned, upon the expiration of the Secretary's loan guarantee, to the State, States, or State-chartered agency which originally provided the funds to the Secretary.

(3) Notwithstanding the provisions of any other law or regulation, the cost (as that term is defined by the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.)) of a guarantee or commitment to guarantee issued under this section—

(A) may only be determined with reference to the merits of the specific closed shipyard reactivation project which is the subject of that guarantee or commitment to guarantee, without reference to any other project, type of project, or averaged risk; and

(B) may not be used in determining the cost of any other project, type of project, or averaged risk applicable to guarantees or commitments to guarantee issued under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.).

(e) SUNSET.—No commitment to guarantee obligations under this section shall be issued by the Secretary after one year after the date of enactment of this section.

(f) DEFINITION.—As used in this section, the term ''Secretary'' means the Secretary of Transportation.

**SEC. 1140. SAKONNET POINT LIGHT.**

Notwithstanding any other provision of law, any action in admiralty brought against a private nonprofit organization (including any officer, director, employee, or agent of such organization) for damages or injuries resulting from an incident occurring after the date of enactment of this Act, and arising from the operation, maintenance, or malfunctioning of an aid to navigation operated by the Coast Guard on or within property or a structure owned by such nonprofit organization at Sakonnet Point, Little Compton, Rhode Island, shall be determined exclusively according to the law of the State in which such property or structure is located.

**SEC. 1141. DREDGING OF RHODE ISLAND WATERWAYS.**

The Chief of Engineers of the Army Corps of Engineers, in conjunction with the Secretary of Transportation and other relevant agencies, shall—

(1) review the report of the commission convened by the Governor of Rhode Island on dredging Rhode Island waterways; and

(2) not later than 120 days after the date of enactment of this section, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation

*and Infrastructure of the House of Representatives any recommendations that the Chief of Engineers may have concerning the feasibility and environmental effects of the dredging.*

***SEC. 1142. INTERIM PAYMENTS.***

*(a) DAMAGES FOR LOSS OF PROFITS OR IMPAIRMENT OF EARNING CAPACITY.—Section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705) is amended by—*

*(1) in the title inserting ''**; PARTIAL PAYMENT OF CLAIMS**'' before the period; and*

*(2) adding at the end of subsection (a) the following: ''The responsible party shall establish a procedure for the payment or settlement of claims for interim, short-term damages. Payment or settlement of a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled shall not preclude recovery by the claimant for damages not reflected in the paid or settled partial claim.''.*

*(b) CLARIFICATION OF CLAIMS PROCEDURE.—Section 1013(d) of the Oil Pollution Act of 1990 (33 U.S.C. 2713(d)) is amended by striking ''section'' and inserting the following: ''section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled,''.*

*(c) ADVERTISEMENT.—Section 1014(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2714(b)) is amended—*

*(1) by inserting ''(1)'' before ''If''; and*

*(2) by adding at the end the following new paragraph:*

*''(2) An advertisement under paragraph (1) shall state that a claimant may present a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled and that payment of such a claim shall not preclude recovery for damages not reflected in the paid or settled partial claim.''.*

*(d) CLARIFICATION OF SUBROGATION.—Section 1015(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2715(a)) is amended—*

*(1) by redesignating subsection (b) as subsection (c); and*

*(2) by inserting after subsection (a) the following:*

*''(b) INTERIM DAMAGES.—*

*''(1) IN GENERAL.—If a responsible party, a guarantor, or the Fund has made payment to a claimant for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, subrogation under subsection (a) shall apply only with respect to the portion of the claim reflected in the paid interim claim.*

*''(2) FINAL DAMAGES.—Payment of such a claim shall not foreclose a claimant's right to recovery of all damages to which the claimant otherwise is entitled under this Act or under any other law.''.*

***SEC. 1143. OIL SPILL INFORMATION.***

*Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—*

*(1) in subsection (j)(2)(A) by inserting after ''paragraph (4),'' the following: ''and of information regarding previous spills, including data from universities, research institutions, State governments, and other nations, as appropriate, which shall be disseminated as appropriate to response groups and area committees, and''; and*

*(2) in subsection (j)(4)(c)(v) by inserting before ''describe'' the following: ''compile a list of local scientists, both inside and outside Federal Government service, with expertise in the environmental effects of spills of the types of oil typically transported in the area, who may be contacted to provide information or, where appropriate, participate in meetings of the scientific support team convened in response to a spill'', and''.*

***SEC. 1144. COMPLIANCE WITH OIL SPILL RESPONSE PLANS.***

*Section 311(c)(3)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)(3)(B)) is amended by striking ''President'' and inserting ''President, except that the owner or operator may deviate from the applicable response plan if the President or the Federal On-Scene Coordinator determines that deviation from the response plan would provide for a more expeditious or effective response to the spill or mitigation of its environmental effects''.*

***SEC. 1145. BRIDGE DEEMED TO UNREASONABLY OBSTRUCT NAVIGATION.***

*The Sooline & Milwaukee Road Swing Bridge, located in Oshkosh, Wisconsin, is deemed to unreasonably obstruct navigation for purposes of the Act of June 21, 1940 (popularly known as the Hobbs Bridge Act; 33 U.S.C. 511 et seq.).*

***SEC. 1146. FISHING VESSEL EXEMPTION.***

*(a) IN GENERAL.—Chapter 81 of title 46, United States Code, is amended by adding at the end the following new section:*

***''§8105. Fishing vessel exemption***

*''Notwithstanding any other provision of law, neither the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, nor any amendment to such convention, shall apply to a fishing vessel, including a fishing vessel used as a fish tender vessel.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 81 of title 46, United States Code, is amended by adding at the end the following:*

*''8105. Fishing vessel exemption.''.*

And the House agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

BUD SHUSTER,
DON YOUNG,
HOWARD COBLE,
TILLIE K. FOWLER,
BILL BAKER,
JAMES L. OBERSTAR,
BOB CLEMENT,
GLENN POSHARD,

From the Committee on the Judiciary, for consideration of sec. 901 of the Senate bill, and sec. 430 of the House amendment, and modifications committed to conference:

HENRY HYDE,
BILL MCCOLLUM,

*Managers on the Part of the House.*

From the Committee on Commerce, Science, and Transportation:

LARRY PRESSLER,
TED STEVENS,
SLADE GORTON,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
JOHN ASHCROFT,
SPENCER ABRAHAM,
FRITZ HOLLINGS,
DANIEL INOUYE,
JOHN F. KERRY,
JOHN BREAUX,
BYRON L. DORGAN,
RON WYDEN,

From the Committee on Environment and Public Works:

JOHN H. CHAFEE,
JOHN WARNER,
BOB SMITH,
LAUCH FAIRCLOTH,
JIM INHOFE,
MAX BAUCUS,
FRANK R. LAUTENBERG,
JOE LIEBERMAN,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1004) to authorize appropriations for the United States Coast Guard, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference and noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

### SECTION 1. SHORT TITLE

Section 1 of the Senate bill states that the Act may be cited as the ''Coast Guard Authorization Act of 1996.'' This section of the House amendment states that the Act may be cited as the ''Coast Guard Authorization Act for Fiscal Year 1996.''

The Conference substitute cites the Act as the ''Coast Guard Authorization Act of 1996.''

### SECTION 2. TABLE OF CONTENTS

Section 2 of the Senate bill, the House amendment, and the conference substitute provide a table of contents for the bill.

## TITLE I—AUTHORIZATIONS

### SECTION 101. AUTHORIZATION OF APPROPRIATIONS

Section 101 of the Senate bill authorizes Coast Guard appropriations for Fiscal Year (FY) 1996, at the following levels:

| | *Fiscal year 1996* |
|---|---|
| Operating Expenses ..... | $2,618,316,000 |
| AC&I ..... | 428,200,000 |
| R&D ..... | 22,500,000 |
| Retired Pay ..... | 582,022,000 |
| Alteration of Bridges ..... | 16,200,000 |
| Environmental Compliance | 25,000,000 |

This bill also authorizes the transfer of funds from the discretionary bridge program of the Federal Highway Administration to the Coast Guard for alteration of highway bridges that are determined to be obstructions to navigation.

Section 101 of the House amendment contains identical authorization levels, but does not contain the funding change for alteration of highway bridges that are determined to be obstructions to navigation.

The Conference substitute adopts the Senate provision with an amendment to authorize Coast Guard appropriations for fiscal year 1997 at the following levels:

| | *Fiscal year 1997* |
|---|---|
| Operating Expenses ..... | $2,637,800,000 |
| AC&I ..... | 411,600,000 |
| R&D ..... | 20,300,000 |
| Retired Pay ..... | 608,100,000 |
| Alteration of Bridges ..... | 25,100,000 |
| Environmental Compliance | 25,000,000 |

The Conference Committee recommends that a study be conducted to look at ways the aviation program could cut its operating and replacement costs. The study should include looking at alternative aircraft to replace some of the aging HC–130's and HU–25's. The Committee believes some surveillance missions could be done by aircraft that are much less costly to operate. Further, the Committee believes there may be creative ways these alternate aircraft may be acquired without major capital expense. The Coast Guard shall report back to the Committee on Transportation and Infrastructure of the House and the Committee on Commerce, Science, and Transportation of the Senate by December 15, 1997.

SECTION 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING

Section 102 of the Senate bill authorizes a Coast Guard end-of-year strength of 38,400 active duty military personnel and military training student loads for fiscal year 1996. These authorized strength levels would not include members of the Coast Guard Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for period of 180 days or less.

Section 102 of House amendment has the identical strength numbers, but does not contain the Coast Guard Ready Reserve provision.

The Conference substitute amends the House provision by authorizing a Coast Guard end-of-year strength of 37,561 by the end of fiscal year 1997 and military training student loads for fiscal year 1997.

SECTION 103. QUARTERLY REPORT ON DRUG INTERDICTION

The Senate bill contains no comparable provision.

Section 103 of the House amendment requires the Secretary of Transportation to submit to the Committee on Transportation and Infrastructure in the House of Representatives and Committee on Commerce, Science, and Transportation in the Senate quarterly reports on Coast Guard drug interdiction expenditures. The requirement for quarterly reports will allow the Committees to closely monitor the expenditures for Cost Guard drug interdiction, and to ensure that critical drug interdiction resources are not diverted to other Coast Guard missions.

The Conference substitute adopts the House provision.

SECTION 104. SENSE OF THE CONGRESS REGARDING FUNDING FOR THE COAST GUARD

The Senate bill contains no comparable provision.

Section 422 of the House amendment states that it is the sense of Congress that Congress should appropriate for the Coast Guard adequate funds to enable it to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

The Conference substitute adopts the House amendment.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SECTION 201. PROVISION OF CHILD DEVELOPMENT SERVICES

Section 201 of the Senate bill adds a new section 515 to title 14, United States Code, authorizing the Coast Guard to establish a program to provide child development services for members of the armed forces and Federal civilian employees. Subsection (a) of new section 515 provides authority for the Commandant to expend appropriated funds to make child development services available. Subsection (b) of the new section establishes priorities for the use of parents' fees. Subsection (c) requires regular inspections of Coast Guard child care centers and establishes minimum requirements for training child care center employees. Subsection (d) authorizes the use of Coast Guard operating expenses in an amount not to exceed annual child care receipts to support child care center operation. Subsection (e) authorizes the use of appropriated funds to provide assistance to home day-care providers. Subsection (f) authorizes the Secretary to charge fees for child development services provided.

Section 203 of the House amendment amends section 93 of title 14, United States Code, to authorize the Coast Guard to establish a program to provide child development services for military members and civilian employees. This program provided in this section is similar in most respects to the existing Department of Defense child care development program.

The Conference substitute adopts the House amendment.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SECTION 201. PROVISION OF CHILD DEVELOPMENT SERVICES

Section 201 of the Senate bill adds a new section 515 to title 14, United States Code, authorizing the Coast Guard to establish a program to provide child development services for members of the armed forces and Federal civilian employees. Subsection (a) of new section 515 provides authority for the Commandant to expend appropriated funds to make child development services available. Subsection (b) of the new section establishes priorities for the use of parents' fees. Subsection (c) requires regular inspections of Coast Guard child care centers and establishes minimum requirements for training child care center employees. Subsection (d) authorizes the use of Coast Guard operating expenses in an amount not to exceed annual child care receipts to support child care center operation. Subsection (e) authorizes the use of appropriated funds to provide assistance to home day-care providers. Subsection (f) authorizes the Secretary to charge fees for child development services provided.

Section 203 of the House amendment amends section 93 of title 14, United States Code, to authorize the Coast Guard to establish a program to provide child development services for military members and civilian employees. This program provided in this section is similar in most respects to the existing Department of Defense child care development program.

The Conference substitute adopts the Senate provision.

SECTION 202. HURRICANE ANDREW RELIEF

Section 202 of the Senate bill authorizes Coast Guard military personnel assigned to a facility around Homestead Air Force Base, Florida, on or before August 24, 1992, to be compensated if they are unable to sell their homes due to damage from Hurricane Andrew.

Section 201 of the House amendment is identical to the Senate bill.

The Conference substitute adopts the Senate provision.

SECTION 203. DISSEMINATION OF RESULTS OF 0–6 CONTINUATION BOARDS

Section 203 of the Senate bill amends section 289 of title 14 United States Code, eliminating the requirement for dissemination to the service at large of the result of boards convened to recommend captains for continuation on active duty.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH

Section 204 of the Senate bill amends section 712 of title 14, United States Code, to eliminate the requirement to include Coast Guard Reservists ordered to active duty in the calculation of Coast Guard end-of-year personnel strength. This new authority parallels the Secretary of Transportation's existing authority to exceed annual Coast Guard end-of-year strength ceilings in order to respond to national defense emergencies.

Section 202 of the House amendment is similar to the Senate bill.

The Conference substitute adopts the House provision.

SECTION 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE

Section 205 of the Senate bill amends section 283(b) of title 14, United States Code, to allow Coast Guard officers with at least 18 years of service, and who have been passed over for promotion twice, to continue on active duty until they are eligible for retirement after 20 years of service. A similar provision applies to members of the Coast Guard Reserve and the other branches of the armed forces.

Section 205 of the House amendment is identical to the Senate bill.

The Conference substitute adopts the Senate provision.

SECTION 206. RECRUITING

Section 207 of the Senate bill expands the Coast Guard's authority to recruit its military work force. Subsection (a) amends the National Defense Authorization Act for Fiscal Year 1995 to extend to the Department of Transportation a provision that denies funds to institutions of higher education that have a policy of denying recruiters from the armed forces access to their campuses or students, or denying access to director information pertaining to students.

Subsection (b) provides specific authority for the Coast Guard to use operating funds for entertainment expenses arising from recruiting activities in the Coast Guard's ''centers of influence'' program, modeled after the programs of the Navy, Marine Corps, and Air Force.

Subsection (c) expands the Coast Guard's authority to enter into contracts with, and make grants to, public and private organizations and individuals for the purpose of meeting identified personnel resource requirements. Students who successfully qualify for the program would be offered a one-year or two-year scholarship that would pay for all or part of the tuition and related living expenses while enrolled in a college or university.

Section 407 of the House amendment requires the Coast Guard to submit a report to the Committee on Transportation and Infrastructure in the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate on efforts to recruit women and minorities, and to make recommendations on the need for future action in this area.

Section 206 of the Conference substitute adopts subsections (a) and (b) of section 207 of the Senate bill. Subsection (a) denies funds to institutions which do not allow Coast Guard recruiters on campus. Subsection (c) allows the Coast Guard to use operating funds to cover advertising and entertainment expenses related to certain recruiting activities. Section 207(c) of the conference substitute includes the study on recruiting women and minorities from section 407 of the House amendment.

SECTION 207. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL

Section 208(a) of the Senate bill amends section 93 of title 14, United States Code, to authorize the Commandant of the Coast Guard to require that Coast Guard military personnel request all information contained in the National Driver Register (NDR) pertaining to the individual and be made available to the Commandant. Current law allows an employer to have access to NDR records of an individual who is seeking employment or is employed as a driver of a commercial vehicle, an individual who has applied for, or has received an airman's medical certificate, an individual who is seeking employment or is employed as an operator of a locomotive, and a holder of, or applicant for, a merchant mariner's license, certificate of registry, or merchant mariner's document.

Subsection (b) of this section amends section 30305 of title 49, United States Code, to allow Coast Guard military personnel to request the chief licensing official of a State to

provide information in the National Driver Register about the individual to the Commandant of the Coast Guard, and to allow the Commandant to receive the information.

Section 204 of the House amendment is identical to the Senate bill.

The Conference substitute adopts the Senate provision.

SECTION 208. COAST GUARD HOUSING AUTHORITIES

Section 209 of the Senate bill establishes a new financing mechanism for the construction of military family housing and unaccompanied housing units on or near Coast Guard installations. It authorizes the Coast Guard to use direct loans, loan guarantees, long-term leases, rental guarantees, barter, direct government investment, and other financial arrangements to encourage private sector participation in the building of military housing.

A Coast Guard Housing Improvement Fund (Fund) is established to provide these new housing projects. In addition to the amounts appropriated to the Fund, the Fund may receive transfers from other U.S. Department of Transportation housing accounts, receipts from property sales and rents, returns on any capital, and other income operations or transactions connected with the program. The amounts in the Fund are available to acquire housing using the various techniques mentioned above, but the total value of budget authority for all contracts and investments are limited to $60 million.

The House amendment has no comparable provision.

The Conference substitute amends the Senate provision in several ways. The substitute allows the Coast Guard Housing program to use loan guarantees for developers of military family housing and military unaccompanied housing. The substitute also allows the Secretary of Transportation to enter into limited partnerships with nongovernmental entities for the purpose of carrying out projects for the acquisition or construction of housing units for military housing.

Section 208 of the Conference Substitute ensures that amounts available from the Fund are subject to appropriations. This provision does not allow the acquisition or construction of military housing unless the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate have adopted resolutions approving of the plans. The conferees believe the Coast Guard should submit to each committee a prospectus for each project based on OMB Circular A–104, which is used by the General Services Administration for their capital construction and leasing program. Section 208 identifies one housing project on or near Coast Guard Integrated Support Command, Ketchikan, Alaska, to be exempted from the committee approval process.

SECTION 209. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE

Section 210 of the Senate bill is similar to section 404 of the House amendment, except that it requires those affected by the provision to apply for retroactive relief.

Section 404 of the House amendment clarifies the application of section 212 of the Coast Guard Authorization Act of 1989, (Public Law 101–225, 10 U.S.C. 1552 note). This section required the Secretary of Transportation to amend the regulations governing the Coast Guard's Board for the Correction of Military Records (BCMR) to ensure that appeals are processed expeditiously and that final decisions are made within 10 months of their receipt by the BCMR. Section 212 also required the Secretary to appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with the 10-month deadline for final action on the application. Section 404 of the House amendment clarifies that the 10-month deadline established under section 212 of the 1989 Coast Guard Authorization Act was intended to be mandatory. Section 404 also clarifies that section 212 was intended to apply to applications pending before the BCMR or the Secretary of Transportation on June 12, 1990, which was six months after the date of enactment of the 1989 Coast Guard Authorization Act.

Under section 404 of the House amendment, and section 212 of the 1989 Coast Guard Authorization Act, extensions of time granted to applicants by the BCMR do not count toward the 10-month deadline. The purpose of section 212 of the 1989 Coast Guard Authorization Act was to impose a deadline on the Department of Transportation that resulted in timely, meaningful resolution of claims for BCMR applicants. Extensions of the 10-month deadline requested by applicants themselves are not contrary to the purpose of section 212.

Section 209 of the Conference substitute creates a new section 425 of title 46, United States Code, which is similar to the Senate provision. The conferees believe that the lack of prompt resolution of BCMR cases has denied meaningful relief to many BCMR applicants who are found to have been unjustly passed over for promotion. Because the Coast Guard does not convene special selection boards for officers whom the BCMR finds to have been wrongly passed over, it is imperative that the BCMR adhere to the 10-month deadline in each case. Officers who fall behind the regular promotion cycle because of delayed BCMR relief are at a competitive disadvantage when competing for promotion against officers whose careers have progressed at a normal pace.

The conferees direct the BCMR to resolve all cases within the 10-month deadline, eliminating the necessity for Coast Guard special selection boards. The conferees also direct the BCMR to establish a system to monitor the implementation of this section, including a method to easily determine the dates on which applications are filed with the BCMR, and other significant dates related to a BCMR application.

SECTION 210. REPEAL TEMPORARY PROMOTION OF WARRANT OFFICERS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute repeals section 277 of title 14, United States Code, which provides that Coast Guard warrant officers may be temporarily promoted to higher warrant officer grades. Section 541 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) made the Warrant Officer Management Act (WOMA) applicable to the Coast Guard warrant officer corps. There are no temporary warrant officer promotions under WOMA and the repeal of section 277 of title 14, United States Code, is necessary to remove this inconsistent provision.

SECTION 211. APPOINTMENT OF TEMPORARY OFFICERS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute permits the Coast Guard to vacate the appointments of a temporary commissioned officer at any point prior to the officer's becoming a permanent commissioned officer and not just during the period of the original appointment. This provides an important means for managing the size of the Coast Guard officer corps in an era of decreasing budgets, while at the same time allowing individuals to continue a Coast Guard career.

SECTION 212. INFORMATION TO BE PROVIDED TO OFFICER SELECTION BOARDS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute deletes the requirement for the Coast Guard to identify officers who are in the promotion zone of the group. This will allow officers who have failed to be selected for promotion by an earlier board to compete on an equal basis with officers who are being considered for the first time.

SECTION 213. RESCUE DIVER TRAINING FOR SELECTED COAST GUARD PERSONNEL

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute allows the Coast Guard to provide rescue diver training to selected Coast Guard personnel under the helicopter rescue swimming program.

SECTION 214. SPECIAL AUTHORITIES REGARDING COAST GUARD

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adds two provisions which involve Coast Guard reimbursement of expenses for mess operations and severable services contracts.

Subsection (a) of section 214 allows the Secretary of Transportation, when the Coast Guard is not operating as part of the Navy, to establish rates for meals sold at Coast Guard dining facilities and to reimburse mess expense operations for the cost of those meals. This will allow the Coast Guard to operate its mess facilities more efficiently and effectively, in the same manner as the other armed services, which already have this authority.

Subsection (b) of section 214 allows the Secretary of Transportation to enter into contracts for severable services contracts across fiscal years. Severable services are services funded by annual appropriations that can be subdivided by year for performance, such as services performed for equipment and facility maintenance. This provision gives the Coast Guard the same authority previously granted to other Federal agencies under the Federal Acquisition Streamlining Act of 1994.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SECTION 301. CHANGES TO DOCUMENTATION LAWS

Section 301 of the Senate bill amends section 12122(a) of title 46, United States Code, increasing the maximum civil penalty for violation of documentation laws from $500 to $10,000.

Subsection (b) of this section amends section 12122(b) of title 46, United States Code, broadening the seizure and forfeiture authority within the penalty section. This subsection moves three existing authorities currently in section 12110(c) of title 46, United States Code, to section 12122(b). Consolidating these authorities in this section should clarify those violations of U.S. documentation laws for which seizure and forfeiture authority would be exercised.

In addition, this subsection adds a new substantive basis for seizure and forfeiture when a vessel is placed under the command of a person not a citizen of the United

States. The term ''under the command of'' is intended to have the same meaning as in section 12110(d) of title 46, United States Code. Command of a vessel would include, complete authority and control over and responsibility for all aspects of vessel navigation, stability, cargo loading, and communications; material condition of the vessel; health, welfare, safety, and training of the crews; fishing and fish processing activities; crew hiring, firing, discipline, and pay; maintenance, provisioning, and supplies; and compliance with all applicable U.S. laws and regulations.

Section 301 (c) and (d) makes technical and conforming changes to sections 12122(c) and 12110(d) of title 46, United States Code. Section 301(e) terminates the eligibility for a fisheries endorsement of a vessel purchased by the Secretary of Commerce under a fishing capacity reduction program.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with several technical modifications.

SECTION 302. NONDISCLOSURE OF PORT SECURITY PLANS

Section 302 of the Senate bill amends section 7 of the Ports and Waterways Safety Act, as amended (33 U.S.C. 1226), to exempt information regarding passenger vessels or terminal security plans established by the Coast Guard from the public disclosure requirements of any law. Currently, airline and security plans developed by the Federal Aviation Administration are exempt from disclosure under the Freedom of Information Act. Section 302 of this bill extends the same degree of protection to Coast Guard security plans for passenger vessels and terminals to ensure that safety and security are not compromised at these facilities.

Section 306 of the House amendment contains a provision identical to the Senate bill.

The Conference substitute adopts the Senate provision.

SECTION 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

Section 3034 of the Senate bill amends chapter 21 of title 46, United States Code, to provide for a civil penalty of not more than $1,000 per day for marine employees who violate the Coast Guard's chemical testing regulations.

Section 307 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 304. RENEWAL OF ADVISORY GROUPS

Section 304 of the Senate bill amends sections 18 and 19 of the Coast Guard Authorization Act of 1991 (Public Law 102–241, 105 Stat. 2208–2235) to extend the termination dates for the Houston-Galveston Navigation Safety Advisory Committee and the Lower Mississippi River Waterway Advisory Committee until September 30, 2000. This section also amends section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) and section 4508(e)(1) of title 46, United States Code, to extend the termination dates for the Navigation Safety Advisory Council and the Commercial Fishing Industry Vessel Advisory Committee, respectively, until September 30, 2000. The section further extends the Towing Safety Advisory Committee until September 30, 2000.

Sections 303, 304, 305, and 311 of the House amendment also extend the termination dates for these organizations. The House amendment amends section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) to change the name of the Rules of the Road Advisory Council to the Navigational Safety Advisory Council.

The Conference substitute adopts the Senate provision with the House provision related to the Navigation Safety Advisory Council. The substitute also extends the statutory authority for the National Boating Safety Advisory Council until September 30, 2000.

SECTION 305. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS

Section 305 of the Senate bill amends section 31321(a) of title 46, United States Code, to allow the public to file a bill of sale, conveyance, mortgage, assignment, or related instrument with the Coast Guard electronically. Under the amendments made by this section, the original instrument must be provided to the Secretary of Transportation within 10 days after the electronic transfer.

Section 403 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 306. CIVIL PENALTIES

Section 306(a) of the Senate bill amends section 6103(a) of title 46, United States Code, to increase the civil penalty against an owner, charterer, managing operator, agent, master, or individual in charge of a vessel for failure to report a vessel casualty from $1,000 to not more than $25,000. Section 306(b) amends section 8906 of title 46, United States Code, to increase the civil penalty against an owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of small vessel operator licensing requirements, from $1,000 to not more than $25,000.

Section 309 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 307. AMENDMENT TO REQUIRE EPIRBS ON THE GREAT LAKES

Section 307 of the Senate bill amends paragraph 7 of section 4502(a) of title 46, United States Code, to require uninspected commercial fishing vessels operating beyond three nautical miles from the coastline of the Great Lakes to carry emergency position indicating radio beacons (EPIRBS).

Section 310 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 308. REPORT ON LORAN–C REQUIREMENTS

Section 308 of the Senate bill requires the Secretary of Transportation, in consultation with users of the LORAN–C radio navigation system, to submit a report on the future use of and funding for operations, maintenance, and upgrades of the LORAN–C radionavigation system as satellite based technology becomes the sole means of safe and efficient navigation.

This section specifically requires the Secretary to address several issues in the report. These include determining an appropriate timetable for transitioning from ground-based radio navigation technology, and the possible need for all agencies in the Department of Transportation, as well as other government beneficiaries, to share in the Federal government's costs related to LORAN–C technology.

Section 415 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision. The LORAN–C radionavigation system has been operated as a cost-effective, proven, reliable system for millions of marine and other users over the years which provides an important enhancement to user safety. In recent years, numerous steps have been taken to emphasize that the Coast Guard and other agencies in the Department of Transportation should take advantage of the compatibility of LORAN with GPS technology so that the substantial investment made by users can continue to be utilized until satellite technology is available as a sole means of navigation. The Conferees have heard from every segment of the LORAN user community, expressing strong support for continued funding and upgrade of the LORAN infrastructure. Therefore, the Conferees have included a provision requiring the Secretary within 180 days to provide a plan for the future funding and upgrade of the Loran system and infrastructure.

SECTION 309. SMALL BOAT STATIONS

Section 309 in the Senate bill prohibits the Secretary of Transportation from closing any Coast Guard multi-mission small boat station or subunit before October 1, 1996. Section 309 prohibits the Coast Guard from closing any Coast Guard small boat station or subunit after October 1, 1996 unless he certifies that the closure will not result in the degradation of services that would cause a significantly increased threat to life, property, the environment, public safety, or our national security. The Secretary must also notify the public of the intended closure, make available to the public information used in making the determination and assessment under this section, and provide an opportunity for public meetings and written comments about the closure.

Section 104 of the House amendment prohibits the closure of Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures.

The Conference substitute also adds a new section 673 to title 14, United States Code, which requires that Coast Guard small boat stations maintain at least one vessel capable of performing off-shore rescue operations.

The Conference substitute adds a new section 674 to title 14, United States Code, which prevents the Secretary of Transportation closing a Coast Guard multi-mission small boat station unless the Secretary determines that the remaining search and rescue capabilities maintain the safety of the maritime public in the area of the station or subunit. The Secretary must also determine that the regional or local prevailing weather and marine conditions, including water temperature or unusual tide and current conditions, do not require continued operation of the search and rescue station. The Secretary must further determine that the Coast Guard search and rescue standards related to search and rescue response times are met. The Secretary must provide an opportunity for public comment and meetings in regard to any proposed station closure.

SECTION 310. PENALTY FOR ALTERATION OF MARINE SAFETY EQUIPMENT

Section 310 of the Senate bill broadens section 3318 of title 46, United States Code, to classify as a felony the knowing alteration of lifesaving, fire fighting, and other marine safety equipment, if the alteration results in equipment that is insufficient to accomplish the purpose for which it is intended.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate bill with an amendment establishing a criminal penalty applicable commercial alteration or serving which intentionally renders the equipment unsafe and unfit for the purpose for which it is intended.

SECTION 311. PROHIBITION ON OVERHAUL, REPAIR, AND MAINTENANCE OF COAST GUARD VESSELS IN FOREIGN SHIPYARDS

Section 311 of the Senate bill amends chapter 5 of title 14, United States Code, to require that all non-emergency repairs of

Coast Guard vessels be conducted in shipyards located in the United States. This provision is similar to the current restrictions on the repair of U.S. Navy vessels.

The House amendment contains no comparable provision.

The Conference substitute amends the Senate provision to exempt voyage repairs and vessels that are home ported outside a U.S. State from this section.

SECTION 312. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS

Section 312 of the Senate bill authorizes the Secretary of the Treasury, at the request of the Secretary of Transportation, to refuse or revoke a vessel's clearance, when that vessel is liable, or reasonable cause exists to believe that the vessel is liable, to the United States Government for certain civil or criminal penalties. Under the amendments made by this section, the Secretary of the Treasury may grant a clearance previously refused or revoked only if the owner of the vessel obtains a bond or other surety satisfaction to the Secretary of Transportation to cover the amount of the potential fine or penalty assessment.

Section 312(a) amends section 5122 of title 49, United States Code, to authorize the Secretary of Treasury to refuse or revoke a vessel's clearance for violations of chapter 51 of title 49, United States Code, formerly the Hazardous Materials Transportation Act. Chapter 51 of title 49 applies to all vessels that transport, ship, maintain, or manufacture hazardous materials in waters subject to the jurisdiction of the United States.

Section 312(b) amends section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) to authorize the Secretary of the Treasury to refuse or revoke a vessel's clearance for violations of that Act. The Ports and Waterways Safety Act promotes port and merchant vessel safety through the establishment of vessel traffic service systems and the requirement to carry certain navigation equipment abroad vessels in waters subject to the jurisdiction of the United States.

Section 312(c) amends section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) to authorize the Secretary of the Treasury to refuse or revoke a vessel's clearance for violations of that Act. The Inland Navigational Rules Act governs the ''rules of the road'' for vessel navigation for the various inland, Great Lakes, and Western Rivers waters.

Section 312(d) amends section 3718(e) of title 46, United States Code, to authorize the Secretary of Treasury to refuse or revoke a vessel's clearance for violations of chapter 37 of title 46, United States Code, governing the carriage of liquid bulk dangerous cargoes in the navigable waters or a port of place subject to the jurisdiction of the United States.

Section 308 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 313. INFORMATION BARRED IN LEGAL PROCEEDINGS

The Senate bill contains no comparable provision.

Section 414 of the House amendment adds a new section to chapter 63 of title 46, United States Code, to limit the use of certain portions of formal and informal marine casualty investigations in civil judicial, administrative, and state criminal proceedings unless the Secretary of Transportation consents to releasing the report. The section would also prohibit any employee of the United States or member of the Coast Guard investigating a marine casualty or assisting in any such investigation being subject to deposition or other discovery, or to otherwise testify or give information in such proceedings relevant to a marine casualty investigation without the consent of the Secretary. New section 6308 also clarifies that the restriction on the use of the portions of investigations is not an admission of liability by the United States or by a person referred to in the investigation.

Although there are certain statutory and discovery provisions that presently protest parts of an investigation from use in civil and state criminal proceedings, there is no statutory prohibition on the use of opinions, recommendations, deliberations, and conclusions contained in marine casualty investigation reports.

The Conference substitute alters the House provision to completely prohibit a report of a Coast Guard marine casualty investigation from being admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States. The substitute also prohibits any employee of the United or member of the Coast Guard investigating a marine casualty from being subject to deposition or other discovery without the permission and consent of the Secretary of Transportation. The Secretary may not withhold permission for the employee or member to testify on solely factual matters where the information is not available elsewhere.

SECTION 314. MARINE CASUALTY REPORTING

Section 503(a) of the Senate bill requires the Coast Guard to submit a plan to Congress to increase the reporting of vessel accidents to appropriate state law enforcement officials.

Section 503(b) amends section 6130(a) of title 46, United States Code, to establish a $1,000 civil penalty for an owner, charterer, operator, agent, master, or individual in charge of a vessel who has failed to submit a marine casualty report to state authorities as required under existing law.

The House amendment contains no comparable provision.

The Conference adopts the Senate provision.

TITLE IV—COAST GUARD AUXILIARY

SECTION 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY

Section 401 of the Senate bill amends section 821 of title 14, United States Code, to establish an organizational structure for the Coast Guard Auxiliary and to designate the Auxiliary as an ''Instrumentality of the United States'' only with respect to acts or omissions committed by Auxiliary members performing a Coast Guard function or operation authorized by the Commandant of the Coast Guard, under section 822 of title 14, United States Code. Instrumentality status will allow the U.S. Government to provide legal representation and indemnification for the Auxiliary in litigation in which the Auxiliary is a defendant.

Instrumentality status will also protect Auxiliary assets and members from liability in the event of alleged tortious conduct committed by members while acting within the scope of their official duties. The liability protection provided to the Auxiliary under this section is for noncontractual civil tort liability.

Section 401 of the Senate bill also authorizes the national board of the Auxiliary, Auxiliary districts, and regions of the Auxiliary to incorporate under state law in accordance with policies established by the Commandant. The ability to incorporate will allow the Auxiliary's national board to manage its finances more effectively and to hold auxiliary copyrights, trademarks, and title to property used by the Auxiliary in performing its missions. Regional or district corporations may be formed under this section only for the purpose of holding property for Auxiliary use. Corporations formed under this authority are not considered instrumentalities of the United States.

Section 801 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the House provision.

SECTION 402. PURPOSE OF THE COAST GUARD AUXILIARY

Section 402 of the Senate bill provides that the purpose of the Coast Guard Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law. As the functions and operations of the Coast Guard expand in future years, the Auxiliary will have the flexibility to act in support of Coast Guard operations, under the direction of the Commandant. Future uses of the Coast Guard Auxiliary may include the establishment and support of marine safety and security zones; port and harbor patrols; parade and regatta patrols; pollution patrols; transportation of Coast Guard personnel for mission support; training support; and other support missions authorized by the Commandant.

Section 802 of the House amendment is similar to this provision.

The Conference substitute adopts the House provision.

SECTION 403. MEMBERS OF THE AUXILIARY; STATUS

Seciton 403 of the Senate bill clarifies the status of individual members of the Coast Guard Auxiliary, and affords an Auxiliarist, while acting within the scope of official duties, the same degree of protection from legal liability as is provided to Coast Guard personnel. Under section 403, Auxiliary members are considered Federal employees for limited purposes, and are protected under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) from the claims of a third party who is allegedly harmed by the Auxiliary member while the member is acting within the scope of official duties.

Section 803 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 404. ASSIGNMENT AND PERFORMANCE OF DUTIES

Section 404 of the Senate bill deletes the antiquated term ''specific duties'' from sections 830, 831, and 832 of title 14, United States Code.

Section 804 of the House amendment is similar to the Senate provision.

The conference substitute adopts the House provision.

SECTION 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS

Section 405 of the Senate bill allows the Commandant to prescribe conditions under which the Coast Guard Auxiliary may assist the States, when requested by proper State authorities. Assistance provided under this section may include supporting and augmenting state safety and security patrols for boat parades, regattas, and other special waterborne events.

Section 805 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the House provision.

SECTION 406. VESSEL DEEMED PUBLIC VESSEL

Section 406 of the Senate bill clarifies that an Auxiliary vessel, while assigned to authorized Coast Guard duty, is deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of

sections 646 and 647 of title 14, United States Code, and other applicable provisions of law, for purposes of resolving third-party claims for damage.

Section 806 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the House provision.

SECTION 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT

Section 407 of the Senate bill clarifies that an Auxiliary aircraft, while assigned to authorized Coast Guard duty, is deemed to be a Coast Guard aircraft, a public aircraft of the United States, and an aircraft of the Coast Guard for purposes of resolving third-party claims for damage. This section also deems Auxiliary pilots to be Coast Guard pilots while assigned to Coast Guard duty.

Section 807 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the House provision.

SECTION 408. DISPOSAL OF CERTAIN MATERIAL

Section 408 of the Senate bill allows the Auxiliary to acquire directly obsolete or other material that is not needed by the Coast Guard, in those states where unincorporated associations may do so, or indirectly, through a corporation formed for purposes of acquiring, owning, and disposing of property.

Section 808 of the House bill is similar to the Senate provision.

The Conference substitute adopts the House provision.

TITLE V—DEEPWATER PORT MODERNIZATION

Title V of the Senate bill contains provisions to: (1) ensure funding for state recreational boating safety grants; (2) improve boating access; and (3) establish age requirements for personal flotation devices.

The House amendment contains no comparable provision.

The Conference substitute includes the Deepwater Port Modernization Act with the following provisions:

SECTION 501. SHORT TITLE

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

Section 501 of the Conference substitute provides that this title shall be cited as ''The Deepwater Port Modernization Act''.

SECTION 502. DECLARATIONS OF PURPOSE AND POLICY

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute states that this provision's overall purpose is to promote greater construction and use of deepwater ports by improving the statutory and regulatory framework under which deepwater ports operate. This title streamlines governmental regulations so as to address legitimate public concerns, including safety and minimizing risks to the environment, without subjecting deepwater ports to unduly burdensome, unnecessary or duplicative regulations or licensing provisions.

SECTION 503. DEFINITIONS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute amends certain definitions in the Deepwater Ports Act of 1974 (DWPA) (33 U.S.C. 1502 et seq.).

SECTION 504. LICENSES

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute restructures the current three-tiered approach of licensing, operations manuals, and regulations into an approach that relies on licenses and operations manuals. However, the provision preserves the use of regulations for basic standards and conditions.

SECTION 505. INFORMATION FILINGS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute amends the procedural provisions of the DWPA to authorize the Secretary of Transportation to waive, under certain circumstances, informational filing requirements for applications under the Act.

SECTION 506. ANTITRUST REVIEW

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute repeals certain provisions in the DWPA that impose antitrust review requirements that are in addition to existing antitrust laws and requirements.

SECTION 507. OPERATION

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute clarifies provisions in the DWPA relating to common carrier status and prohibitions against discriminatory acceptance, transport, or conveyance of oil.

SECTION 508. MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY

The Senate will contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute amends the regulatory structure under which deepwater ports operate, including the relationships between regulations and operations manuals.

TITLE VI—COAST GUARD REGULATORY REFORM

SECTION 601. SHORT TITLE

Section 601 of the Senate bill states that this title may be cited as the ''Coast Guard Regulatory Reform Act of 1995''.

Section 501 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 602. SAFETY MANAGEMENT

Section 602 of the Senate bill adds a new chapter 32 to title 46, United States Code, to authorize the Secretary of Transportation to prescribe regulations regarding shipboard and shorebased management of vessels and personnel. This authority would include conducting examinations and requiring the maintenance of records. The purpose of this section is to implement the International Safety Management (ISM) Code. This agreement, which the United States Government has signed, requires owners of vessels engaged in foreign commerce to manage their vessels in a safe manner. The Secretary currently lacks legal authority to require adoption and use of the ISM Code by the owners and operators of U.S.-flag vessels.

Section 502 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS

Section 603 of the Senate bill adds a new section 3103 to title 46, United States Code. This new section will allow the Secretary to use reports, documents, and certificates issued by persons that the Secretary decides may be relied on to inspect, examine, or survey vessels.

Section 503 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 604. EQUIPMENT APPROVAL

Section 604 of the Senate bill amends section 3306 of title 46, United States Code, concerning vessel inspection regulations and equipment and material approvals. Subsection (b)(1) contains the same language as the current section 3306(b), except that the language has been broadened to specifically include material subject to regulation. This term is added for clarification only.

Section 504 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 605. FRQUENTLY OF INSPECTION

Section 605 of the Senate bill amends section 3307(l) of title 45, United States Code, to clarify its purpose and to change the period of validity for certificates of inspection from two to five years. No practical changes will result with respect to inspection and examinations that are the basis for issuing the certificates of inspection.

Section 505 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 606. CERTIFICATE OF INSPECTION

Section 606 of the Senate bill eliminates the prohibition of a vessel owner from scheduling an inspection for a vessel more than 60 days in advance of the inspection. This change will allow shipowners to request inspections more than 60 days prior to the expiration of the current certificate of inspection.

Section 506 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES

Section 607 of the Senate bill amends section 3316 of title 46, United States Code, concerning the use of classification societies to inspect vessels. Currently, section 3316 limits delegations to the American Bureau of Shipping (ABS) ''or a similar United States classification society.'' Since there is no similar U.S. classification society, there is, in effect, no delegation under this section other than to ABS.

Section 507 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SECTION 701. AMENDMENT OF INLAND NAVIGATION RULES

Section 701 of the Senate bill adopts the Navigation Safety Advisory Council's (NAVSAC) recommendations for changing a number of the Inland Navigational Rules (Inland Rules) (33 U.S.C. 2001–2071). These changes to the Inland Rules help clarify ambiguities in the practical application of the Rules, as well as to bring them into closer conformity with the International Regulations of Preventing Collisions at Sea (COLREGS), (33 U.S.C. 1602). The Coast Guard agrees with the recommendations of NAVSAC and has proposed amendments to Inland Rules 9, 15, 23, 24, 26, and 34.

Section 701 of the House amendment is identical.

The Conference substitute adopts the Senate provision.

SECTIONS 702–744. ESTABLISHMENT OF ALTERNATE CONVENTION TONNAGE

Section 702–744 of the Senate bill authorize the Secretary of Transportation to establish alternate International Tonnage Convention (ITC) tonnage requirements for the purposes of statutes that contain vessel tonnage thresholds. Tonnage thresholds in existing statutes are based on the regulatory measurement system under chapter 145 of title 46, United States Code, which allows vessel designers to use tonnage reduction techniques to artificially lower the tonnage of a vessel. Since the ITC measurement system, implemented under chapter 143 of title 46, United States Code, became effective for the United States on July 18, 1984, statutory tonnage limits have not been revised to reflect the higher tonnages that often result when a vessel is measured under the ITC system. The availability of alternate ITC tonnages established by the Secretary will discourage vessel designers and operators from using the regulatory measurement system to comply with existing statutory and regulatory requirements to maintain their competitive viability. Alternate ITC tonnages will give the maritime industry the flexibility to build and operate vessels. Alternate tonnages will also enable U.S. vessel designers and operators to be competitive in the international market.

Sections 702 through 744 authorize the Secretary of Transportation to establish alternate ITC tonnage thresholds for the purposes of each of the statutes amended. Under the amendments made by these sections, vessel owners have the option to measure their vessels under the new ITC tonnage system or the regulatory system. The Committee expects that owners of many existing vessels, and virtually all owners of vessels constructed in the future, will exercise this option, leading ultimately to the demise of the antiquated regulatory measurement system. However, the amendments made by sections 702–744 do not effect the option of an ''existing vessel'' as defined in section 14101(2) of title 46, United States Code, to retain its regulatory tonnage measurement as provided in section 14301(d) of that title.

Finally, sections 702–744 authorize the Secretary to establish an alternate regulatory tonnage for the purposes of statutes enacted after July 18, 1994, that apply the ITC system. Alternate regulatory tonnages must be established to allow vessels entitled to use the regulatory tonnage measurement system to comply with laws enacted after July 18, 1994.

Sections 702–744 of the House amendment are similar to the Senate provisions.

The Conference substitute adopts the Senate provisions with several amendments.

The Conferees have included a sentence in proposed section 14104(b) of title 46, U.S. Code, that states that the regulations prescribing alternate tonnages would be interpretative regulations. The Conferees consider them to be interpretative in that the action the Coast Guard is required to take under this section is to interpret what the threshold tonnage for application of the current shipping laws to a class of vessels, which is currently based on regulatory tonnage, would be under the International Tonnage Convention (ITC). Because these regulations would be interpretative, under the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.), the notice of proposed rulemaking and comment requirements and the 30 day effective date delay of section 553 of the APA would not be required. Therefore the Conferees believe that these interpretative regulations should be able to be prescribed expeditiously.

SECTION 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS

Section 745 of the Senate bill amends chapter 75 of title 46, United States Code, by adding a new section 7506 to authorize the Secretary to evaluate the service of an individual applying for a license, certificate of registry, or merchant mariners document based on the size of the vessel on which the individual served as measured under the International Tonnage Convention (chapter 143, title 46, United States Code). Eligibility of individuals for licenses, certificates of registry, and merchant mariners' documents issued by the Secretary is based, in part, on the size of the vessel on which the individual has experience.

Section 747 of the House amendment is identified to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 746. TECHNICAL CORRECTIONS

Section 746 of the Senate bill is a technical amendment to chapter 121 and corrects two misspelled words in chapter 131 of title 46, United States Code.

Section 745 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision, with an amendment regarding the FMC's authority over cruise ship bonding regulations. Public Law 89–777, 80 Stat 1356 (November 6, 1966) requires the owners or charterers of certain passenger vessels to establish their financial responsibility for death or injury to passengers or for nonperformance of a voyage. Section 2(d) of Pub. L. 89–777 states in part:

> The provisions of the Shipping Act, 1916, shall apply with respect to proceedings conducted by the Commission under this section.

Consequently, since 1966, the Federal Maritime Commission has used provisions of the Shipping Act, 1916 (''1916 Act'') to administer its responsibilities under Pub. L. 89–777, including enforcement of the bond requirements. However, recent legislative changes to the Interstate Commerce Commission (''ICC'') may have inadvertently affected the FMC's ability to continue to employ the 1916 Act to conduct proceedings under Pub. L. 89–777. The Conference substitute corrected this by allowing the 1984 Act authority to be used in lieu of the identical 1916 Act authority.

SECTION 747. TECHNICAL CORRECTIONS TO REFERENCES TO ICC

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute amends section 27 of the Merchant Marine Act, 1920, to replace the reference to the ''Interstate Commerce Commission'' with its successor, the ''Surface Transportation Board.''

TITLE VIII—POLLUTION FROM SHIPS

SECTION 801. PREVENTION OF POLLUTION FROM SHIPS

Section 801 of the Senate bill amends section 6 of the Act to Prevent Pollution from Ships (APPS) to require that the Secretary of Transportation inspect waste reception facilities prior to issuing a certificate of adequacy, and would provide for automatic expiration of certificates after five years, or sooner if there is a change in operator or if the certificate is suspended or revoked. In addition, this section would encourage public participation by making available a current list of certificates of status at ports and by requiring that ports post placards containing telephone numbers where citizens can call to report inadequate reception facilities.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 802. MARINE PLASTIC POLLUTION RESEARCH AND CONTROL

Section 802(a) of the Senate bill amends section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (MPPRCA) (33 U.S.C. 1902 note) to extend indefinitely the requirement that the Secretary report to Congress biennially on compliance with MARPOL Annex V. This subsection would also require that a list of enforcement actions taken against any domestic or foreign ship pursuant to APPS be published in the Register on an annual basis.

Section 802(b) amends section 2203 of the MPPRCA to: (1) establish a Marine Debris Coordinating Committee; and (2) direct the Environmental Protection Agency and the National Oceanic and Atmospheric Administration to use the marine debris data collected under title V of MPPRCA to assist that Committee in ensuring coordination of research, monitoring, education, and regulatory actions and assist the Coast Guard in assessing the effectivenes of MPPRCA and APPS.

Section 802(c) amends section 2204(a) of MPPRCA, extending indefinitely the authorization for cooperative public outreach and educational programs. This subsection also specifies activities that could be included in outreach programs and would require that such programs provide the public with information on how to report violations of the MPPRCA and APPS. In developing these programs, the Committee directs Federal agencies to consult with state or local agencies that have direct contract with recreational and commercial boaters. Finally, this subsection would authorize the Coast Guard, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency to award grants and enter into cooperative agreements for implementing public outreach programs.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

TITLE IX—TOWING VESSEL SAFETY

SECTION 901. REDUCTION OF OIL SPILLS FROM NON-SELF-PROPELLED TANK VESSELS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding towing vessels.

SECTION 902. REQUIREMENT FOR FIRE SUPPRESSION DEVICES

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding fire suppression devices.

SECTION 903. STUDIES ADDRESSING VARIOUS SOURCES OF OIL SPILL RISK

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding oil spills.

TITLE X—CONVEYANCES

SECTION 1001. CONVEYANCE OF LIGHTHOUSES

Section 1001(a)(3)(A) of the Senate bill authorizes the transfer of the Cape Ann Lighthouse and surrounding Coast Guard property located on Thachers Island, Massachusetts, to the Town of Rockport, Massachusetts.

Section 1003 of the Senate bill authorizes the transfer of the property comprising Squirrel Point Light located in Arrowsic, Maine, to Squirrel Point Associates, Incorporated. Section 1004 of this bill authorizes the transfer of the property comprising Montauk Light Station located in Montauk, New York, to the Montauk Historical Association. Finally, Section 1005 of the Senate bill authorizes the transfer of the property comprising Point Arena Light Station located in Mendocino County, California to the Point Arena Lighthouse Keepers, Incorporated. In making these transfers, the United States would convey all right, title and interest, except that the Coast Guard retains ownership of any historic artifact. The conveyance of these properties is subject to the condition that the properties are maintained in a manner that ensures their present and future use for Coast Guard aids to navigation and is consistent with the provisions of the National Historic Preservation Act of 1996. In addition, the Coast Guard continues to have access to the properties for the operation and maintenance of aids to navigation.

Section 424 of the House amendment authorizes the transfer of the Cape Ann Lighthouse and section 423 of the House amendment authorizes the transfer Montauk Light Station. The conditions of transfer from the United States are similar to the Senate provisions.

Section 1001 of the Conference substitute combines all of these House and Senate lighthouse transfers into one section. The Conference substitute also transfers the Presque Isle Light Station, Michigan, to Presque Isle Township, Presque Isle County, Michigan, the Saint Helena Island Light Station to the Great Lakes Lighthouse Keepers Association, and the Cove Point Light Station to Calvert County, Maryland. The conditions for the transfer of the property from the United States are similar to the conditions of the Senate provision.

SECTION 1002. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE

Section 1002 of the Senate bill authorizes the transfer of lighthouse properties located in Maine to the Island Institute in Rockland, Maine, and four lighthouse properties located in Maine to the United States Fish and Wildlife Service. In making the transfer of the 31 lighthouse properties to the Island Institute, the United States would convey all right, title and interest, except that the Coast Guard would retain ownership of any historic artifact from any of the 35 lighthouses transferred under this section. The Island Institute is directed to further transfer 29 of the 31 lighthouse properties it receives from the Coast Guard to eligible Federal agencies, Maine state or local government entities, nonprofit corporations, educational agencies, or community development organizations. The further conveyances by the Island Institute would be subject to approval by the Maine Lighthouse Selection Committee the members of which are to be appointed by the Secretary. The conveyance of the 35 lighthouse properties would be subject to the condition that the properties: (1) be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for other uses that the Secretary of Transportation determines are not inconsistent; and (2) are maintained in a manner that ensures their present and future use for Coast Guard aids to navigation and is consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). In addition, the Coast Guard would continue to have access to the properties for the operation and maintenance of aids to navigation.

The House amendment does not contain a comparable provision.

The Conference substitute amends the Senate proposal to require that the Secretary of Transportation to transfer 30 Maine lighthouses to eligible entities recommended by the Island Institute, and approved by a Selection Committee. The lighthouses must be conveyed within two years of the Act's enactment. The substitute further authorizes the transfer of four lighthouses to the U.S. Fish and Wildlife Service and two lighthouses directly to the Island Institute. The substitute identifies eligible entities for receipt of the 30 lighthouses and establishes a Maine Lighthouse Selection Committee to review and approve the lighthouse transfer recommendations of the Island Institute. The terms of all the lighthouse transfers are similar to the Senate provision's terms of conveyance.

SECTION 1003. TRANSFER OF COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS

Section 1001(a)(3)(B) of the Senate bill authorizes the transfer of the Coast Guard Cuttyhunk Boathouse and Wharf property located in Gosnold, Massachusetts, to the Town of Gosnold, Massachusetts. In making this transfer, the United States would convey all right, title and interest, except that the Coast Guard retains ownership of any historic artifact. The conveyance of this property is subject to the conditions listed in the Senate's section 1001, explained above.

Section 426 of the House amendment also authorizes the transfer of the Coast Guard Cuttyhunk Boathouse and Wharf property to the Town of Gosnold, Massachusetts. This section would condition the conveyance to the Coast Guard retaining the right of access to, over, and through the boathouse, wharf, and land comprising the property at all times for the purpose of berthing vessels. The Coast Guard also retains the right of ingress to and egress from the property for purposes of access to Coast Guard facilities and performance of Coast Guard function.

The Conference substitute adopts the House provision.

SECTION 1004. CONVEYANCE OF PROPERTY IN KETCHIKAN, ALASKA

Section 1006 of the Senate bill transfers approximately ¾ of an acre of excess property in Ketchikan, Alaska, from the United States to the Ketchikan Indian Corporation. The property is adjacent to Ketchikan Hospital and will be used by the Ketchikan Indian Corporation as the site for a new health or social services facility. The property shall transfer to the City of Ketchikan if, within 18 months the Act's enactment, the Ketchikan Indian Corporation has not completed design and construction plans for a health and social services facility and received approval from the City of Ketchikan for such plans or the written consent of the City to exceed this period. The ownership of this property reverts to the United States if the property ceases to be used by the City of Ketchikan.

Section 402 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 1005. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN

Section 1007 of the Senate bill directs the Secretary of Transportation to transfer approximately 27 acres of excess property located in Traverse City, Michigan, from the Coast Guard to the Traverse City Area Public School District. This property will be used by the School District for athletic fields. The ownership of this property reverts to the United States if the Traverse City Area School District ceases to use the property for the statutorily authorized purposes. The United States shall continue to operate and maintain a pump room located on the property for as long as it is needed by the United States.

Section 401 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1006. TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHAM, RHODE ISLAND

Section 1008 of the Senate bill authorizes the Secretary of Transportation to transfer approximately 10.7 acres of property known as Coast Guard Station Block Island located on Block Island, Rhode Island, to the Town of New Shoreham, Rhode Island. The ownership of this property reverts to the United States if the property, or any part of the property, ceases to be used by the Town of New Shoreham, Rhode Island.

Section 427 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1007. CONVEYANCE OF PROPERTY IN SANTA CRUZ, CALIFORNIA

Section 1009 in the Senate bill authorizes the Secretary to transfer the Coast Guard property located in Santa Cruz, California, to the Santa Cruz Port District. In making this transfer, the United States would convey all right, title and interest. The conveyance of this property would be subject to the conditions that: the property be available for joint use by the Coast Guard and the Port District; the Port District would be responsible for the cost of maintaining, operating, and replacing the utility systems, buildings, and facilities; the site be maintained as a nonprofit center for education, training, administration, and other public service to include use by the Coast Guard; and the site be returned to the Secretary after 30 days notice that it is needed for national security purposes.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 1008. CONVEYANCE OF VESSEL S/S RED OAK VICTORY

Section 1010 of the Senate bill authorizes the Secretary to transfer the National Defense Reserve Fleet (NDRF) vessel *S/S Red Oak Victory* (Victory Ship VCS–AP2; U.S. Navy Hull No. AK235) to the City of Richmond Museum Association, Incorporated, located in Richmond, California. In making this transfer, the United States would convey all right, title and interest. The conveyance of this property would be subject to the condition that: (1) the vessel be used for the purposes of a monument to the wartime accomplishments of the City of Richmond; (2) the vessel not be used for commercial transportation purposes; (3) the recipient agrees to make the vessel available to the government if the Secretary requires the vessel for war or national emergency; (4) the recipient agrees to hold the Federal government harmless for any claims arising from exposure to asbestos after transfer of the vessel, except for claims arising from use by the government for war or national emergency; and (5) and the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or written loan commitment, financial resources of at least $100,000.

The conveyance, if made, would transfer the vessel in its present condition, without any cost to the Federal government, to the recipient. The Secretary also would be authorized to transfer unneeded equipment from other NDRF vessels to restore the vessel to museum quality. Finally, the Secretary would be required to retain the vessel in the NDRF for the earlier of two years

from the date of enactment of the reported bill or until the vessel is conveyed, whichever date is earlier.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 1009. CONVEYANCE OF EQUIPMENT

Section 1011 of the Senate bill conveys any unneeded equipment from other vessels in the National Defense Reserve Fleet to the John W. Brown and other qualified United States memorial ships in order to maintain their operating condition.

The House amendment does not contain a comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 1010. PROPERTY EXCHANGE

Section 1012 of the Senate bill authorizes the Secretary of Transportation to accept a property exchange within the limits of the City and Borough of Juneau, Alaska, if the Secretary determines that the exchange is in the best interest of the Coast Guard.

The House amendment does not contain a comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 1011. AUTHORITY TO CONVEY WHITEFISH POINT LIGHT STATION LAND

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute authorizes the conveyance of a portion of the land located at the United States Coast Guard Whitefish Point Light Station to the Great Lakes Shipwreck Historical Society. The remainder of the property is split between the U.S. Fish and Wildlife Service and the Michigan Audubon Society. For a description of the property to be transferred, please refer to H.R. 2611, as introduced.

SECTION 1012. CONVEYANCE OF PARRAMORE BEACH COAST GUARD STATION, VIRGINIA

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute conveys the Parramore Beach Coast Guard Station, Virginia, to the Nature Conservancy.

SECTION 1013. CONVEYANCE OF JEREMIAH O'BRIEN

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute authorizes the Secretary of Transportation to convey the obsolete ship *Jeremiah O'Brien* to a nonprofit corporation as a merchant marine memorial museum. To assure the success of the museum, the recipient must have an established track record of maintaining a Liberty Ship for the public's life.

TITLE XI—MISCELLANEOUS

SECTION 1101. FLORIDA AVENUE BRIDGE

Section 1101 of the Senate bill deems the drainage siphon adjacent to the Florida Avenue Bridge in New Orleans, Louisiana, to be an appurtenance of the bridge, pursuant to the Truman-Hobbs Act. In 1992, the Florida Avenue Bridge was declared to be an ''unreasonable obstruction to navigation'' under the Truman-Hobbs Act. Since that time, funds have been appropriated by Congress to commence planning and engineering for the replacement of the bridge.

The Coast Guard has determined that the drainage siphon, which is connected to the bridge's southern fender, must be removed to widen the channel sufficiently and restore the necessary navigability for commercial vessels on the Gulf Intracoastal Waterway. By declaring the siphon an appurtenance, its removal qualifies for funding under the Truman-Hobbs Act.

Section 302 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision. As a result of the enactment of this provision, and the appropriation of sufficient funds in the current Coast Guard budget, the conferees expect that the Coast Guard will initiate construction on the replacement Florida Avenue Bridge as soon as possible in FY 97. The hazardous conditions that exist as a result of the current bridge must be rectified without delay in order to ensure the free flow of commerce on the Industrial Canal in the Port of New Orleans.

SECTION 1102. OIL SPILL RECOVERY INSTITUTE

Section 1102 of the Senate bill authorizes the Prince William Sound Oil Spill Recovery Institute (OSRI), which is authorized under section 5001 of the Oil Pollution Act of 1990, to fund research using the interest earned on the $22.5 million it is authorized to spend from the Oil Spill Liability Trust Fund, which was transferred from the Trans-Alaska Pipeline Fund in December of 1994.

This section also scales back the size of the OSRI Advisory Board from 18 members to 16 members.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with amendments.

SECTION 1103. LIMITED DOUBLE-HULL EXEMPTIONS

Section 1103 of the Senate bill amends section 3703a of title 46, United States Code, to exempt certain vessels from the double-hull construction requirements of the Oil Pollution Act of 1990. This section exempts those double-hulled U.S.-flag vessels delivered before August 12, 1992, from the OPA 90 double-hull requirements. This section also exempts barges of less than 1,500 gross tons that are primarily used to carry deck cargo and bulk fuel to Alaska Native villages from the OPA 90 double-hull requirements. The section also exempts vessels in the National Defense Reserve Fleet from the double-hull requirements.

Section 416 of the House amendment differs from the Senate provision by exempting all vessels, not just U.S.-flag vessels, equipped with a double-hull before August 12, 1992, from the OPA 90 double-hull requirements. The House bill also exempts Alaskan barges of less than 2,000 gross tons, rather than 1,500 gross tons, from the OPA 90 double-hull requirements.

The Conference substitute adopts the Senate provision with several amendments.

SECTION 1104. OIL SPILL RESPONSE VESSELS

Section 1104(a) of the Senate bill amends section 2101 of title 46, United States Code, to define an ''oil spill response vessel'' (OSRV) as a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material. Under the amendments made by this section, the Coast Guard is required to establish a new regulatory system for OSRVs.

Section 1104(b) adds a new subsection (f) to section 3702 of title 46, United States Code, to exempt OSRVs from the tank vessel requirements of chapter 37 of title 46, United States Code. Section 1104(b) also divides OSRVs into two distinct categories. The first category addresses dedicated response vessels which are used only in spill response related activities. These vessels are not certified for any other type of service other than response. This category includes barges which are not used for carriage of oil in bulk as cargo and in some cases will never contain oil. There is no tonnage limit in this category. The second category recognizes that some vessels are dual-certified. This category exempts vessels from tank vessel requirements only when designated in the certificate for inspection as a response vessel and only when actually engaged in spill response related activities. This category is limited to 500 gross tons.

Section 1104(c) and 1104(d) amend sections 8104 and 8301 of title 46, United States Code, to authorize the Secretary of Transportation to prescribe watch standing and licensing requirements for OSRVs.

Section 1104(e) amends the requirements for Merchant Mariner's Documents (MMDs) under section 8701 of title 46, United States Code, by providing the Secretary with the flexibility to prescribe which, if any, individuals onboard an OSRV should be required to hold an MMD.

Section 1104(f) amends section 8905 of title 46, United States Code, to clarify that a person licensed to operate towing vessels should not be required to operate vessels engaged in oil spill response or training activities. Currently, section 8904 of title 46, United States Code, requires that a towing vessel that is at least 26 feet in length be operated by a licensed individual. These provisions are not intended to apply to vessels towing in an emergency or on an intermittent basis during oil spill response or training.

Section 1104(g)) amends section 3301 of title 46, United States Code, to establish a new vessel inspection category for OSRVs.

Section 417 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1105. SERVICE IN CERTAIN SUITS IN ADMIRALTY

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute corrects the service of process provisions contained in the Suits in Admiralty Act, (46 App. U.S.C. §742). Those provisions are different from the service provision in Rule 4 of the Federal Rules of Civil Procedure. Under the proposed amendments, the general service of process procedures in Civil Rule 4 would apply to all civil cases, including admiralty and non-admiralty cases.

Section 742 was enacted before the Federal Rules of Civil Procedure were adopted, and there is no apparent remaining reason to treat suits in admiralty differently than other civil actions. Rule 4(i) of the Federal Rules of Civil Procedure currently governs service upon the United States in all other civil cases.

The Conference substitute deletes the service of process provisions contained in the Suits in Admiralty Act, which are different from the service provisions in Rule 4 of the Federal Rules of Civil Procedure. The general service of process procedures in Civil Rule 4 would apply to all civil cases, including admiralty and non-admiralty cases.

SECTION 1106. AMENDMENTS TO THE JOHNSON ACT

Section 1106 of the Senate bill resolves a conflict between certain Federal and state laws involving authorized gambling aboard cruise vessels. Section 1106 amends section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(B)(2)), commonly referred to as the ''Johnson Act'', to prohibit a state from regulating gambling in international waters during the intrastate segment of a voyage that begins or ends in the same state or U.S.

possession and is part of a voyage to another state or country. States may still regulate gambling in state waters, on ''voyages to nowhere,'' and on other state voyages. The section does not apply to a voyage within the boundaries of the State of Hawaii.

Section 408 of the House amendment is identical to the Senate section 1106. In addition, section 425 of the House amendment amends the Johnson Act to allow the State of Indiana to permit gambling aboard vessels that begin voyages within the territorial waters of Indiana and that do not leave the territorial jurisdiction of that state.

The Conference substitute adopts the House provision, with an amendment that allows gambling on vessels which provide sleeping accommodations for all of its passengers if the vessel is on a voyage (or the segment of a voyage) that is of at least 60 hours and that includes a stop in Canada or in a State other than the State of Alaska and also includes stops in at least 2 different ports in Alaska. The amendment only applies to traditional cruises, not so called ''cruises to nowhere''.

SECTION 1107. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES

Section 1107 of the Senate bill authorizes the Secretary to expend out of amounts appropriated for the Coast Guard for fiscal year 1996 not more than $491,000 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Maritime Fire and Safety Association.

The House amendment contains no comparable provision.

The Conference substitute authorizes $940,000 to complete the activities of the Maritime Fire and Safety Association.

SECTION 1108. OIL POLLUTION RESEARCH TRAINING

Section 1108 of the Senate bill amends section 7001(c)(2)(D) of Oil Pollution Act of 1990 to allow research and training to be conducted at the Center for Marine Training and Safety in Galveston, Texas, which is Texas A&M University facility. Currently, OPA 90 authorizes oil pollution research and training on innovative oil pollution technology to be conducted using, as appropriate, the National Spill Control School in Corpus Christi, Texas, another Texas A&M University facility.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 1109. LIMITATION ON RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES

Section 1109 of the Senate bill prohibits the Secretary of Transportation from relocating the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas. Nothing in this section prevents the consolidation of management functions of these Coast Guard authorities.

Section 421 of the House amendment prohibits the consolidation and relocation of the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas.

The Conference substitute adopts the Senate provision.

SECTION 1110. UNINSPECTED FISH TENDER VESSELS

Section 1110 of the Senate bill clarifies section 3302 of title 46, United States Code, relating to the carriage of cargo in uninspected fish-tender vessels providing service outside the Aleutian trade geographic region. Section 3302(c)(3) of title 46, United States Code, permits uninspected fish-tender vessels of not more than 500 gross tons to carry: (1) cargo to or from a place in Alaska that does not receive weekly common carrier service by water from a place in the United States; or (2) cargo which is of the type not accepted by that common carrier service. The Coast Guard has interpreted this weekly common carrier test to apply only to general cargo. Section 1110 applies the weekly common carrier service test to all cargo which is of the type accepted by common carriers. Such cargo includes frozen fish products, canning components, cardboard, salt, and other materials directly related to fishing or the preparation of fish.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with several amendments. The Conferees have sought to clarify the law governing the carriage of cargo for hire by uninspected fish tender vessels to ports in Alaska outside of the Aleutian trade geographic region. The Conferees agree that such uninspected vessels are to be limited to the carriage of proprietary cargo and any cargo of a type not accepted by common carriers to communities being served weekly by common carriers, and a definition of ''proprietary cargo'' has been provided in the statute. The Conferees understand that there is at least one company in Alaska which owns both uninspected tender vessels and a number of marine supply stores. These vessels are currently being used to carry retail marine supplies for the affiliated marine supply stores. The bill language is drafted to permit the proprietary carriage of the retail inventory for these affiliated marine supply stores by the uninspected tender vessels.

SECTION 1111. FOREIGN PASSENGER VESSEL USER FEES

Section 1111 of the Senate bill authorizes the Coast Guard to collect user fees for the full cost of inspecting foreign passenger vessels. Section 3303(b) of title 46, United States Code, currently requires the Secretary of Transportation to collect the same fees for the inspection of foreign passenger vessels that a foreign country charges U.S. vessels at the ports of that country. Because the United States currently has no passenger vessels that call at foreign ports, the Coast Guard is prohibited from charging foreign passenger vessels fees to recover the costs of examining those vessels in U.S. ports. Section 1111 of this bill strikes subsection (b) of section 3303, title 46, United States Code, to allow the Coast Guard to collect user fees for examining foreign passenger vessels.

Section 301 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1112. COAST GUARD USER FEES

Section 1112 of the Senate bill sets upper limits on user fees of $300 annually for small passenger vessels under 65 feet in length and $600 annually for passenger vessels 65 feet or longer. In addition, section 1112 exempts publicly-owned ferries these fees.

Section 431 of the House amendment prohibits the Secretary of Transportation from assessing or collecting a fee or charge from any ferry vessel.

The Conference substitute adopts the Senate provision with a technical amendment.

SECTION 1113. VESSEL FINANCING

Section 1113(a) of the Senate bill amends section 31322 of title 46, United States Code, to broaden the categories of persons eligible to be mortgagees for U.S.-flag vessels without the approval of the Secretary.

Section 1113(b) of the Senate bill amends section 31328 of title 46, United States Code, to broaden the categories of persons eligible to act as trustees for ship mortgage purposes to include persons eligible to own a documented vessel under chapter 121 of the title.

Section 1113(c) of the Senate bill differs from section 409(d) of the House amendment in several important ways. The Senate section eliminates the citizenship requirement for leasing companies only when the leasing company is primarily engaged in leasing or other financing transactions. Section 1113(c) further differs from the House amendment by not allowing vessels with coastwise fishery endorsements from using a foreign leasing agent.

Section 409(a) of the House amendment amends section 31322 of title 46, United States Code, to eliminate all restrictions on persons that may be a mortgagee for a U.S.-flag vessel. This amendment is intended to promote vessel financing.

Section 409(b) of the House amendment repeals section 31328 of title 46, United States Code, which provided for the establishment of Westhampton Trusts. This section is no longer needed since all restrictions on mortgagees have been eliminated.

Section 409(c) of the House amendment makes conforming changes to section 9(c) of the Shipping Act, 1916, (46 App. U.S.C. 808) to eliminate the need to obtain permission from the Secretary before using a foreign mortgagees.

Section 409(d) of the House amendment amends section 12106 of title 46, United States Code, to promote lease financing for vessels engaged in the coastwise trade by eliminating citizenship requirements for leasing companies. Currently, there are no citizenship requirements on leasing companies that finance vessels that have Great Lakes or Registry endorsements. Section 409(d) will also allow these companies to finance vessels that have coastwise endorsements.

Section 409(d) amends section 12106 of title 46, United States Code, to authorize the Secretary to issue coastwise endorsements for vessels owned by any leasing company that is eligible to own a documented vessel. However, if the leasing company is not a U.S. citizen under section 2 of the Shipping Act, 1916, the vessel may only be operated in the coastwise trade if the vessel is operated under a demise charter to a section 2 citizen for a period of at least three years. It is expected that most of the charters will be long-term charters. However, once the initial long-term charter has expired, the leasing company may find it necessary to enter into short-term charters until another long-term charter is obtained. The lease agreement need not remain in effect for the full three years if there is a default by the lessee or a casualty or other event where the lease might be terminated by the vessel owner or lessee prior to the expiration of that period.

The Secretary of Transportation may also authorize leases for a period shorter than three years under appropriate circumstances such as when a vessel's remaining useful life would not support a lease of three years or to preserve the use or possession of the vessel. The section also provides that on termination of a demise charter, the coastwise endorsement may be continued for a period not to exceed six months on any terms and conditions that the Secretary may prescribe. This will allow the leasing company to move the vessel, maintain it, have it repaired, or layed-up, but does not allow the vessel to be used in the coastwise trade since it is not under a charter to a section 2 citizen.

The Conference substitute adopts the House amendment with several amendments. The provision also requires the Department of Transportation to conduct a study on the methods for leasing and financing of vessels operating in the coastal trades of other countries and whether the laws of other

countries provide reciprocity for U.S. banks, leasing companies or other financial institutions with respect to the new leasing provisions in this section.

In 1988, Congress began easing the restrictions on persons that can be mortgagees for U.S.-flag vessels by eliminating all restrictions on mortgagees for recreational vessels and fishing industry vessels. Additionally, the Secretary of Transportation was authorized to approve any other person to be a mortgagee for vessels with coastwise and registry endorsements.

Section 1113(a) of the Conference substitute amends section 31322 of title 46, United States Code, to eliminate all restrictions on persons that may be a mortgagee for a U.S.-flag vessel. This amendment is intended to promote vessel financing. U.S. vessel owners should be able to obtain the cheapest financing available anywhere in the world in the same manner as their foreign competition without having to get approval from the Secretary. In the past, U.S. operators could obtain this financing by setting up a trust in a U.S. bank. These trusts, called ''Westhampton Trusts,'' resulted in additional costs to the U.S. vessel owners without giving any real protection to the Government to control the vessel.

Section 1113(b) repeals section 31328 of title 46, United States Code, which provided for the establishment of Westhampton Trusts. This section is no longer needed since all restrictions on mortgagees have been eliminated.

Section 1113(c) makes conforming changes to section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808) to eliminate the need to obtain permission from the Secretary before using a foreign mortgagee.

Section 1113(d) of the Conference substitute amends section 12106 of title 46, United States Code, to promote lease financing for vessels engaged in the coastwide trade by eliminating citizenship requirements for leasing companies. Lease financing has become a very common way to finance capital assets in many industries, including the maritime industry. Many vessel operators choose to acquire or build vessels through lease financing instead of traditional mortgage financing. Currently, there are no citizenship requirements on leasing companies that finance vessels that have registry endorsements. Section 1113(d) will also allow these companies to finance vessels that have coastwise endorsements.

The overall purpose of section 1113(d) of the Conference substitute is to eliminate technical impediments to using various techniques for financing vessels operating in the domestic trades. At the same time, the Conferees do not intend to undermine a basic principle of U.S. maritime law that vessels operated in domestic trades must be built in a shipyard in the United States and be operated and controlled by American citizens, which is vital to United States military and economic security.

Ownership of vessels endorsed with a coastwise endorsement must reside either with a person who qualifies as an American citizen under section 2 of the Shipping Act, 1916 946 App. U.S.C. section 802), or with a person otherwise qualified under 46 U.S.C. §12106. Current law permits oil spill response vessels to be owned by non-profit entities which may not meet the technical requirements for U.S. citizenship. 46 U.S.C. §12106(d).

Section 1113(d) of the Conference substitute adds a new subsection (e) to section 12106 which would permit a coastwise endorsement for non-U.S. citizen vessel ownership where (1) ownership is primarily a financial investment in the vessel without the ability and intent to control the vessel's operations by a person not primarily engaged in the direct operation or management of vessels and (2) where the owner has transferred to a qualified American citizen full possession, control and command of the U.S. built vessel in a demise charter and the demise charterer is considered the owner pro hac vice during the charter term. It is intended that banks, leasing companies or other financial institutions qualify as owners of U.S.-flag vessels under this section even if they have a vessel owning and operating affiliate so long as the majority of the aggregate revenues of any such group are not derived from the operation or management of vessels by group members. Groups primarily engaged in the operation or management of commercial foreign-flag vessels used for the carriage of cargo for unrelated third parties will not qualify under this section.

Section 1113(d) of the Conference substitute amends section 12106 of title 46, United States Code, to authorize the Secretary to issue coast wise endorsements for vessels owned by any leasing company that is eligible to own a documented vessel. However, if the leasing company is not a U.S. citizen under section 2 of the Shipping Act, 1916, the vessel may only be operated in the coast trade if the vessel is operated under a demise charter to a section 2 citizen for a period of at least three years. It is expected that most of the charters will be long-term charters until another long-term charter is obtained. The lease agreement need not remain in effect for the full three years if there is a default by the lessee or a casualty or other event where the lease might be terminated by the vessel owner or lessee prior to the expiration of that period.

The Secretary may also authorize leases for a period shorter than three years under appropriate circumstances such as when a vessel's remaining useful life would not support a lease of three years or to preserve the use of possession of the vessel. The section also provides that on termination of a demise charter, the coastwise endorsement may be continued for a period not to exceed six months on any terms and conditions that the Secretary may prescribe. This will allow the leasing company to move the vessel, maintain it, have it repaired, or layed-up, but does not allow the vessel to be used in the coastwise trade since it is not under a charter to a section 2 citizen.

The Secretary shall establish as part of the vessel documentation procedures administered by the Coast Guard, or its successor, the necessary regulations to administer new subsection (e) and the filing of demise charter, and any amendments thereto, for vessels issued a coastwise endorsement under this provision. Provision shall also be made so that proprietary information contained in a demise charter shall not be disclosed to the public under this new subsection (e). The Coast Guard is directed to develop regulations governing the filing of false certifications under (e)(12)(C) with an application for documentation for a coastwise endorsement of a U.S. built vessel. The Coast Guard is also directed to conduct a study regarding reciprocity of foreign leasing laws.

SECTION 1114. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES

Section 1114 of the Senate bill amends section 8104 of title 46, United States Code, to conform the manning requirements for Great Lakes towing vessels to the requirements for towing vessels operating in other parts of the country. Section 1114(a) of this section amends section 8104(c) of title 46 to permit licensed individuals and seamen aboard Great Lakes towing vessels to work no more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period. Section 1114 also amends section 8104(e) of title 46 to allow crewmen to work in both the deck and engine departments of a towing vessel operating on the Great Lakes. Finally, the section amends section 8104(g) of title 46, United States Code, to allow the licensed individuals and crewmembers aboard Great Lakes towing vessels to be divided in two watches, rather than the current three watch requirement.

Section 419 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1115. REPEAL OF GREAT LAKES ENDORSEMENTS

Section 1115 of the Senate bill corrects an error in the Coast Guard Authorization Act of 1989 (Public Law 101–225) which made technical changes to the Coast Guard vessel documentation scheme. These changes reflect the conversion from a system of separate and distinct types of documents based on the use of the vessel to a system of multiple endorsements for a particular trade or use. These changes unintentionally added all of the requirements of the U.S. coastwise trade (Jones Act) to all vessels operating on the Great Lakes, even those only trading between the United States and Canada. This section permits U.S.-flag vessels to trade between the United States and Canada with a certificate of documentation with a registry endorsement. However, a vessel engaged in the coastwise trade or fisheries on the Great Lakes must meet all the requirements necessary to obtain coastwise or fisheries endorsements.

Section 746 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 1116. RELIEF FROM UNITED STATES DOCUMENTATION REQUIREMENTS

Section 1116 of the Senate bill would authorize nine specific vessels to be sold to a person that is not a citizen of the United States and to be transferred or placed under foreign registry, notwithstanding the Construction-Differential Subsidy requirements. Currently, U.S.-flag vessels built with the assistance of a Construction-Differential Subsidy are required to be owned by United States citizens and documented under the laws of the United States for a period of 25 years.

Section 609 of the House amendment allows the vessel *MV Platte* to be sold to a non U.S. citizen.

The Conference substitute amends the Senate provision by deleting the vessels *Rainbow Hope, Iowa Trader,* and *Kansas Trader,* and adding the vessels *Bay Ridge* and *Coastal Golden*.

SECTION 1117. USE OF FOREIGN REGISTRY OIL SPILL RESPONSE AND RECOVERY VESSELS

Section 1117 of the Senate bill allows oil spill response and recovery vessels of Canadian registry to operate in waters of the United States adjacent to the border between Canada and the State of Maine, on an emergency basis, in the event of an oil spill. These vessels could only be used if there were not enough U.S.-flag recovery vessels available during an oil spill.

The House amendment does not contain a comparable provision.

The Conference substitute expands the Senate provision to the use of any foreign registered oil spill response vessel throughout the United States.

SECTION 1118. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS

Section 1118 of the Senate bill amends section 31329 of title 46, United States Code, to allow for the sale, by order of a District

Court, of recreational vessels to non-U.S. citizens. This would conform the conditions for the judicial sale of these vessels to the conditions for their private sale under section 9(c) of the Shipping Act of 1916 (46 App. U.S.C. 808(c)). In the past, the provisions of section 31329 of title 46 have unreasonably restricted the foreign sales of recreational vessels and the ability of subsequent U.S. owners to document the vessels.

Section 405 of the House amendment is similar to the Senate provision, but also allows the sale, by an order of a court, of documented fishing industry vessels.

The Conference substitute adopts the House amendment with several technical amendments.

SECTION 1119. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL

Section 1119 of the Senate bill amends section 641(c)(2) of title 14, United States Code, to exempt sales by the Coast Guard of recyclable materials for which the proceeds of sale will not exceed $5,000 from current excess property disposal requirements for the sale of recyclable materials. This section also authorizes the Coast Guard to make these small sales under regulations prescribed by the Commandant.

Section 406 of the House amendment is identical.

The Conference substitute adopts the Senate provision.

SECTION 1120. DOCUMENTATION OF CERTAIN VESSELS

Section 1120 of the Senate bill waives certain U.S. coastwise trade laws for 65 individually listed vessels.

Section 601 of the House amendment authorizes the Secretary of Transportation to issue a certificate of documentation with a coastwise endorsement for a vessel that is less than 200 gross tons, is eligible for documentation, was built in the United States, and was sold foreign or placed in a foreign registry. Section 602 of the amendment provides a limited U.S. coastwise trade waiver for the *Gallant Lady*. Section 603 extends the deadline under section 601(d) of the Coast Guard Authorization Act of 1993 for the major conversion of the vessel *M/V Twin Drill* from June 30, 1995, to June 30, 1996. Section 604 grants a U.S. coastwise trade waiver to the vessel *Rainbow's End*. Section 605 of the House amendment grants a U.S. coastwise trade waiver to the vessel *Gleam*. Section 606 of the House amendment grants a U.S. coastwise trade waiver to 25 individually listed vessels. Section 607 grants a U.S. coastwise trade waiver to four barges owned by McLean Contracting Company.

The Conference substitute adopts all the House and Senate provisions. The substitute also allows an additional number of individually listed vessels to engage in the U.S. coastwise trade. Subsection (f) entitles any vessel that either is foreign built prior to the date of enactment of this Act and documented under the U.S. registry or is documented under the U.S.-flag before the date of enactment, placed under foreign registry and subsequently redocumented under U.S. registry, to transport liquefied natural gas or liquefied petroleum gas to Puerto Rico. Subsection (g) deems the coastwise qualified vessels *Coastal Sea* and *Coastal Merchant* to have been constructed in the United States.

Section 608 grants a U.S. coastwise trade waiver for the *Enchanted Isle* and the *Enchanted Seas*. The Conferees applaud the efforts to reinvigorate the U.S. coastwise cruise vessel market with the re-entry of these U.S.-built vessels. The Conferees are hopeful that these vessels will prove the economic viability of U.S.-built, U.S.-documented vessels in the U.S. coastwise trade and will serve as the foundation for the re-emergency of a U.S.-built, U.S.-flag cruise vessel industry.

The Conferees believe strongly, however, that the re-entry into the U.S. coastwise trade of older vessels, albeit vessels originally constructed in the United States, is merely an interim step in the promotion of a U.S.-flag cruise vessel industry. Further vessels obtaining eligibility to operate in the U.S. coastwise trade should not only be U.S.-built vessels, but also vessels new built in the United States.

The United States is strongly encouraging construction of commercial vessels in U.S. shipyards. U.S. Navy shipbuilding orders over the next few years are not projected to be sufficient to sustain the U.S. shipyard defense mobilization base this country needs in the event of a national emergency. Other means of maintaining that mobilization base must also be employed.

Fortunately, U.S. shipyards are showing renewed vigor with regard to their international commercial competitiveness. U.S. shipyards are winning orders for the export of a number of commercial vessels. And the conferees understand that U.S. shipyards are developing designs for highly marketable cruise vessels that can be constructed by such yards and offered at prices competitive with European shipyards, the leaders in cruise vessel construction. U.S. government programs, including the National Defense Features Program, Maritech, and MARAD Title XI should be helpful in assisting U.S. shipyards in offering competitive prices for cruise vessels.

The Conferees, therefore, intend the coastwise re-flagging permissions contained in this provision to be strictly limited. Moreover, the Conferees strongly encourage persons affected by this section to replace their vessels as soon as practicable with newly constructed U.S.-built cruise vessels and to take advantage of U.S. Navy and other government incentives in such new construction.

Section 1120(g) of the Conference substitute simply deems three forfeiture vessels to be considered to be ''constructed in the United States'' for the limited purpose of the Merchant Marine Act of 1936, as amended.

Section 1120(h) of the Conference substitute inserts a new section in the Coast Guard Authorization Act for Fiscal Year 1996 which authorizes the repayment to the Secretary of Transportation of the remaining unamortized construction-differential subsidy on the tug *M/V Janis Guzzle*. The repayment of the unamortized portion of the construction-differential subsidy for the vessel will permanently release it from the domestic trading restrictions.

SECTION 1121. VESSEL DEEMED TO BE A RECREATIONAL VESSEL

Section 1121 of the Senate bill deems an approximately 96 meter twin screw motor yacht, to be named the *Limitless*, to be a recreational vessel under chapter 43 of title 46, United States Code, as along as the vessel does not carry passengers for hire or engage in commercial fishing.

Section 428 of the House amendment is similar to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1122. SMALL PASSENGER VESSEL PILOT INSPECTION PROGRAM WITH THE STATE OF MINNESOTA

Section 1122 of the Senate bill allows the Secretary of Transportation to enter into an agreement with the State of Minnesota under which the state may inspect small passenger vessels operating in the waters of Minnesota under certain conditions.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision. As a matter of Constitutional law, the Federal Government has responsibility for requirements pertaining to vessel structure, design, equipment, and operation. (See Ray v. Atlantic Richfield Co., 435 U.S. 151 (1978) and Kelly v. Washington, 302 U.S. 1 (1937)). Authority to make such regulations are vested in the Secretary of Transportation under sections 3306 and 3307 of title 46, United States Code. Federal uniformity in these matters is critical to maintain interstate and international commerce, and because the absence of uniformity hinders the United States' ability to seek increased international vessel standards to better protect the environment.

However, the Coast Guard is allowed to delegate its' authority to non-Federal entities and has delegated its' authority to inspect vessels to private classification societies such as the American Bureau of Shipping. This section establishes a new type of delegation—to a State. However, the State must enter into an agreement that will ensure that the State will apply the Federal standards to the inspection of these vessels. This will guarantee that there will continue to be uniformity in the application of the law to all vessels subject to Federal jurisdiction in Minnesota.

SECTION 1123. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FISHING

Section 1123 of the Senate bill allows an alien employed under the immigration laws of the Commonwealth of the Northern Mariana Islands (CNMI) to be employed on a fishing vessel in the CNMI if the vessel is permanently stationed at a port within the Commonwealth.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 1124. AVAILABILITY OF EXTRAJUDICIAL REMEDIES UPON DEFAULT OF PREFERRED MORTGAGE LIENS ON VESSELS

Section 1124 of the Senate bill establishes a nonjudicial alternative for lenders to take possession of a vessel after a default.

Under current law, marine lenders seeking to foreclose loans secured by mortgaged vessels must pursue their rights in the courts to clearly preserve their right to recover a deficiency after the sale of the vessel.

Section 31325 of title 46, United States Code, provides for the foreclosure of a preferred mortgage on a documented vessel by an in rem arrest action against the vessel within the district court's admiralty jurisdiction. This remedy establishes the priority for the mortgage lien as against any maritime lien or land-based lien on the vessel and permits the vessel to be sold free and clear of liens.

Under the Uniform Commercial Code in effect in almost every state, a secured creditor may take possession of the collateral security for the loan upon a default and sell it in foreclosure of the creditor's lien. For many years, lender's holding preferred mortgages on documented vessels regularly exercised this type of ''self-help'' remedy to sell mortgaged vessels upon a loan default. Particularly for smaller loans secured by recreational vessels, when the debtor raised no opposition to repossession and there was little likelihood of an adverse maritime lien claim against the vessel, there was no reason to go through the time-consuming, expensive procedures of an action in court.

In 1985, the decision in Bank of America National Trust and Savings Association v. Fogle, 637 F. Supp. 305, 1986 AMC 205 (N.D. Cal. 1985) was rendered. In Fogle, the court held that in providing for an in rem admiralty remedy in law, Congress must have intended to preclude a ''self-help'' remedy

under state law. The Fogle decision has forced lenders seeking to foreclose defaulted loans secured by documented vessels to use a court action, even when no controversy requiring judicial action is necessary.

Section 1124(a) of the Senate bill adds a new paragraph (3) to section 31325(b) of title 46, United States Code, to clarify that the remedies currently available under section 31325(b) do not preclude the exercise of other lawful rights and remedies available to mortgagees, including extrajudicial, ''self-help'' remedies. New paragraph 31325(b)(3) also supports the international recognition of vessel mortgage foreclosures under principles of comity and permits a preferred mortgage on a U.S.-flag vessel to be foreclosed in a foreign court having jurisdiction over the vessel.

Consistent with existing law, the rights of any maritime lien claimant or holder of a preferred mortgage are expressly preserved under the amendments made by this section, notwithstanding the use of a self-help remedy under state law.

The amendment will also not affect the remedies available under state law to the holder of a security interest which is deemed to be a preferred mortgage pursuant to section 31322(d) of title 46, United States Code, when the Vessel Identification System established under chapter 125 of title 46 is effective.

Section 1124(b) of this bill requires the person exercising the extrajudicial remedy to give notice of the remedy to the Coast Guard, to any other mortgage whose mortgage is recorded, and to any maritime claimant who has recorded a notice of a claim of a lien with the Coast Guard.

Section 412 of the House amendment is identical to the Senate provision.

The Conference substitute adopts the Senate provision.

SECTION 1125. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS

The Senate bill contains a provision regarding offshore oil spill evidence of financial responsibility.

The House amendment also contains a provision.

The Conference substitute contains a compromise amendment.

1126. DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS

Section 1126 of the Senate bill deauthorizes a portion of the navigation project in Cohasset Harbor, Massachusetts.

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision.

SECTION 1127. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

The Senate bill contains no comparable provision.

Section 410 of the House amendment expresses the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased by the Coast Guard should be American-made.

The Conference substitute adopts the House provision.

SECTION 1128. REQUIREMENT FOR PROCUREMENT OF BUOY CHAIN

The Senate bill does not contain a comparable provision.

Section 429 of the House amendment requires that the Coast Guard purchase buoy chain manufactured in the United States.

The Conference substitute adopts the House provision with an amendment.

SECTION 1129. CRUISE SHIP LIABILITY

The Senate bill contains no comparable provision.

Section 430 of the House amendment makes three changes in current maritime law: The first allows foreign ship owners to provide that foreign crew members must bring lawsuits for damages involving injury or death in appropriate foreign courts. The second provision allows a shipowner to invoke a state's cap on medical malpractice damages when the shipowner is held vicariously liable for a doctor's medical malpractice. The third provision prohibits cruise vessel passengers from recovering damages for psychological injuries that are not accompanied by physical injury or actual risk of physical injury.

The Conference substitute adopts two subsections of the House amendment, with amendments. Section 1129(a) of the conference substitute provides that in a civil action by any person in which the operator or owner of a vessel is claimed to have vicarious liability for medical malpractice involving a crewmember that occurs to a shoreside facility, to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner or operator of the vessel is entitled to rely upon statutory limitations applicable to the doctor or other health care provider in the state in which the shoreside medical care was provided. Section 1129(b) allows an owner or operator of a vessel to be relieved from liability for infliction of emotional distress under certain conditions. This relief does not apply if the emotional distress was the result of physical injury to the claimant caused by negligence of the owner, the result of the claimant having been at actual risk of physical injury, or intentionally inflicted by a crewmember or the owner or operator of the vessel (or his manager, agent, or master). Nothing in the Conference substitute limits the liability of a crewmember or the manager, agent, master, owner or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

SECTION 1130. SENSE OF CONGRESS ON THE IMPLEMENTATION OF REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

In enacting the Edible Oil Regulatory Reform Act, Public Law 104–55, the Congress intended that the agencies recognize the differences between animal fats and vegetable oils from other oils and provide regulatory relief from the burdens of various environmental statutes, such as the Oil Pollution Act of 1990 and the Federal Water Pollution Control Act. Those statutes were enacted to regulate petroleum oil and other toxic oils and hazardous substances. Because of the over broad definition of oil, those statutes applied to animal fats and vegetable oils as well. This provision expresses the sense of Congress that agencies responsible for the regulation of animal fats and vegetable oils under those laws should consider and recognize the differences in these oils and structure different regulatory requirements based on those differences. This provision also requires the submission of an annual report to Congress on the implementation of this policy.

The Conference substitute expresses the sense of Congress that agencies responsible for the regulation of animal fats and vegetable oils should consider and recognize the differences between these oils and petroleum-based oils and implement regulatory requirements reflective of those differences. This provision also requires the submission of an annual report to Congress on the implementation of this policy.

SECTION 1131. TERM OF DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute provides that when the term of the Director of the Bureau of Transportation Statistics (BTS) expires, the Director may continue to serve until his or her successor is appointed and confirmed. It is important to provide for continuity in the leadership of BTS, due to the important work that BTS performs.

SECTION 1132. WAIVER OF CERTAIN REQUIREMENTS FOR HISTORIC FORMER PRESIDENTIAL YACHT SEQUOIA

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The SEQUOIA was originally constructed in 1925 and served as a presidential yacht for over half a century. It is a national treasure listed on the Register of the National Trust for Historic Preservation. The vessel has been completely refurbished and restored in a manner in which its historic value has been preserved and the vessel has recently been brought up to date. The Conferees intend for the Coast Guard to work with the vessel's owners to allow the SEQUOIA to carry passengers for hire without imposing requirements that compromise the historic integrity of the restoration of the vessel or the safety of its passengers.

SECTION 1133. VESSEL REQUIREMENTS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute (1) extends the original expiration date by ten years from 1998 to 2008; (2) expands the term ''a vessel''; and (3) modestly expands the permissible area of operation beyond inland rivers to include that narrow band shoreward of the boundary Line.

The Conferees urge the Coast Guard to work with the owners of the *Delta King* to assist them in meeting the inspection standards in the most cost effective manner possible.

SECTION 1134. EXISTING TANK VESSEL RESEARCH

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute requires the Secretary of Transportation to fully fund certain research projects intended to evaluate double-hull alternatives by the end of Fiscal Year 1997. The substitute also permits the Secretary to use public vessels for research in oil pollution technologies which prevent or mitigate oil discharges and protect the environment. This public vessel use is restricted to projects sponsored by the U.S. government so that the status of the vessel as a public vessel will not be lost, and so that no additional cost will be added to the project.

SECTION 1135. PLAN FOR THE ENGINEERING, DESIGN, AND RETROFITTING OF THE ICEBREAKER MACKINAW

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute requires the Coast Guard to submit by May 1, 1997, a plan and cost estimate for the engineering, design, and retrofitting of the icebreaker *Mackinaw*.

SECTION 1136. CROSS BORDER FINANCING

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

Currently U.S. companies wanting to purchase vessels and then place those vessels under United States registry cannot take full advantage of modern financing methods available to their foreign competition and other domestic transportation sectors. For example, the U.S. airline industry frequently acquires aircraft by chartering them from ownership trusts that have non-citizen beneficiaries. Many investors view ownership trusts as more secure than debt instruments (such as mortgages) and trusts sometimes receive favorable treatment under foreign tax codes. Furthermore, there is no reason why these trusts cannot be structured in a way that preserves U.S. citizen control of vessels.

Under current U.S. law, a vessel owned by a trust is eligible for documentation only if all its ''members'' are U.S. citizens and it is capable of holding title to a vessel under the Laws of the United States or a State. The U.S. Coast Guard has interpreted this requirement to mean that a trust arrangement is a citizen if each of its trustees and each beneficiary with an enforceable interest in the trust is a citizen. In contrast, a corporation is a documentation citizen if it was established under U.S. law and the CEO, Chairman of its board and a sufficient number of board members sufficient to establish a quorum are all U.S. Citizens. There is no requirement that the stock of the corporation be owned by citizens, because the purpose of the law is satisfied so long as the vessel is controlled by U.S. citizens. Unfortunately, the ambiguity of the law with respect to passive beneficiaries of trusts is impeding the revitalization of our fleet.

Under present law, the Secretary of Transportation may grant the right to sell or transfer a vessel foreign generally only after it is documented under the U.S. flag. Investors will not participate in financing vessels using these trusts unless they can first be assured that a particular trust instrument will meet the documentation test and they have the option to sell or transfer the vessel world-wide if the vessel charterer subsequently defaults or the charter terminates. It is not realistic to expect much enthusiasm from investors unless they have reasonable option to protect their assets.

Section 1136(a) of the Conference substitute amends section 12102 of Title 46 to permit documentation of vessels subject to ownership trusts under which not all of the beneficiaries are U.S. citizens, provided that the trust document permits not more than 25% of the authority to direct or remove a trustee is held by non-citizens, and the trustee(s) gives certain assurances. The conferees intend this section to be implemented in the same manner as similar cross border leasing transactions as for aircraft administered by the FAA. New section 12102(d)(4) provides that a vessel chartered by the trust to a citizen of the United States under section 2 of the Shipping Act, 1916 is deemed to be a citizen of the United States for purposes of that section and related laws such as the Capital Construction Fund Program. However, the charterer is not considered a section 2 citizen for purposes of new subtitle B of title VI of the Merchant Marine Act, 1936 which is dealt with separately in this section. The purpose of this section is to allow greater flexibility for section 2 citizens to use widely used international financing practices to decrease the acquisition cost of new vessels.

Section 1136(b) amends Section 9 of the Shipping Act, 1916 to permit the Secretary of Transportation to grant, prior to the documentation of a vessel, approval for prospective sale or transfer foreign of a vessel owned by these trusts. This amendment codifies current practices of the Secretary.

Section 1136(c) provides that for purposes of determining whether a vessel is owned and operated by a citizen of the United States for participation the program established under subtitle B of title VI of the Merchant Marine Act, 1936, a vessel chartered by a trust under section 12102(d)(2) of title 46, United States Code (as enacted by subsection (a) of this section) is a citizen of the United States under section 2 of the Shipping Act, 1916 if: (1) the vessel is delivered by a shipbuilder on or after May 1, 1995 and before January 31, 1996; (2) the vessel is owned by a section 2 citizen on September 1, 1996 or is a replacement for such a vessel; or (3) payments have been made with respect to the vessel under subtitle B of title VI of that Act for at least one year.

Section 1136(d) provides that, for purposes of determining whether a vessel is owned and operated by a citizen of the United States for participation the program established under subtitle B of title VI of the Merchant Marine Act, 1936, a vessel is deemed to be owned and operated by a section 2 citizen if the vessel is owned ''directly or indirectly'' by a section 2 citizen and the vessel was: (1) built under a shipbuilding contract signed on December 21, 1995 and having hull number 3077, 3078, 3079, or 3080; (2) delivered by a shipbuilder on or after May 1, 1995 and before January 31, 1996; owned by a section 2 citizen on September 1, 1996 or is a replacement for such a vessel; or (4) the beneficiary of under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

Nothing in the amendments made by this section diminishes the authority of the Secretary to impose reasonable conditions, such as requisition of the vessel in time of emergency under Section 902 of the Merchant Marine Act, 1936, on the foreign transfer of a vessel.

SECTION 1137. VESSEL STANDARDS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute provides for Certification of Inspection provisions, and for reliance on non-governmental classification societies. Subsection (b) applies only for the period of time that the vessel fails to comply with the applicable standards.

SECTION 1138. VESSELS SUBJECT TO THE JURISDICTION OF THE UNITED STATES

The Senate bill contains a provision enhancing law enforcement authorities related to vessels and aircraft.

The House amendment contains no comparable provision.

The Conference substitute establishes new law enforcement provisions which expand the Government's prosecutorial effectiveness in drug smuggling cases. Claims of foreign registry must be ''affirmatively and unequivocally'' verified by the nation of registry to be valid. People arrested in these international situations would not be able to use as a defense that the U.S. was acting in violation of international law regarding recognition of registry at the time of the arrest. The Secretary of State's certification as to the content of discussions with foreign nations about matters of registry would be considered ''fact'', irrespective of the statements or certifications of the foreign nation at a later time. Jurisdictional issues would always be issues of law to be decided by the trial judge, not issues of fact to be decided by the jury.

SECTION 1139. REACTIVATION OF CLOSED SHIPYARDS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute establishes the basis for the Secretary of Transportation to assist certain closed shipyards by supporting projects for the reactivation and modernization of those yards and the construction of ships at those yards. Subsection (a) authorizes the Secretary to provide loan guarantees under the shipping laws to assist in the reactivation and modernization of a currently closed shipyard that (1) historically built vessels and intends to compete in international commercial shipbuilding; (2) is either a designated public-private partnership project or has an approved reuse plan and revolving economic conversion fund; and (3) involves a State or State-chartered agency that makes a significant investment in the project.

Subsection (b) waives the application of certain factors designed to apply to existing yards but subsection (c) directs the Secretary to impose appropriate standards for a reactivation and modernization project to protect the United States from the risk of default. Included in subsection (c) is a provision regarding shipyard and shipbuilding project interdependency. This provision was added to give the Maritime Administration guidance when considering whether to issue a guarantee or a commitment to guarantee obligations for the construction of vessels in connection with and as an integral part of the reactivation or modernization of closed shipyards. It recognizes that vessels integral to the reactivation of a closed shipyard may request approval of a loan guarantee at the same time the closed shipyard is requesting approval of a loan guarantee and that due consideration and weight should be afforded the vessel's application. This interdependency language is intended to facilitate the Maritime Administration's review and approval of closed shipyard and vessel loan guarantee applications simultaneously as part of the total shipyard reactivation and modernization project. This is not intended, however, to be a limiting provision allowing the Maritime Administration to precondition the issuance of a guarantee or commitment to guarantee for a closed shipyard on the approval of related vessel loan guarantees.

Subsection (d) limits the aggregate guarantees for shipyards only under this section to $100 million, requires a State or State-agency to provide to the Secretary the amount of funds needed to cover the risk factor cost under the Federal Credit Reform Act for the Secretary to deposit into a financing account in the Treasury, and provides for the reversion of the deposited amount to the State or State-agency if, on the expiration of the guarantee, no obligation is to be paid from the deposited funds under the terms of the guarantee. Other factors related to the cost of a guarantee are established in this section.

Subsection (e) sets an expiration date of one year after the date of enactment and subsection (f) contains a definition.

SECTION 1140. SAKONNET POINT LIGHT

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute states that an action for damage or injury arising from the operation, maintenance, or malfunctioning of an aid to navigation, at Sakonnet Point, Little Compton, Rhode Island shall be determined by State law.

SECTION 1141. DREDGING OF RHODE ISLAND WATERWAYS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding Rhode Island dredging.

SECTION 1142. INTERIM PAYMENTS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding interim payments.

SECTION 1143. OIL SPILL INFORMATION

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding oil spill information.

SECTION 1144. COMPLIANCE WITH OIL SPILL RESPONSE PLANS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding oil spill response plans.

SECTION 1145. CLARIFICATION OF TANK VESSEL REQUIREMENTS

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference substitute adopts an amendment regarding tank vessel requirements.

SECTION 1146. FISHING VESSEL EXEMPTION

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

Section 1146 clarifies that the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) does not apply to fishing vessels, including fishing vessels when they are operating as fish tender vessels. The STCW sets qualifications for masters, officers, and watchkeeping personnel on seagoing merchant ships, including the approximately 350 large U.S. merchant ships, and is not appropriate for fishing vessels or traditional fish tender operations.

SECTION 1147. BRIDGE DEEMED TO UNREASONABLY OBSTRUCT NAVIGATION

The Senate bill contains no comparable provision.

The House amendment contains no comparable provision.

The Conference Substitute deems the Sooline & Milwaukee Road Swing Bridge in Oshkosh, Wisconsin as an ''unreasonable obstruction to navigation''. This makes the vessel eligible for funding under the Truman-Hobbs Act, a program to fund the removal of these types of bridges that pose a threat to safe navigation of vessels.

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

BUD SHUSTER,
DON YOUNG,
HOWARD COBLE,
TILLIE K. FOWLER,
BILL BAKER,
JAMES L. OBERSTAR,
BOB CLEMENT,
GLENN POSHARD,

From the Committee on the Judiciary, for consideration of sec. 901 of the Senate bill, and sec. 430 of the House amendment, and modifications committed to conference:

HENRY HYDE,
BILL MCCOLLUM,

*Managers on the Part of the House.*

From the Committee on Commerce, Science, and Transportation:

LARRY PRESSLER,
TED STEVENS,
SLADE GORTON,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
JOHN ASHCROFT,
SPENCER ABRAHAM,
FRITZ HOLLINGS,
DANIEL INOUYE,
JOHN F. KERRY,
JOHN BREAUX,
BYRON L. DORGAN,
RON WYDEN,

From the Committee on Environment and Public Works:

JOHN H. CHAFEE,
JOHN WARNER,
BOB SMITH,
LAUCH FAIRCLOTH,
JIM INHOFE,
MAX BAUCUS,
FRANK R. LAUTENBERG,
JOE LIEBERMAN,

*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. FOWLER (at the request of Mr. ARMEY), for today after 4:30 p.m., on account of personal business.

Ms. JACKSON-LEE of Texas (at the request of Mr. GEPHARDT), for today after noon, on account of official business.

Mr. THOMPSON (at the request of Mr. GEPHARDT), for today, on account of an emergency in the district.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. MCDERMOTT, for 5 minutes, today.

Mr. GIBBONS, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. WOLF) to revise and extend their remarks and include extraneous material:)

Mr. HANSEN, for 5 minutes, on September 28.

Mr. BURTON of Indiana, for 5 minutes, on September 28.

Mr. MCINNIS, for 5 minutes, on September 28.

Mr. LONGLEY, for 5 minutes, on September 28.

Mr. DICKEY, for 5 minutes, on September 28.

Mr. HUTCHINSON, for 5 minutes, on September 28.

Mr. PACKARD, for 5 minutes, September 28.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. BACHUS, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. COX of California, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 5 minutes, today.

Mr. DICKEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. LATHAM, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. JACOBS.
Mr. FILNER.
Mr. DELLUMS.
Ms. DELAURO.
Mr. WILLIAMS.
Ms. PELOSI.
Mr. SCHUMER.
Ms. KAPTUR.
Mr. GIBBONS.
Ms. SLAUGHTER.
Mr. KANJORSKI.
Ms. LOFGREN.
Mr. BONIOR.
Mr. CARDIN.
Mr. LEVIN.
Ms. ESHOO.
Mr. REED.
Mr. PALLONE.
Mr. LANTOS.
Mr. CONDIT.
Mrs. MALONEY.
Mr. STOKES.
Mr. FAZIO.
Mr. DURBIN.
Mr. SANDERS.
Mr. HOYER.
Mr. TRAFICANT.
Mr. PASTOR.
Ms. MCCARTHY.
Mr. CLAY.
Ms. WATERS.
Mr. BREWSTER.
Mr. DOOLEY of California.
Mr. BARCIA.
Mr. KLINK.
Mr. ENGEL.
Mr. STARK.
Mr. ORTIZ.
Mr. ROEMER.
Mr. UNDERWOOD.
Mr. RICHARDSON.
Ms. HARMAN.
Mr. TORRES.
Mr. BENTSEN.

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mr. PETRI in three instances.
Mr. MILLER of Florida.
Mr. CUNNINGHAM in two instances.
Mr. TALENT.
Mr. RAMSTAD in two instances.
Mr. SCHAEFER.
Mr. MANZULLO.
Mr. GUNDERSON in two instances.
Mr. SCARBOROUGH.
Mr. SHUSTER.
Mr. GOODLING in three instances.
Mr. RADANOVICH.
Mr. SKEEN.
Mr. GINGRICH.
Mr. PACKARD.
Mr. SOLOMON in two instances.
Mr. SMITH of New Jersey in two instances.
Mr. HOUGHTON.
Mr. BUYER.
Mr. LEWIS of California.
Mr. SEASTRAND.
Mr. CHABOT.
Mr. QUINN.
Mr. NEY in three instances.
Mr. BUNNING of Kentucky.
Mrs. MORELLA.
Mr. BURTON of Indiana.
Mr. ARCHER.
Mr. COBLE.
Mr. BEREUTER.
Mr. KING in two instances.
Mr. MCCOLLUM.
Mr. ROBERTS.
Mr. HYDE.
Mr. OXLEY.
Mr. FOLEY.
Mr. HEFLEY.
Mr. JONES.
Mr. FUNDERBURK.
Mrs. FOWLER.
Mr. YOUNG of Alaska.
Mr. SPENCE.
Mr. SENSENBRENNER.
Mr. ROTH.
Mr. MCDADE.
Mr. LAZIO of New York.

## ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2508. An act to amend the Federal Food, Drug and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes;

H.R. 2594. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes;

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, and for other purposes; and

H.R. 3068. An act to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act.

## SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1675. An act to provide for the nationwide tracking of convicted sexual predators, and for other purposes;

S. 1802. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes;

S. 1970. An act to amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes;

S. 2085. An act to authorize the Capitol Guide Service to accept voluntary services; and

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

## ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 24 minutes p.m.) the House adjourned until Saturday, September 28, 1996, at 9 a.m.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee of Conference. Conference report on S. 1004. An act to authorize appropriations for the United States Coast Guard, and for other purposes (Rept. 104–854). Ordered to be printed.

Ms. PRYCE: Committee on Rules. House Resolution 546. Resolution providing for consideration of certain resolutions in preparation for the adjournment of the second session sine die (Rept 104–855). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 4067. A bill to provide for representation of the Northern Mariana Islands by a nonvoting Delegate in the House of Representatives; with an amendment (Rept. 104–856). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Year 2000 Computer Software Conversion: Summary of Oversight Findings and Recommendations (Rept. 104–857). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Crude Oil Undervaluation: The Ineffective Response of the Minerals Management Service (Rept. 104–858). Referred to the Committee of the Whole House on the State of the Union.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

H.R. 3158. The Committee of the Whole House on the State of Union discharged, and referred to the Committee on Science for a period ending not later than October 11, 1996, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of the Committee on Science pursuant to clause 1(n), rule X.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X, the following action was taken by the Speaker:

H.R. 2740. Referral of the Committee on Commerce extended for a period ending not later than October 2, 1996.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Alaska:

H.R. 4228. A bill to provide a process leading to full self-government for Puerto Rico; to the Committee on Resources.

By Mrs. JOHNSON of Connecticut:

H.R. 4229. A bill to amend title XVIII of the Social Security Act to provide for prospective payment for home health services under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky (for himself, Mr. JACOBS, Mr. GIBBONS, Mr. CRANE, Mr. THOMAS, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. CAMP, Mr. SAM JOHNSON, Mr. COLLINS of Georgia, Mr. PORTMAN, Mr. LAUGHLIN, Mr. ENGLISH of Pennsylvania, Mr. CHRISTENSEN, and Ms. DUNN of Washington):

H.R. 4230. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to make improvements in the rehabilitation programs provided for disabled individuals under such Act, and for other purposes; to the Committee on Ways and Means.

By Mr. ORTON (for himself and Mr. GIBBONS):

H.R. 4231. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from tax for gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. PETE GEREN of Texas:

H.R. 4232. A bill to designate the U.S. post office building located at 251 West Lancaster Street in Fort Worth, TX, as the ''Jim Wright Post Office Building''; to the Committee on Government Reform and Oversight.

By Mr. COX (for himself, Mr. WALKER, Mrs. MORELLA, and Mr. HASTERT);

H.R. 4233. A bill to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes; to the Committee on Science.

By Mr. PALLONE (for himself, Mr. ANDREWS, Mr. TORRICELLI, and Mr. MARKEY):

H.R. 4234. A bill to require reporting on toxic chemicals, to protect children's health, and for other purposes; to the Committee on Commerce.

By Mr. FOX:

H.R. 4235. A bill to amend the Fair Housing Act to prevent certain abuses; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska.

H.R. 4236. A bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes; to the Committee on Resources.

By Mr. BARRETT of Wisconsin:

H.R. 4237. A bill to amend the Employee Retirement Income Security Act of 1974 with

respect to rules governing litigation contesting termination or substantial reduction of retiree health benefits, to require a preponderance of evidence for termination or substantial reduction of retiree health benefits, and to allow court to use extrinsic evidence in determining the intent of a plan; to the Committee on Economic and Educational Opportunities.

By Mr. BOEHNER:

H.R. 4238. A bill to amend the Internal Revenue Code of 1986 to enhance tax incentives for charitable contributions, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, Transportation and Infrastructure, Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of California:

H.R. 4239. A bill to provide for the licensing of commercial space reentry vehicles and reentry sites, and for other purposes; to the Committee on Science.

By Mr. CUNNINGHAM:

H.R. 4240. A bill to amend the Tariff Act of 1930 with respect to the marking of golf clubs and golf club components; to the Committee on Ways and Means.

By Mr. DEUTSCH (for himself and Mr. GROSS):

H.R. 4241. A bill to amend the National Parks and Recreation Act of 1978 to designate the Marjory Stoneman Douglas Wilderness, to amend the Everglades National Park Protection and Expansion Act of 1989 to designate the Earnest F. Coe Visitor Center, and for other purposes to the Committee on Resources.

By Mr. DOOLITTLE (for himself, Mr. HERGER, Mrs. SEASTRAND, Mr. POMBO, Mr. CALVERT, Mr. PACKARD, Mr. DORNAN, Mr. CUNNINGHAM, Mrs. CHENOWETH, and Mr. COOLEY)

H.R. 4242. A bill to amend the act commonly known as the Antiquities Act to limit further extension or establishment of national monuments in California; to the Committee on Resources.

By Ms. DUNN of Washington (for herself, Ms. FURSE, Mr. BUNN of Oregon, and Mr. BLUMENAUER):

H.R. 4243. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Ways and Means.

By Mr. DURBIN (for himself and Mr. ENSIGN):

H.R. 4244. A bill to require the Secretary of Health and Human Services to waive the 3-day prior hospitalization requirement for coverage of skilled nursing facility services in the case of individuals classified within certain diagnosis-related groups; to the Committee on Ways and Means.

By Mr. FOX:

H.R. 4245. A bill to restrict the access of youth to tobacco products, and for other purposes; to the Committee on Commerce.

H.R. 4246. A bill to require a study by the U.S. Sentencing Commission of sentencing for drug offenses where domestic violence has been found to occur; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 4247. A bill to amend the National Labor Relations Act to require the National Labor Relations Board to resolve unfair labor practice complaints in a timely manner; to the Committee on Economic and Educational Opportunities.

By Ms. GREENE of Utah:

H.R. 4248. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of certain antibiotics that are parenterally administered in a home setting; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUNDERSON:

H.R. 4249. A bill to amend and strengthen the Animal Welfare Act; to the Committee on Agriculture.

H.R. 4250. A bill to amend title XIX of the Social Security Act to permit a State the option of covering community-based attendant services under the Medicaid Program; to the Committee on Commerce.

By Mr. HASTINGS of Washington:

H.R. 4251. A bill to amend the Internal Revenue Code of 1986 to exempt certain small businesses from the required use of the electronic fund transfer system for depository taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. HEFLEY:

H.R. 4252. A bill to establish labor provision and tax provisions for small-business concerns; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself and Mrs. KENNELLY):

H.R. 4253. A bill to enhance the financial security of children by providing for contributions by the Federal Government to child retirement accounts; to the Committee on Ways and Means.

By KLECZKA:

H.R. 4254. A bill to amend the Community Services Block Grant Act with respect to the composition of the boards of community action agencies, and of nonprofit private organizations, that receive funds under such act; to the Committee on Economic and Educational Opportunities.

By KLINK:

H.R. 4255. A bill to encourage the States to streamline the adoption process and make their adoption laws more uniform; to the Committee on Ways and Means.

By LAUGHLIN:

H.R. 4256. A bill to amend the Internal Revenue Code of 1986 to provide for the abatement of interest on deficiencies attributable to certain partnership items; to the Committee on Ways and Means.

By LAZIO of New York:

H.R. 4257. A bill to amend the Public Health Service Act to provide a one-stop shopping information service for individuals with serious or life-threatening diseases; to the Committee on Commerce.

By MCCOLLUM:

H.R. 4258. A bill to establish the U.S. Immigration Court; to the Committee on the Judiciary.

By Mr. MCHALE (for himself, Mr. BONIOR, Mr. MURTHA, Mr. KILDEE, Mr. FAZIO of California, Mr. EVANS, Mr. GREEN of Texas, Ms. WOOLSEY, Mr. ROMERO-BARCELO, Mr. HOLDEN, Mr. TEJEDA, Mr. ANDREWS, and Ms. HARMAN):

H.R. 4259. A bill to amend the Higher Education Act of 1965 to authorize Presidential Honors Scholarships to be awarded to all secondary school students in the top 5 percent of their graduating class, to promote and recognize high academic achievement in secondary school, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. METCALF:

H.R. 4260. A bill to require uniform appraisals of certain leaseholds of restricted Indian lands, and for other purposes; to the Committee on Resources.

By Mr. MILLER of Florida (for himself, Mrs. MEEK of Florida, and Mr. GOSS):

H.R. 4261. A bill to require the Director of the U.S. Fish and Wildlife Service to expedite issuance of and implement a contingency plan for responding to red tide events involving Florida Manatees, and to authorize the Director to make grants for research and evaluation of potential methods of therapeutic intervention for manatees intoxicated by red tide brevetoxins; to the Committee on Resources.

By Mrs. MORELLA:

H.R. 4262. A bill to save lives and prevent injuries to children in motor vehicles through improved national, State, and local child passenger protection program; to the Committee on Transportation and Infrastructure.

By Mr. MURTHA:

H.R. 4263. A bill to reinstate the emergency unemployment compensation program; to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Mr. WELDON of Pennsylvania, Mr. GINGRICH, Mr. WATTS of Oklahoma, Mr. BONILLA, and Mr. BILIRAKIS):

H.R. 4264. A bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUMANN (for himself and Ms. KAPTUR):

H.R. 4265. A bill to apply the Buy American Act to articles, materials, and supplies for use outside the United States; to the Committee on Government Reform and Oversight.

By Mr. PETRI:

H.R. 4266. A bill to amend the Fair Labor Standards Act of 1938 to prescribe a salary base for an exemption of an employee from the wage requirements of such act, and for other purposes; to the Committee on Economic and Educational Opportunities.

H.R. 4267. A bill to amend the Federal Election Campaign Act of 1971 to require certain disclosure and reports relating to polling by telephone or electronic device, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RANGEL (for himself and Mr. HOUGHTON):

H.R. 4268. A bill to provide for a project to demonstrate the application of telemedicine and medical informatics to improving the quality and cost-effectiveness in the delivery of health care services under the Medicare Program and other health programs; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROMERO-BARCELO:
H.R. 4269. A bill to relieve the Puerto Rico Housing Bank and Finance Agency and its assignees of liability for certain loans subject to the Truth-in-Lending Act; to the Committee on Banking and Financial Services.

By Mr. SANDERS:
H.R. 4270. A bill to require reporting on research and development expenditures for drugs approved for marketing, and for other purposes; to the Committee on Commerce.

By Ms. SLAUGHTER:
H.R. 4271. A bill to amend title XVIII of the Social Security Act to continue full-time-equivalent resident reimbursement for an additional 1 year under Medicare for direct graduate medical education for residents enrolled in combined approved primary care medical residency training programs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SPRATT:
H.R. 4272. A bill to amend the Solid Waste Disposal Act to improve public accountability and public safety in the management of hazardous waste facilities; to the Committee on Commerce.

By Mr. KIM (for himself, Mr. BEREUTER, and Mr. DORNAN):
H. Con. Res. 224. Concurrent resolution concerning the infiltration of North Korean commandos into the sovereign territory of the Republic of Korea on September 18, 1996; to the Committee on International Relations.

By Ms. ESHOO (for herself, Mr. TORRES, Mr. LANTOS, Mr. HOUGHTON, Mr. LEACH, Mr. DELLUMS, Mrs. MORELLA, Mr. ENGEL, Mrs. MALONEY, Mr. RANGEL, Mr. ACKERMAN, Mr. HINCHEY, Mr. BROWN of California, Mrs. LOWEY, Mr. PAYNE of New Jersey, Mr. HALL of Ohio, Mr. MILLER of California, Mr. SERRANO, Mr. NADLER, and Mr. BERMAN):
H. Con. Res. 225. Concurrent resolution expressing the commitment of the Congress to continue the leadership of the United States in the United Nations by honoring the financial obligations of the United States to the United Nations; to the Committee on International Relations.

By Mr. MENENDEZ (for himself, Mr. FRELINGHUYSEN, Mr. GILMAN, Mr. TORRICELLI, Mr. PAYNE of New Jersey, Mr. PALLONE, Mr. ZIMMER, Mr. MARTINI, Mr. SMITH of New Jersey, Mr. FRANKS of New Jersey, and Mr. ANDREWS):
H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress that a model curriculum designed to educate elementary and secondary school-aged children about the Irish famine should be developed; to the Committee on Economic and Educational Opportunities.

By Mr. SCHIFF (for himself, Mrs. SCHROEDER, Mr. BOEHLERT, Ms. HARMAN, Mr. HEINEMAN, Mr. SCHUMER, Mrs. KENNELLY, and Mr. WAMP):
H. Con. Res. 227. Concurrent resolution expressing the sense of Congress that the technology program at the National Institute of Justice of the Department of Justice, should be designated as the national focal point for law enforcement technology programs; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. PORTER, Mr. WOLF, Mr. FUNDERBURK, Mr. SALMON, Mr. HOYER, Mr. MARKEY, and Mr. CARDIN):
H. Con. Res. 228. Concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions; to the Committee on International Relations.

By Mr. YOUNG of Alaska:
H. Res. 544. Resolution providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 3378; considered under suspension of the rules and agreed to.

By Mr. ARCHER:
H. Res. 545. Resolution returning to the Senate the bill S. 1311; considered and agreed to.

By Ms. KAPTUR:
H. Res. 547. Resolution expressing the sense of the House of Representatives that any extension of fast-track negotiating authority to the executive branch for the expansion of the North American Free Trade Agreement [NAFTA] be tied solely to negotiations with the European Union on creation of a Trans-Atlantic Free Trade Area [TAFTA]; to the Committee on Ways and Means.

By Mr. MINGE (for himself, Mr. SHAYS, Mr. STENHOLM, and Mr. KLUG):
H. Res. 548. Resolution amending the Rules of the House of Representatives to allow floor consideration of amendments that are supported by at least 20 percent of the membership of the majority and minority parties of the House; to the Committee on Rules.

By Ms. PRYCE (for herself, Mr. DREIER, Mr. MCINNIS, Mr. DIAZ-BALART, and Ms. GREEN of Utah):
H. Res. 549. Resolution amending the Rules of the House of Representatives to impose the Ramseyer requirement on conference reports; to the Committee on Rules.

By Mr. SHAYS (for himself and Mr. BARRETT of Wisconsin):
H. Res. 550. Resolution amending the Rules of the House of Representatives to permit standing committees and subcommittees to designate members to question witnesses for periods not to exceed 30 minutes; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. JONES introduced a bill (H.R. 4273) to provide for the liquidation or reliquidation of certain entries of pharmaceutical grade phospholipids; which was referred to the Committee on Ways and Means.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 103: Mr. CALLAHAN.
H.R. 218: Mr. CREMEANS.
H.R. 500: Mr. CHABOT.
H.R. 820: Mr. RUSH.
H.R. 878: Mr. JACKSON.
H.R. 895: Mr. KILDEE.
H.R. 974: Mr. WYNN.
H.R. 997: Mr. MCHALE.
H.R. 1000: Mr. JACKSON.
H.R. 1010: Mr. NADLER.
H.R. 1046: Mr. PAYNE of Virginia.
H.R. 1136: Mr. CLAY, Miss COLLINS of Michigan, Mr. CONYERS, Mr. DEFAZIO, Mr. FATTAH, Ms. FURSE, Mr. HILLIARD, Mr. RUSH, Ms. VELAZQUEZ, Mrs. CLAYTON, Mrs. COLLINS of Illinois, Mr. COYNE, Mr. FIELDS of Louisiana, Mr. FORD, Mr. STOKES, Ms. WATERS, Mr. BEILENSON, Mr. THORNTON, Mr. BROWN of Ohio, Mr. COLEMAN, Mr. BRYANT of Texas, Mr. STUPAK, Mr. CALVERT, Mrs. MEEK of Florida, Mr. HINCHEY, Mr. KENNEDY of Rhode Island, and Mr. THOMPSON.
H.R. 1386: Mr. HEFNER.
H.R. 1462: Mr. BARRETT of Wisconsin.
H.R. 1853: Mr. MINGE.
H.R. 1889: Mr. OLVER.
H.R. 2011: Mr. SABO.
H.R. 2089: Ms. FURSE.
H.R. 2152: Mr. SMITH of New Jersey, Ms. RIVERS, Mr. HORN, Mr. KINGSTON, and Mr. VOLKMER.
H.R. 2167: Mr. FIELDS of Louisiana.
H.R. 2185: Mr. WELDON of Florida.
H.R. 2223: Ms. NORTON, Ms. FURSE, Mr. KENNEDY of Rhode Island, Mr. REED, and Mr. FRELINGHUYSEN.
H.R. 2400: Mr. MCHALE.
H.R. 2416: Mr. KLUG.
H.R. 2434: Mr. MCNULTY.
H.R. 2582: Mr. DELLUMS.
H.R. 2610: Mr. TORKILDSEN.
H.R. 2655: Mr. JOHNSON of South Dakota.
H.R. 2734: Mr. GILCHREST.
H.R. 2777: Mr. SERRANO.
H.R. 2877: Ms. DELAURO.
H.R. 2976: Mr. FATTAH, Mr. PAYNE of New Jersey, and Mr. ZIMMER.
H.R. 2999: Mr. SMITH of New Jersey.
H.R. 3077: Mr. ENSIGN and Mr. QUINN.
H.R. 3142: Mr. BALDACCI.
H.R. 3187: Mr. OLVER.
H.R. 3200: Mr. FRELINGHUYSEN and Mr. LEWIS of Kentucky.
H.R. 3311: Mr. PETERSON of Minnesota, Mr. HILLIARD, Mr. GREEN of Texas, and Mr. CUMMINGS.
H.R. 3401: Mr. SERRANO and Mrs. MORELLA.
H.R. 3413: Mr. FOGLIETTA.
H.R. 3426: Mr. EHLERS, Ms. DELAURO, Mr. RAMSTAD, Mr. LEWIS of Georgia, Mr. RAHALL, and Ms. KAPTUR.
H.R. 3434: Mr. HAYWORTH.
H.R. 3455: Ms. ESHOO and Mr. MARTINI.
H.R. 3482: Mr. NADLER, Mr. FOGLIETTA, and Ms. BROWN of Florida.
H.R. 3518: Mr. THOMAS.
H.R. 3531: Mr. GOODLATTE and Mr. HOKE.
H.R. 3538: Mr. CRAMER and Mr. BALDACCI.
H.R. 3566: Mrs. MALONEY.
H.R. 3621: Ms. VELAZQUEZ and Mr. HOKE.
H.R. 3636: Mr. BILBRAY.
H.R. 3654: Mr. BLUTE and Mr. FILNER.
H.R. 3714: Mrs. KENNELLY.
H.R. 3747: Mr. DELLUMS, Ms. WATERS, Mr. CUMMINGS, Mr. CONYERS, Mr. BENTSEN, Mr. FOGLIETTA, Mr. TOWNS, Mr. ACKERMAN, Mr. BLUMENAUER, Mr. SERRANO, Mr. WATT of North Carolina, and Mr. JACKSON.
H.R. 3753: Mr. HASTINGS of Washington.
H.R. 3785: Ms. SLAUGHTER, Mrs. THURMAN, and Mr. WAXMAN.
H.R. 3786: Mr. HASTERT, Mr. EWING, Mr. NUSSLE, Mr. CALVERT, Mr. HAYES, Mr. DICKEY, Mr. HUTCHINSON, and Mr. BARRETT of Nebraska.
H.R. 3807: Mr. SERRANO.
H.R. 3817: Ms. PRYCE and Mr. KING.
H.R. 3830: Mr. HINCHEY.
H.R. 3835: Mr. CONDIT, Ms. EDDIE BERNICE JOHNSON of Texas, and Mrs. THURMAN.
H.R. 3838: Mr. WICKER and Mr. VOLKMER.
H.R. 3839: Mr. SHAYS.
H.R. 3849: Mr. DAVIS.
H.R. 3860: Ms. NORTON.
H.R. 3891: Mr. LAZIO of New York.
H.R. 3901: Ms. FURSE, Mr. CLEMENT, Mr. KINGSTON, Mr. BAKER of Louisiana, Mr. NORWOOD, Mr. GUTKNECHT, and Mr. LIPINSKI.
H.R. 3927: Mr. NEUMANN.
H.R. 3938: Mr. CRAMER and Mr. BALDACCI.
H.R. 4016: Mr. BARTON of Texas, Mr. HASTERT, and Mr. CHRYSLER.
H.R. 4028: Ms. KAPTUR.
H.R. 4047: Mr. SHAYS, Mr. FOGLIETTA, Mrs. KENNELLY, Mr. LOBIONDO, Mr. NEY, Mr. NADLER and Mr. HOUGHTON.
H.R. 4056: Mr. PASTOR, Mr. SERRANO, Mr. STARK, Mr. TOWNS, Mr. FALEOMAVAEGA, and Mr. DELLUMS.
H.R. 4090: Mr. CRANE and Mr. POMEROY.

H.R. 4100: Mr. KENNEDY of Rhode Island.
H.R. 4106: Mr. OLVER.
H.R. 4122: Mr. BROWN of California.
H.R. 4124: Mr. FRANK of Massachusetts.
H.R. 4133: Mr. LEWIS of California.
H.R. 4145: Mr. SHAYS, Mr. FATTAH, Mr. COLEMAN, Mr. SCHUMER, and Mr. ZIMMER.
H.R. 4148: Mr. BARRETT of Wisconsin, Mr. BLUTE, Mr. CAMPBELL, Mr. DEUTSCH, Mr. EHLERS, Mr. FORBES, Mr. GILCHREST, Mr. HASTINGS of Washington, Mr. HOKE, Mr. HOUGHTON, Mrs. KELLY, Mr. MANZULLO, Mrs. MYRICK, Mr. OXLEY, Mr. QUINN, Mr. RUSH, Mr. SMITH of Michigan, Mr. SMITH of Texas, Mr. TORKILDSEN, Mr. WELDON of Pennsylvania, Mr. BASS, Mr. BOEHLERT, Mr. DAVIS, Mr. DICKEY, Mr. ENGLISH of Pennsylvania, Mr. FRELINGHUYSEN, Mr. FUNDERBURK, Mr. GILLMOR, Mr. HOBSON, Mr. HORN, Mr. JONES, Mr. LAHOOD, Ms. MOLINARI, Mr. NEY, Ms. PRYCE, Mrs. ROUKEMA, Mr. SANDERS, Mr. SMITH of New Jersey, Mr. THOMPSON, Mr. UPTON, and Mr. YATES.
H.R. 4166: Mr. SANDERS.
H.R. 4170: Mr. WATTS of Oklahoma, Mr. MARTINI, Mr. STUMP, Mr. KIM, and Mr. TATE.
H.R. 4174: Mr. GILLMOR.
H.R. 4183: Mr. LIPINSKI.
H.R. 4217: Mr. MINGE.
H.J. Res. 171: Mr. MARKEY.
H. Con. Res. 21: Mr. CONYERS.
H. Con. Res. 128: Ms. FURSE.
H. Con. Res. 164: Mr. ACKERMAN, Mr. BROWN of California, Mr. DEAL of Georgia, Mr. EVANS, and Mr. MCHUGH.
H. Con. Res. 190: Mr. HOSTETTLER, Mr. HASTINGS of Washington, and Mr. BARRETT of Wisconsin.
H. Con. Res. 205: Mr. PORTER and Mr. FROST.
H. Con. Res. 209: Ms. FURSE.
H. Con. Res. 220: Mr. MORAN.
H. Res. 30: Mr. RUSH, Mr. HOKE, Mr. STUPAK, Mrs. FOWLER, Mrs. CHENOWETH, Mr. LAUGHLIN, Mr. BARTLETT of Maryland, Mr. MILLER of California, Ms. BROWN of Florida, Mr. QUILLEN, and Mr. VOLKMER.
H. Res. 49: Mr. STOKES.
H. Res. 478: Mr. BARRETT of Wisconsin and Ms. FURSE.
H. Res. 490: Mr. HASTINGS of Washington, Mr. YATES, and Mr. WELLER.
H. Res. 491: Ms. FURSE.
H. Res. 520: Mr. HILLIARD, Mr. RANGEL, Mr. DEFAZIO, Mr. FRAZER, and Mr. CLAY.
H. Res. 521: Mr. SERRANO, Mr. CARDIN, Mr. VENTO, Mr. PAYNE of New Jersey, and Mr. BLUMENAUER.
H. Res. 537: Mr. HINCHEY, Mr. FARR, Mr. CAMPBELL, Ms. LOFGREN, and Mr. NEAL of Massachusetts.
H. Res. 541: Mr. BEREUTER and Mr. SMITH of Michigan.

United States
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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, FRIDAY, SEPTEMBER 27, 1996 No. 136

# Senate

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

## PRAYER

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

The Lord bless you and keep you; the Lord make his face to shine upon you, and be gracious to you; the Lord lift up His countenance upon you, and give you peace.

Father, we begin this day by claiming this magnificent fivefold assurance. We ask You to make this a blessed day filled with the assurance of Your blessing. May we live today with the Godly esteem of knowing You have chosen us and called us to receive Your love and serve You. Keep us safe from danger and the forces of evil. Give us the helmet of salvation to protect our thinking brains from any intrusion of temptation to pride, resistance to Your guidance, or negative attitudes. Smile on us as Your face, Your presence, lifts us from fear or frustration. Thank You for Your grace to overcome the grimness that sometimes pervades our countenance. Instead, may our countenance reflect Your joy. May Your peace flow into us calming our agitated spirits, conditioning our dispositions, and controlling all we say and do. Help us to say to one another, ''Have a blessed day,'' and expect nothing less for ourselves. Through our Lord and Savior. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Good morning, Mr. President.

## SCHEDULE

Mr. LOTT. Mr. President, I wish to again thank all the Senators for their cooperation yesterday in moving a couple of important bills—the pipeline safety bill and the NIH reauthorization. It looks as if we are going to have some other conference reports available today. I also wish to thank the Senator from New Hampshire for his efforts on the bill that we did have a vote on yesterday.

This morning there will be a period of morning business until the hour of 12 noon. I believe Senator MCCAIN and others have time reserved. Following morning business today, the Senate will be asked to turn to the consideration of any of the following items: the Presidio-parks bill conference report, FAA conference report, the Coast Guard conference report, and possibly begin consideration of the omnibus appropriations bill making continuing appropriations for fiscal year 1977. Rollcall votes are possible during today's session, and depending on the progress that is made on the omnibus CR, there could even be votes tonight. We will begin meetings at 9:30 and get



● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

reports of the negotiations that went on into the wee hours this morning. Also, we will get a report on how negotiations are going on the illegal immigration bill.

Last night, we did file a cloture motion with regard to the illegal immigration conference report with a rollcall vote on invoking cloture occurring on Monday, September 30, at a time to be determined by the two leaders. We assume that would be mid-afternoon, perhaps around 2 o'clock on Monday. So Senators need to be aware that it will occur before 5 o'clock in all likelihood, and they would need to be here for a vote earlier than that during the day.

The reason for that, obviously, is it is the end of the fiscal year, and we will have other business we will be having to work on. If we get an agreement worked out, of course, then the chance is that the illegal immigration bill would be put into the CR, and it would not be necessary to have a cloture vote or further debate on the bill at that time. We will keep all Senators advised over the next couple hours what is happening with the negotiations, and, of course, we do hope to get up some of these conference reports today.

I yield the floor, Mr. President.

## MORNING BUSINESS

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein not to exceed 5 minutes each. Specifically, the Senator from Arizona [Mr. MCCAIN], has 20 minutes; the Senator from Maine [Mr. COHEN], has 45 minutes; the Senator from New York [Mr. D'AMATO], has 10 minutes; the Senator from Georgia [Mr. NUNN], has 30 minutes; the Senator from Delaware [Mr. BIDEN], has 20 minutes.

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

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

The Senator from Georgia is recognized for up to 30 minutes.

## SENATOR ROBERT C. BYRD

Mr. NUNN. Mr. President, I suspect that all Senators, when we first come to this great institution we call the U.S. Senate, look around this Chamber for role models and mentors to help us become effective and productive Senators. I was privileged, after graduating law school at Emory University 1962, to come to Washington and work for Congressman Paul Vinson for nearly a year. I was privileged to follow in the footsteps of Senator Richard Russell. These were certainly two great Georgians who set an example of public service that I have sought to emulate. I was honored to have served with many Senators I have learned from, including Senator John Stennis and Senator Scoop Jackson, two legendary Senators who served in the Richard Russell tradition.

I have also learned very much from a unique Senator, the Senator from West Virginia by the name of ROBERT BYRD. Before I leave the Senate which I love, I want to take a few moments to thank my colleague and my good friend, Senator ROBERT BYRD, for the encouragement and assistance he has given me during my entire career here in the Senate and for the example he has set for all of us who served here and who have observed his leadership and his personality.

It has been said that great men are like eagles. They do not flock together. You find them one at a time, soaring alone, using their skill and their strengths to reach new heights and to seek new horizons. Such a man and such an eagle is ROBERT BYRD.

Twenty-four years after I first came to the Senate, Senator BYRD continues to be a role model for me. His tremendous understanding and deep reverence for the role of the Senate in our democracy; his total commitment to serving the people of his beloved State of West Virginia and the people of this country; his life-long commitment to learning; his sense of honor and integrity; his commitment to high moral standards; and his tremendous work ethic represent the highest ideals of public service.

### ROLE OF THE SENATE

The ''Almanac of American Politics'' has what I think is a very appropriate description of Senator BYRD. ''Robert Byrd, senior senator from West Virginia,'' says the Almanac, ''may come closer to the kind of senator the Founding Fathers had in mind than any other.'' Mr. President, the ideals of the Founding Fathers and the role they envisioned for the Senate have always shaped Senator BYRD's performance of his duties.

ROBERT BYRD reveres the Senate of the United States, not just because he serves in it, but because of his respect for its role in the history of our Nation and the world. Over the years, Senator BYRD has devoted an enormous amount of time and effort to the study of the Senate's role in our history and its duties under the Constitution. His four volumes of speeches on the history of the Senate mark Senator BYRD as the most knowledgeable person on the history of this body to ever serve in the Senate, and he is the leading expert on this subject in the country today.

By the power of his intellect and the depth of his understanding of the Senate's history and rules, Senator BYRD is not just the Senate's institutional memory. He is also the custodian of the Senate ideals and values that go back to the Founding Fathers and even to ancient Rome—as he reminded us in his extraordinary series of speeches on the Senate of the Roman Republic in 1993. I have heard Senator BYRD recall the words of Majorianus, a Roman Senator, who said that when he was crowned emperor in 457 A.D. that he still gloried in the name of Senator. ''That,'' Senator BYRD is fond of saying, ''is my bottom line.''

Like the authors of our Constitution, Senator BYRD views the legislative branch as closest to the people and the primary safeguard of their rights and liberties. In his speeches on the history of the U.S. Senate, Senator BYRD points out that the Senate is unique not only because its rules allow unlimited debate, and that, of course, attracts a lot of attention from time to time. Unlike some legislative bodies in the world, the Senate can originate legislation. In addition, Senator BYRD reminds us:

> The Senate not only has the power to legislate. It also has the power to investigate, to approve the ratification of treaties, to confirm nominations, and to try impeached persons. Thus, it has judicial, legislative, executive and investigative powers. This combination of powers makes the Senate unique.

Senator BYRD's knowledge of the rules and procedures of the Senate has become legendary. Senator BYRD recalled that in 1967, when he was elected Secretary of the Senate Democratic Conference, ''I began to study the book of precedents and the book of rules, and soon came to know something about floor work. As a result, I became proficient in the use of the rules.'' Mr. President, saying that ROBERT BYRD is proficient in the use of the rules is like saying Rembrandt knew something about painting. I suspect there have been few Members of the Senate in the last 200 years who approached Senator BYRD's knowledge of the rules and precedents of the Senate.

As a result of his exhaustive study of Senate procedure, Senator BYRD has had a major impact in shaping the rules and precedents under which the Senate operates today. Some of these precedents bear his name. The Byrd rule has become a household term for anyone who follows the progress of reconciliation bills in the Congress. That rule, of course, precludes consideration of provisions in reconciliation bills that are not related to the deficit reduction goals of the reconciliation process.

In his farewell address earlier this year, the majority leader, another remarkable legislator, Senator Dole, paid an unusual tribute to Senator BYRD when he said, ''I have learned from a lot of people in this room. I have even gone to Senator BYRD when I was the majority leader to ask his advice on how to defeat him on an issue. If you know ROBERT BYRD as I do, he gave me the answer.'' That is high praise indeed from a man with Senator Dole's great skills as a legislator in this body, who was in the opposing party—actually

going to Senator BYRD and asking him, ''What rule can I use to defeat you on this motion?'' That is about as high a compliment as an individual can be paid in this body.

In his devotion to the U.S. Senate, Senator BYRD has always shown a personal concern for the people who serve in this institution—not just Senators but all those who are part of the Senate family. Despite his responsibilities in the Senate leadership or his duties as chairman or ranking Democratic member on the Appropriations Committee, he has never been too busy to ease the burdens, remember a birthday, or share in the joys and sorrows of a colleague or staff member with a note or a bit of poetry. I have never forgotten a dinner given in my honor by my friends in Dublin, GA, in February 1975. Senator BYRD came to Georgia for that dinner. He gave a speech and brought down the house when he played ''Going Up Cripple Creek'' on his fiddle, all for a junior member of his party who had only been in the Senate for 2 years. My friends from Georgia, needless to say, were very impressed.

Over the years I have received tremendous support from Senator BYRD as a member and then chairman of the Armed Services Committee. Senator BYRD has always been a strong supporter of national defense and of our men and women in uniform. I am proud of the fact that the Armed Services Committee has passed a Defense authorization bill every year since I have served in the Senate. During my chairmanship, Senator BYRD's leadership as majority leader and his parliamentary skills were absolutely essential to completing Senate action on this national security legislation.

I have also had the pleasure of participating in delegations to foreign countries headed by Senator BYRD. I remember two trips in particular. One was a trip to the People's Republic of China early in my Senate career in 1975, back when Chairman Mao and Chou En-Lai, President Chou En-Lai were still alive. We did not visit with them because they were very ill, but it was a crucial time, not only in Chinese history but in United States-Chinese relationship. The other was a trip to the Soviet Union in 1985 to meet with Soviet President Mikhail Gorbachev. Senator BYRD led the bipartisan Senate delegation on both of these trips. He was a very effective spokesman for U.S. interests, and he always managed to leave our foreign hosts with an understanding of the role of the Senate in U.S. foreign policy.

Mr. President, from the day I came to the U.S. Senate in 1973, whether the issue was foreign policy, national security policy or Senate floor procedure, Senator BYRD has been my teacher and my colleague; in many cases, my legislative partner. And, most of all, my friend.

SERVING THE PEOPLE OF WEST VIRGINIA

Senator BYRD's reverence for the U.S. Senate is matched only by his commitment to serving the people he represents in West Virginia.

Senator BYRD was first elected by his fellow citizens of West Virginia 50 years ago to represent them in the State legislature. He has retained that trust and won every public office he has sought since then. Few people are ever accorded the honor and responsibility of being elected to represent their fellow citizens—a very high compliment. ROBERT BYRD has sought that honor and that responsibility 13 times and 13 times he has succeeded, starting with his election to the first of two terms in the West Virginia House, a term in the State Senate, three terms in the House of Representatives and seven terms in the U.S. Senate.

This makes 50 years—5 decades—of public service to the people of West Virginia by this remarkable man.

Senator BYRD has served in the Senate longer than any of the 29 other United States Senators who had been elected from West Virginia. Next year, he will become the fourth longest serving Senator in the history of our Nation. He is also only the third Senator to be elected to seven 6-year terms. Think of it, seven times he has been elected to 6-year terms, along with Senator Carl Hayden and another remarkable Senator, the President pro tempore, our colleague, Senator STROM THURMOND from South Carolina. This week, Senator BYRD cast his 14,577th rollcall vote—14,577 rollcall votes—more than any other Senator who has ever served in this body.

In his seven elections to the U.S. Senate, Senator BYRD has won with an average of 72 percent of the popular vote—72 percent. Twice he has carried every single county in his State, the only person in the history of West Virginia to do so.

For all the time he has spent in the Nation's Capital, Mr. President, ROBERT BYRD has never forgotten where he came from or why the people of West Virginia sent him here. His childhood during the Depression taught him about the plight of people who had a hard time in life, including the people who worked in the coal mines. His father moved the family from town to town looking for work, but despite these constant moves, ROBERT BYRD graduated first in his high school. He married his high school sweetheart, Erma James, after he graduated from high school and found a job—ROBERT BYRD, the son of a coal miner, marrying a coal miner's daughter. At a time when America is suffering from the breakdown of the family which causes so many more of our other problems, the 59-year marriage of ROBERT BYRD and Erma James Byrd and their dedication to their family should serve as an example to each and every one of us, not only in this body but in America.

Senator BYRD had to save for 12 years before he could afford to attend college, even part time, but he made great use of his time. Working as a gas station attendant, a produce boy in a coal company store, a shipyard welder, and meat cutter, he learned about the lives and the hardships of ordinary people, and he learned about the hopes and the dreams of the citizens of West Virginia.

ROBERT BYRD's legislative priorities have been shaped by the needs of his State—investment in highways and other infrastructure projects to stimulate economic development badly needed in West Virginia; adequate and affordable health care, particularly for the coal miners of his State; and education to improve the lives of young people, not only in West Virginia but across the Nation.

Senator BYRD's diligence and approach to every challenge he undertakes is summed up in the passage from Ecclesiastes he is fond of quoting:

Whatsoever thy hand findeth to do, do it with thy might.

Mr. President, everything ROBERT BYRD does he does with all of his might. He brings an intensity to his work that few of us could match and none of us could sustain. Watching ROBERT BYRD serve as majority leader and as leader of the Appropriations Committee, it is clear to everyone that when the going gets tough, ROBERT BYRD doubles his efforts and just works harder.

So, Mr. President, from humble beginnings, Senator BYRD has made himself into something truly extraordinary in the history of our Nation. He was not born with wealth or connections. He certainly wasn't born with any power. He has made himself what he is today by working harder and studying harder than anyone else, and in doing so, he has become a wonderful example for the young people of this Nation of what can be achieved through the old-fashioned values of integrity, hard work, faith and perseverance.

LIFE-LONG COMMITMENT TO LEARNING

Mr. President, from the experience of his past, Senator BYRD has become a strong proponent of investing in our future, our people and our infrastructure in this country. Children are our most important resource, and he knows that there is nothing more important to the future of our children than education. But the Senator from West Virginia is living proof that education is not just for young people preparing for a career. He has given all of us an example that education is a lifetime experience. ROBERT BYRD has never stopped learning. He has never stopped trying to improve himself. He has never been satisfied that he knows everything he needs to know, and he never will be. That is the nature of this remarkable man.

Like the senior Senator from New York, Senator MOYNIHAN, the Senator from West Virginia is both a student and a teacher who constantly absorbs information, he soaks it in, and who shares his knowledge and his wisdom with his colleagues to the benefit of this entire institution and the Congress. Senator BYRD started his Senate career as a student, absorbing the lessons of history, its traditions and its

rules, from men like Richard Russell and John Stennis. Over the years, the student ROBERT BYRD has become the teacher ROBERT BYRD, but also remains the student ROBERT BYRD—a remarkable combination.

He has devoted his time and energy to formal education, earning a law degree while serving as a Member of Congress. Imagine that, all the duties of a Congressman and also getting a law degree, the only time in history that anyone has both begun and completed law school while serving in the Congress.

But just as important, the Senator from West Virginia also studies for his own enjoyment because he loves to learn, he loves to study and he loves to go through self-improvement, and he does it every day. ROBERT BYRD's devotion to learning is reflected in his work. When Senator BYRD offers an amendment, manages a bill, or speaks on an issue, he knows what he is talking about, and all of us recognize that on both sides of the aisle.

As chairman of the Appropriations Committee, Senator BYRD's advice and counsel led to the system of discretionary spending caps we have been using for the last 6 years. These spending caps and the reductions in Federal discretionary spending they have enforced have made the most significant contribution to deficit reduction of any policy we have adopted in the last decade.

If we in the Congress took the same kind of step on entitlement programs that we have done under Senator BYRD's leadership on discretionary programs, the fiscal outlook for our country and the future of our children and grandchildren would dramatically improve.

Too often today, when important matters are being considered, the media and some politicians look to opinion polls first for guidance. The Senator from West Virginia is not one of those individuals. The Senator from West Virginia is much more likely to follow the advice of Winston Churchill who said: ''Study history, study history. In history lies all the secrets of statecraft.''

Mr. President, Senator BYRD's knowledge of history and the relevance of history to the issues we face today—it is not just knowledge of history, it is the parallel between what we should learn from history and the kind of challenges we face today—and his deep appreciation of the connection all Senators should feel to those who have gone before us are the hallmarks of his service and, indeed, I think the unique contribution he has made to this institution.

When Senator BYRD speaks on issues like the line-item veto, for instance—and I agree with him that in the future the Senate will regret turning over this power to the executive branch. It has been done. We will see how it works, but I am one of those in the ROBERT BYRD school on the line-item veto. I do not think it will be used to bring down the deficit. I think it will be used by the President for whatever power he would like to display on whatever his priorities are at the moment, depending on the President.

But when he speaks on issues like the line-item veto, ROBERT BYRD speaks with the knowledge born of long hours of study of the development of constitutional Government and of separated and shared powers in the history of England and ancient Rome as well as our own country.

Historian ROBERT BYRD knows how long it took for the legislative branch to attain the power of the purse. He knows what it means to have the power of the purse. He knows what it means for the President to have the power of the purse, because that has been done more frequently in history than having the legislative body with that power. He also is keenly aware of what it means to lose the power of the purse.

ROBERT BYRD understands and articulates better than any Member of this body the crucial role that an independent legislature plays in a democracy. You do not have a democracy without a legislative branch. The Senator from West Virginia knows that we cannot have democracy without an independent legislative branch.

Mr. President, I could speak about the leadership and virtues of ROBERT BYRD for a long time. But let me wrap up my remarks by quoting the senior Senator from West Virginia in his history of the Senate, a magnificent quote in my view, summing up his view, and I hope increasingly all of our views, of the role of this great body.

> After two hundred years, [the Senate] is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. It has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys. It has been the stage of high drama, of comedy and of tragedy, and its players have been the great and the near-great, those who think they are great, and those who will never be great. It has weathered the storms of adversity, withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and peace, it has been the sure refuge and protector of the rights of the states and of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!

Mr. President, the U.S. Senate still stands as a great forum of constitutional liberty, in large part because of the vision of our Founding Fathers and the genius and durability of our constitutional system of Government. The men and women who serve in the Senate have a solemn obligation to understand this history and to protect the combination of powers that make the Senate unique under the Constitution.

Senator BYRD further reminds us of this solemn obligation in his addresses on the history of Roman constitutionalism when he said:

> For over two hundred years, from the beginning of the republic to this very hour, [the American constitutional system] has survived in unbroken continuity. We received it from our fathers. Let us surely pass it on to our sons and daughters

Mr. President, it is my hope and prayer that our successors will study the words, study the life and emulate the deeds of ROBERT BYRD, U.S. Senator from West Virginia, as he has studied the words and emulated the deeds of our forefathers. If they do, the Senate of the United States will stand as a beacon of liberty, and the lamp of America's freedom will shine for the next 200 years. That will be the ultimate tribute to the service in the U.S. Senate of a remarkable individual—ROBERT C. BYRD of West Virginia. I thank the Chair.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). THE SENATOR FROM WISCONSIN.

Mr. FEINGOLD. Mr. President, let me first say it is an honor to simply have heard the tribute by the Senator from Georgia directed at the Senator from West Virginia. It is an honor to simply serve with these two men. I was delighted to hear the tribute. I thank the Senator. We will all miss him very, very much in this body.

## TAX CUTS

Mr. FEINGOLD. Mr. President, we are nearing the end of the 104th Congress, a time when many will review the accomplishments and the failures of the last 2 years.

Though the dramatic budget disputes have dominated much of the brief history of the 104th Congress, there have in fact been a number of bipartisan successes that have not been as publicly noted. These bipartisan efforts have included congressional compliance, unfunded mandates legislation, lobby and gift reform, modest, but helpful, health insurance reform, and the promising beginnings of campaign finance reform.

But, Mr. President, perhaps the biggest achievement of this Congress has been something that was not done. This Congress did not enact any of the massive, fiscally irresponsible tax-cut proposals that Members of both parties have proposed.

Mr. President, a recent headline in the Washington Post read, ''Dole's Tax Cut Centerpiece Has Yet To Strike a Chord With Voters.'' It is a telling story about the inability of the Dole campaign to gain significant political benefit from his proposal to cut taxes by nearly half a trillion dollars.

To a certain extent, I think the same kind of story could be written, in fairness, about President Clinton's tax-cut proposals. The bulk of the success that the President has enjoyed—I believe will continue to enjoy—clearly comes not from his tax-cut plans, but from his handling of the economy and his record on deficit reduction.

So, Mr. President, I think neither candidate has benefited in any significant way from proposing tax cuts. The reason is straightforward. Voters understand we simply cannot afford to

cut taxes if we are to balance the Federal budget within the next 6 years. Mr. President, do Americans want lower taxes? Of course they do. But given the choice between cutting taxes and balancing the budget, the American voter wants to balance the budget.

Make no mistake, Mr. President, that is the choice we have before us. We have to do one or the other. You cannot do both. Anyone who claims you can do both is either blowing smoke or simply does not understand the huge problem we have in this country with our deficit and the debt which underlies it.

Mr. President, we saw how politically unsustainable a budget package becomes when it attempts to provide a major tax cut while it also claims to be eliminating the deficit. The political developments of this past year are testimony to this fact.

Indeed, any budget package that eliminates the deficit will be difficult enough to sustain over the next few years that it would take to fully implement its provisions even without the added burden of funding a significant tax cut.

The failure of the tax-cut plans offered by either party to gain political momentum is, of course, not due to a lack of effort. Millions of dollars are being spent on carefully crafted television commercials advocating these tax-cut proposals. These plans are not new nor are the efforts to promote them.

The President's plan that we have heard about recently is similar, in many ways, to the one he proposed in December of 1994. The Dole plan clearly has its roots in the massive tax cut proposed as a part of the now famous Contract With America. In fact, many in this body will recall that the Speaker of the other body pronounced that the tax-cut proposal, of all the proposals in the Contract With America, was the ''crown jewel'' of the Contract With America, in his words.

Mr. President, the Speaker's characterization was notable. Of all the provisions in that political document, it was the tax cut that he, the leader of that charge, gave the privileged position. Yet, despite the considerable political inertia that is conferred by being singled out as the crown jewel of the Contract With America, the tax cut has not been enacted.

Mr. President, does anyone doubt that, if there had been strong broad-based support for that tax cut, it would have been enacted by now? Clearly it would have been. If the American people truly preferred tax cuts to deficit reduction, we would have seen an inevitable bipartisan rush to enact them. But that has not been the case.

In the Washington Post story on the failure of the Dole tax-cut plan to attract voter support, a gentleman named Ralph Miller, of Greencastle, IN, a self-described independent, is quoted as saying this:

> When I hear all that talk about how they're going to cut taxes and balance the budget, it turns me against the both of them.

He added:

> I don't believe anybody can do that * * * I have respect for Bob Dole, but this seems ridiculous to me.

Mr. President, despite the lost opportunity to make even more progress to reduce the deficit during the 104th Congress, the deficit-reduction package passed in 1993 continues to lower the annual budget deficits below where they otherwise would have been.

As many have noted, in the last 4 years we have seen deficits come down from nearly $300 billion to an estimated $117 billion. That progress, of course, has come only with great difficulty. Finishing the job will be even tougher, but it is something that absolutely must be done.

Mr. President, proposals to provide large tax cuts jeopardize that effort by pirating the savings generated by spending cuts away from deficit reduction in order to fund tax cuts.

They also undercut deficit reduction by providing an alluring alternative to the often painful and unpopular work of balancing the budget.

It is much easier it is to talk of cutting taxes than it is to focus on where to cut spending.

The American people have not been swayed by the talk of cutting taxes by the Presidential candidates.

In fact, if President Clinton wins, as I hope and expect he will, it will in large part be because of his success in reducing the deficit, not because of his tax cut proposals.

Mr. President, in 1994, the first time many voters became aware of the Contract With America, including its crown jewel, was after the election.

But that fact was conveniently ignored when the new congressional leadership sought to advance their agenda.

The contract's provisions were held up as an electoral mandate, though I doubt 1 voter in 10 was in any way familiar with the real specifics of the Contract With America.

There will be no comparable, after-the-fact, document this year, Mr. President.

The differences between the two candidates are well known.

And despite the efforts of some in both parties, and the political and media specialists in both campaigns, the outcome of this election will rest in large part on whether voters choose reducing the deficit or cutting taxes as the higher economic priority of this Nation.

Mr. President, despite the loudly trumpeted promises made at the beginning of this Congress, and despite the significant political pressure brought to bear by well-funded special interests, we have succeeded in avoiding significant damage to the deficit, and to the goal of a balanced budget, that a huge tax cut would have meant.

If, in the 105th Congress, as I very much hope, we are finally able to enact a bipartisan budget plan that will balance the Federal books, it will be in large part because we did not enact a fiscally irresponsible tax cut in the 104th Congress.

The PRESIDING OFFICER. The Senator from New York is recognized to speak for up to 10 minutes.

Mr. D'AMATO. Mr. President, I thank the Chair.

(The remarks of Mr. D'AMATO pertaining to the introduction of S. 2136 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

## COOPERATIVE RESEARCH EFFORTS BETWEEN THE NATIONAL MARINE FISHERIES SERVICE AND USDA'S EXPERIMENT STATION AT MISSISSIPPI STATE UNIVERSITY

Mr. LOTT. Mr. President, I come to the floor today to report to Congress and the American people on a unique success story. A story about a public-private partnership. A story involving a cooperative effort of two Federal agencies. A story requiring teamwork between a State government and the Federal Government. A story about our land grant university for Mississippi, and catfish farmers in Mississippi's Delta.

First, let me say, I am proud to report to my colleagues that the Mississippi Delta produces 80 percent of the farm-raised catfish enjoyed in America. This farm-raised catfish industry represents approximately 70 percent of the commercial value of America's entire aquaculture industry. Clearly, farm-raised catfish is big business in America. And clearly, it is big business for Mississippi.

But, it was not always successful. The catfish industry in Mississippi struggled for 25 years. There were many tales of financial woe. However, with hard work and the willingness to accept large fiscal risk, Mississippians developed aquaculture into a dynamic and viable economic enterprise. The pioneers in this industry spent a lot of their own money to build a giant infrastructure which includes production, processing, transportation, marketing, distribution, and feed mill capacity. We are talking about a $2 billion agricultural investment.

Mr. President, according to data provided to my office by the State of Mississippi, the Mississippi catfish industry employs more than 25,000. And this industry sells approximately $0.5 billion each year of catfish at the pond bank.

Throughout the growth of this new fledgling agricultural enterprise over the past 25 years, the No. 1 priority for the catfish farmers has always been to find new production techniques. If you build a pond and fill it with catfish, the question is not where the fish are. No—the real question and challenge is how to harvest the fish of a certain size.

Similar to any other intensely managed livestock operation, the farm-raised catfish industry experienced enormous production challenges such

as nutrition problems, disease, and harvesting technology. There were many costly false starts in a search for solutions. Success was a hit or miss event. Gradually, solutions to feeding and health problems have been developed. Today, part of the catfish industry's attention is focused on obtaining new technology. This involves the National Marine Fisheries Service. The goal is to take advantage of existing technology.

Now, to many Americans fish are fish. To some, fish are classified as either fresh water or salt water. Here is where the Federal Government often draws a hard and fast bureaucratic line. The Federal Government has two different and distant agencies in two separate departments which deal with fish depending on the water they live in.

This is OK if these agencies talk to each other and share their success stories—yes, fish stories. And not about the one that got away. In Washington they call this dialog interagency coordination which is formalized with a memorandum of agreement. Sadly, this does not always occur.

Today, I stand here to tell you about one of those instances where the two Federal agencies did indeed find each other. They found each other without prodding from outside sources—like Congress. The story gets even better. When they found each other, there was a cooperative spirit to help America's catfish industry. Here, there is a success story.

Mr. President, it is encouraging for me to report to my colleagues there was a personal commitment, at the staff level, to help Mississippi's Delta catfish farmers. The National Marine Fisheries Service [NMFS], in Pascagoula, which is part of the Department of Commerce took on the persistent fresh water pond harvesting technology problems. They worked with Scientists at the Department of Agriculture [USDA] laboratory, at Mississippi State University in Stoneville. Together they formed a joint effort to apply existing marine fisheries' technology to catfish ponds. The established saltwater fishing industry is excellent at catching fish. The new fresh water community is good at growing fish, however, they needed to learn how to be more effective at catching them. NMFS stepped in to share new gear technology with the fresh water fish community. This sharing of technology kept the fresh water community from reinventing the wheel.

The Government's traditional business as usual policy would have prevented the assistance and technology exchange. To provide this help across jurisdictional lines is a Federal no-no. More importantly the policy would have been prevented because it threatens budget authority and funding issues.

But, despite these Washington obstacles assistance was offered and received. A Mississippi success story.

The NMFS laboratory in Pascagoula committed itself because of its can do attitude. And clearly USDA and Mississippi State University were receptive. NMFS brought a range of potential solutions to the harvesting technology problems of the warmwater aquaculture industry because they had worked on this issue for years in the marine fishing industry. I want to single out two individuals. Specifically, John Watson and Charles ''Wendy'' Taylor of NMFS's Pascagoula laboratory. These two directly assisted in the development and retrofitting of harvesting equipment. They had lots of ideas. They offered hands-on help. They produced rapid results.

They showed those fresh water folks lots of new ideas and real solutions. Many of these ideas caused revolutionary improvements in the harvesting efficiency and quality control for the farm-raised catfish industry. Revolutionary is not an overstatement. This is not a fish story about the one that got away. This is about the catfish that got caught. The proof was tangible and quickly evident at the processing plants. John and Wendy made a difference in Stoneville.

The NMFS laboratory staff in Pascagoula could have told the scientists in Stoneville's USDA Laboratory that procedures and policies prohibit the marine fisheries' experts of Federal Government from sharing their technology with a sister industry. But, they did not. Instead, through the combined efforts of these two diligent scientists and the cooperative spirit of personnel with USDA's Stoneville Experiment Station and Mississippi State University, steps were taken to discover potential solutions to the technology problems which have plagued the farm-raised catfish industry.

I must say this cooperative spirit extends all the way back to Washington. It is also exhibited by Rolland Schmitten, the Director for the National Marine Fisheries Service. There is a leadership example which is reflected throughout the agency.

Mr. President, it is a pleasure to share with my colleagues this story of Federal interagency cooperation. It also illustrates that public-private partnership can be productive. I think it is worth noting that this cooperative effort has reduced duplication of Federal efforts. This makes fiscal sense, especially as we strive to make the services of government more efficient.

All of us should look for similar opportunities within Federal agencies in our own home States. I am sure there are more Stoneville's out there. I am sure there are more ways that the Federal Government can deliver cost-effective solutions to the problems. I am also sure there are more public-private partnerships that can make a difference. Let us use our oversight responsibilities in the next Congress to reexamine Government priorities, policies, and procedures for other interagency opportunities with an aim of forming more partnerships with industry.

Mr. President, Stoneville should be the standard in the future, not the exception.

Again, I applaud the efforts of the National Marine Fisheries Service and I want to publicly thank them. They have significantly helped America's farm-raised catfish industry. I strongly encourage the continuation of the successful relationship between Stoneville and Pascagoula.

## THE ACADEMY OF TELEVISION ARTS AND SCIENCES

Mrs. FEINSTEIN. Mr. President, I rise today to recognize the Academy of Television Arts and Sciences as it celebrates its 50th anniversary.

The television industry reflects so much of what we are as Americans. The Academy of Television Arts and Sciences—with its annual Emmy Award—recognizes the positive impact television makes on so much of our everyday life.

I'm an avid channel surfer at home, so I watch a fair amount of television. I know how positive a messenger television can be—whether explaining the spread of a deadly disease, bringing us up-to-the-minute reports of world events, or simply making us laugh during a half-hour situation comedy when our day has ended and we're ready to take a break.

The people and programs honored with the Emmy Award are a permanent part of our country's history.

Just listen to some of the who's who's list of recipients of the acting awards in the comedy field alone: Lucille Ball—four time recipient—Red Skelton, Danny Thomas, Eve Arden, Jack Benny, Shirley Booth, Carol Burnett, Dick Van Dyke, Mary Tyler Moore, Julie Andrews, and today's recent recipients Candace Bergen—five time recipient—Kelsey Grammer, and Helen Hunt. The programs honored—''Dick Van Dyke'', ''The Odd Couple'', ''All in the Family'', ''Get Smart'', ''Taxi'', and ''Barney Miller''—show just why the programming of ''Nick at Nite'' is so popular with people trying to recapture the classic days of comedy.

The drama programs honored over the years also give us a snapshot of American life at the time the programs aired: ''Studio One'', ''Gunsmoke'', ''The Fugitive'', ''Mission Impossible'', ''Marcus Welby, M.D.'', ''Masterpiece Theatre'', ''The Waltons'', and the modern-day ''Hill Street Blues'' and ''E.R.'' Who can forget the Waltons' powerful message of family persevering through the Depression or who can forget how ''Hill Street Blues'' showed us the life of a police officer like we had never seen it before.

For all that is good, educational and powerful on television, I am pleased to pay a small part in honoring the academy and the entire television industry for its work.

As the Senior Senator for California, I also know how vital the entertainment industry is to my home State, where more than 150,000 people are employed in more than 1,000 entertainment-related companies.

The academy, itself, was founded in 1946 by Syd Cassyd, and elected a year later Edgar Bergan as president. Under his direction, the academy first produced the Emmy Awards in 1948. The organization went national when it merged with the New York Academy in 1947 with Ed Sullivan as its first president.

The academy continued to expand adding new chapters throughout the United States.

Today, with 9,000 members, the academy is the largest organization in the television industry. In addition to the Emmys for which it is best known, the academy also runs an intern program for college students interested in film and holds student film competitions. In 1984, the academy formed its first steering committee on drug and alcohol abuse and began its work with a 2-day seminar in Washington, DC with First Lady Nancy Reagan. A decade later, the academy sponsored another meeting—this one focusing on the information superhighway—with our Vice President, AL GORE.

Mr. President, it is an honor and a privilege to acknowledge the accomplishments of the Academy of Television Arts and Sciences as a leader in the entertainment industry. I commend the academy on its growth and creativity over the past 50 years and I look forward to the next 50.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I ask that I might be able to speak for about 10 minutes in morning business.

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

## OMNIBUS PARKS BILL

Mr. MURKOWSKI. Mr. President, there has been a great deal of interest from many Members in the disposition of the omnibus parks bill. As the Chair is aware, we as a committee, the Energy and Natural Resources Committee, met in conference and reported out the Presidio package several days ago, which contains 126 separate sections covering some 41 States.

We sent it over to the House. There was an implication regarding taxes on one particular section. We attempted to clear it over here. We had an objection. That objection has been addressed. It is my understanding that, procedurally, this matter can move from this body, assuming there is no further objection.

There is another track that is underway by some Members—mostly from the other body—that suggest that the disposition of the omnibus parks bill should be in the appropriation bill, the CR that is forming. I find that extraordinary because there are authorizers and there are appropriators. My committee, as an authorizing committee, has done its job. The Committee on Natural Resources, chaired by Representative YOUNG, has done its job. We got our packages together. We had further communicated with the White House over a week ago, addressing specifically certain contentious sections and asking for a disposition.

There are, initially, four major items in dispute. One was the Utah wilderness issue. The administration saw fit to initiate the invocation of the Antiquities Act to take care of the Utah wilderness. In other words, it was a land grab; the administration simply took 1.8 million acres and didn't notify the Utah delegation—the Governor, the Members of the Senate or the House. It was really a land grab, with no public process, which this administration highlights as part of their philosophy. We had been debating Utah wilderness for an extensive period of time and hadn't resolved it. But the democratic process was going on, people were being heard, different views were being heard.

It wasn't so long ago that we had an opportunity to debate the California wilderness bill. There was no antiquities application or land grab there. They let the democratic process move forward. The reason I point this out is because that was a contentious item, Utah wilderness. We withdrew it because of the threat of a veto.

Another contentious issue involved a 15-year extension for the only manufacturing plant in my State of Alaska. Without a 15-year extension, it could not make the $200 million investment to change that plant from a conventional pulp plant to a chlorine-free plant. They needed that commitment. The Forest Service would put up the timber so they could amortize the investment. The administration chose to object to that. The problem is, of course, that there is no source of timber, other than Federal timber, because all of southeastern Alaska is part of the Tongass National Forest. The communities are in the forest. The communities were assured at the time the forest was created that there would be enough timber to maintain a modest timber industry. So out of the 17 million acres of the forest, we have digressed down to trying to maintain an industry on about 1.7 million acres.

The pathetic part of it is, Mr. President, only roughly half of the timber is suitable for pulp. It is either dead, dying, or immature, in the sense that there is not enough soil to continue to maintain growth to full maturity. It has no other use. The reason this pulp mill was created is so we would have a tax base—this is the only year-round manufacturing plant in the State—and to secure jobs, and we would not have to export the pulp out of the State of Alaska—at that time, it was the territory of Alaska—down to the mills in the State of Washington, or to British Columbia, or Oregon.

Well, by the administration's dictate of lack of support for the extension, this mill will close. So the Senator from Alaska has taken his hit. I withdrew that from the omnibus parks package. Then we had the grazing issue. The administration objected to the fee structure of grazing on public land—the traditional Western use of public land. So we withdrew that. Then we moved up to Minnesota and we had the Boundary Waters Area. This was a question of whether you could use small motorized four-wheelers to haul small boats, canoes, and so forth, over a trail between the lake system. It is all right for the young folks to get 10 people out there and push it, but some of the older folks need some motorized assistance. They objected to that. So we took that out.

Mr. President, as justification for that I ask unanimous consent that the letter from the OMB outlining the objections be printed in the RECORD, along with a list.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, DC, September 25, 1996.*

Hon. TRENT LOTT,
*Majority Leader,*
*U.S. Senate, Washington, DC.*

DEAR MR. LOTT: I am writing to provide the Administration's initial views on the conference report on H.R. 1296, the Omnibus Parks Legislation, that was filed last night. We are still in the process of reviewing this extensive legislation and understand that a number of changes were made to the conference report from the version of the bill we reviewed late last week. But, on the basis of our review of the conference report language, the President would veto the conference report.

The conference report still includes provisions that are unacceptable to the Administration including: unwarranted boundary reductions to the Shenandoah and Richmond Battlefield National Parks in Virginia, special interest benefits adversely affecting the management of the Sequoia National Park in California, permanent changes in the process for regulating rights of way across national parks and other federal lands, unfavorable modification of the Ketchikan Pulp Company contract in the Tongass National Forest, erosion of coastal barrier island protections in Florida, and mandated changes that would significantly alter and delay the completion of the Tongass Land Management Plan.

We have repeatedly stated our strong support for legislation to improve the management of the Presidio in San Francisco, use Federal funds to help acquire the Sterling Forest in the New York/New Jersey Highlands Regions, and establish the Tallgrass Prairie National in Kansas. We have also repeatedly stated our strong willingness to work with you to develop bipartisan, compromise legislation that protects our Nation's natural resources. This conference report does not meet that test. We remain willing to work with you to develop a compromise package that could be included in a bill to provide continuing appropriations for FY 1997.

Sincerely,

FRANKLIN D. RAINES,
*Director.*

H.R. 1296, OMNIBUS PARKS BILL

| Sec. | Title |
|---|---|
| 101 | Presidio (CA). |
| 201 | Yucca House (AZ) boundary. |
| 202 | Zion NP (UT) boundary. |
| 203 | Pictured Rocks (MI) boundary. |
| 204 | Independent Hall (PA) boundary. |
| 205 | Craters of the Moon (ID) boundary. |
| 206 | Hagerman Fossil Beds boundary. |
| 207 | Wupatki (AZ) boundary. |
| 208 | Walnut Canyon (AZ) boundary adj. |
| 209 | Butte County (CA) conveyance. |
| 210 | Taos Pueblo (NM) land transfer. |
| 211 | Colonial (VA) NHP transfer. |
| 212 | Cuprum (ID) relief (FS). |
| 213 | Ranch A (WY) land conveyance. |
| 214 | Douglas (WY) relinquishment of interest. |
| 215 | Modoc (CA) NF boundary expansion. |
| 217 | Cumberland Gap (VA) NHP exchange. |
| 221 | Merced (CA) irrigation district exchange. |
| 222 | Father Aull (NM) land transfer. |
| 301 | Targhee (ID) NF land exchange. |
| 302 | Anaktuvuk Pass (AK) land exchange. |
| 305 | Arkansas and Oklahoma land exchange. |
| 306 | Big Thicket (TX) land exchange. |
| 307 | Lost Creek (MT) land exchange. |
| 308 | Cleveland (CA) NF land exchange. |
| 310 | BLM reauthorization. |
| 402 | Rio Puerco (NM) wastershed. |
| 403 | Old Spanish Trail study. |
| 404 | Great Western Trail (CO and others). |
| 407 | Lamprey (NH) wild and scenic river. |
| 408 | West Virginia rivers amendments. |
| 409 | Wild & Scenic River technical amend. |
| 410 | North St. Vrain Creek (CO) protection. |
| 501 | Selma-Montgomery (AL) historic trail. |
| 503 | Kaloko-Honokohan (HI) commission ext. |
| 504 | Boston Library (MA) carry NPS material. |
| 505 | Women's Rights NHP (NY) amendments. |
| 506 | Black Rev. War Patriots memorial ext. |
| 507 | Hist. Black Colleges historic buildings. |
| 508 | Martin Luther King memorial in D.C. |
| 509 | ACHP reauthorization. |
| 510 | Great Falls (NJ) Historic District. |
| 511 | New Bedford (MA) Nat. His. District. |
| 512 | Nicodemus (KS) Nat. His. Site. |
| 513 | Unalaska (AK) affiliated area. |
| 514 | Japanese American memorial in D.C. |
| 515 | Manzanar (CA) NHS land exchange. |
| 516 | AIDS Memorial Grove (CA) memorial. |
| 601 | U.S. Civil War Center (LA) at LSU. |
| 605 | American Battlefield Protection. |
| 606 | Chikamauga (GA) NMP auth. increase. |
| 702 | Delaware Water Gap (PA) fees. |
| 801 | Remove limit on park buildings. |
| 802 | Authority for NPS to transport children. |
| 804 | NPS museum properties. |
| 805 | Volunteers in parks. |
| 807 | Carl Garner cleanup day. |
| 808 | Fort Pulaski (GA) reservation removal. |
| 809 | Laura Hudson Vis. Center (LA) renaming. |
| 810 | Lagomarsino Vis. Center (CA) renaming. |
| 812 | Dayton (OH) Aviation Heritage amend. |
| 813 | Angeles NF (CA) transfer prohibition. |
| 814 | Grand Lake Cemetery. |
| 817 | William Smullin (OR) BLM visitor center. |
| 901 | Blackstone (MA) heritage area amend. |
| 902 | Illinois & Michigan Canal (IL) NHA amend. |
| 1001 | Tallgrass Prairie (KS) Nat'l Preserve. |
| 1011 | Sterling Forest (NY/NJ). |
| 1023 | Recreation lakes commission. |
| 1024 | Bisti/De-Na-Zin (NM) wilderness expand. |
| 1025 | Opal Creek (OR) wilderness and rec. area. |
| 1026 | Upper Klamath Basin (OR) restoration. |
| 1027 | Deschutes Basin (OR) restoration. |
| 1030 | Bull Run (OR) watershed protection. |
| 1031 | Oregon Islands (OR) wilderness additions. |
| 1032 | Umpqua River (OR) land exchange study. |
| 1033 | Boston Harbor Islands (MA) NRA. |
| 1035 | Elkhorn Ridge (CA) BLM substitute timber. |
| Added in conference: | |
| 313 | Kenai Natives (AK) land exchange—House version only. |
| 1042 | Katmai (AK) NP subsistance fishing. |
| 1101 | California Bay Delta Environment. |
| (NPS advises it could support individual heritage area designations if overall program authority in HR 1296 is deleted or replaced with HR 1301.) | |
| | Essex (MA) NHA. |
| | Ohio and Erie Canal (OH) NHA. |
| | Augusta (GA) NHA. |
| | Steel Industry (PA) NHA. |
| | South Carolina NHA. |
| | Tennessee Civil War NHA. |
| | West Virginia Coal NHA. |
| | Great Northern Frontier (NY) study. |
| | Lower Eastern Shore (MD) study. |
| | Champlain Valley (VT) study. |

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Mr. President, that being done, we assumed that the administration may have mild objection to others. But last night we had a proposal from the administration. I want those that are watching in the offices to pay particular attention because I am going to refer to those in the balance of my remarks because, if you look at them, I can't say they are nonpartisan. They are very partisan as to what they now want omitted from the package. So it seems like they have goalposts on wheels because now they want more omitted. Not only do they want more omitted but they do not want this package that the authorizers have completed in both the House and Senate. They don't want this package to be presented in the two bodies.

As evidence of that, Mr. President, I read the accompanying letter dated September 25. I think just the last sentence is in order. The letter is from Franklin D. Raines, Director of the Executive Offices of the President. ''This conference report''—which is our authorizing effort—''does not meet the test. We remain willing to work with you to develop a compromise package that could be included in a bill to provide continuing appropriations.''

So what they want to do is they want to cherry pick this 126-section, 41-State report—over 2 years of effort. Some of these things have been before my committee for over 4 years. Our committee acted in a bipartisan manner. We took the issues on the merits.

Let me show you what the administration proposed last night, and you can judge for yourselves.

Of course, title I, the Presidio, which we all support, is included. But when we get into title II, the Boundary Adjustments and Conveyances, it is rather interesting.

Section 216 they want omitted. That is conveyance to the city of Sumpter, OR. That happens to be Senator HATFIELD.

Section 218, Shenandoah National Park: That is Senator WARNER. Senator JEFFORDS has an interest I believe, and Senator ROBB also has an interest.

Section 219, Tulare conveyance: The Colorado delegation and perhaps the Utah delegation has an interest.

Section 220, the Alpine School District: Senator HATFIELD. They want that omitted.

Section 223, Coastal Barrier Resource System in Florida: Senator MACK, Senator GRAHAM, and I believe the Governor of Florida, a Democrat, happens to feel very strongly that this should be in there. They want that stricken.

There is a Unified School District. I think that is the California issue.

Several in Alaska: The Alaska Peninsula Subsurface Consolidation, which is a very, very small consolidation on the Alaskan Peninsula.

But here is a big one they want stricken: Snowbasin Land Exchange Act. That is big in Utah. That is big in the Olympics. That is big in Idaho. That is big out west. This is going to allow a land exchange so Utah can hold the winter Olympics. They want it stricken out of here. They don't want it. They don't want that land exchange. There are some, evidently, environmental objections somewhere. It must be a lot stronger than we thought. We held hearings on it. The base of support from the States and the Olympic Committee spoke for itself.

Sand Hollow Land Exchange: Another Utah issue they want stricken.

Out in Colorado, section 311, 312, 313: Land exchange with the city of Greeley, CO, for the water supply and storage company.

And, then there are a couple more: Gates of the Arctic Land Preserve Exchange; the Native's association land exchange.

They own our State. There is no question about that. As we try to make adjustments to accommodate our citizens, we go through a process of hearings, get the input, and get the State administration involved.

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

Mr. MURKOWSKI. Mr. President, I was not aware there was a time limit on morning business.

The PRESIDING OFFICER. There is a time limit on morning business.

Mr. MURKOWSKI. I ask unanimous consent that I may have another 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair. I will try to be a little more rapid.

Colorado, section 101: Cache La Poudre corridor, Senator BROWN, Senator CAMPBELL.

RS2477, Section 405: An Alaskan issue.

They want to strike 406, the Hanford Reach protection which is out in the State of Washington.

Section 502, which is an historic area, the Vancouver National Historical Reserve: GORTON; MURRAY. They want to strike that.

Civil and Revolutionary War sites: That is section 602.

The Corinth, Mississippi Battlefield Act: I believe Senator LOTT.

The Richmond National Battlefield Park: Senator WARNER, and perhaps Senator ROBB.

Section 604, the Revolutionary War, and the War of 1812 Historic Preservation Study: Senator JEFFORDS.

The Shenandoah Valley Battlefield: Senator WARNER and Senator ROBB:

Ski area permit for rental charges they want stricken.

Visitors' services they want stricken. This is a park fee.

Glacier Bay National Park: Section 704 stricken.

And then out in the West: Senator BOND, Senator ASHCROFT, section 803, referral, burros and horses.

And, moving on, another Alaskan issue, 806, Katmai.

Senator CAMPBELL, section 811: Expenditure of Funds Outside Authorized Boundaries of the Rocky Mountain National Park, stricken.

Section 815: National Park Service Administration Reform; Senator BAUCUS, and Senator FEINSTEIN, I believe.

Mineral King, additional permits, Section 816, stricken.

Section 818, Calumet Ecological Park: I believe that is Senator SIMON, and Senator MOSELEY-BRAUN.

Moving over to others: Black Canyon of the Gunnison National Park Complex, stricken; 1021, Senator CAMPBELL, National Park Foundation, Senator BUMPERS and myself, stricken; 1027, 1028, 1029, the Deschutes basin ecosystem, Senator HATFIELD; Mount Hood Corridor Land Exchange, HATFIELD; creation of a forest; Senator HATFIELD; 1034, Natchez National Historical Park, Senator COCHRAN; and the rest of them are in this section 1035; and a few Alaskan issues of little consequence.

Mr. President, the point I want to conclude with is we as authorizers have done our job. There is an effort now to circumvent the legitimate process of the authorizers by momentum of the administration to put this in the appropriations package. I have committed to Senator GORTON. If they want to put the whole thing in, that is one thing. But I am not going to see the effort made by our authorizing committee and our conferees to have this simply cherry picked. Otherwise, there is absolutely no reason for our existence. If the appropriations process is going to pick up and cherry pick what we have done when we are ready to go, we have our holdings—at least I am sure on our side—addressed because of the way this process would proceed. The way this process would proceed, Mr. President, since we are ready to send it back over to the House by taking off the technical blue slip because of the tax implications, but we have to do that, of course, without objection. We are ready to do that.

Our job is done. The only risk to this is in sending it and subjecting it to a vote for recommittal. If the vote fails, the package is dead. But it will not fail. It will not fail in the House. It will not fail here. Give us a chance to vote on the package. Give us a chance to vote on what the authorizers have done here.

I implore my colleagues, particularly those who have been around here for a while, to recognize what this attempt is all about. They did not think we could get a consensus on the parks omnibus package. They thought all along they would be able to cherry-pick what they want out of it, but we fooled them. We got our job done. And now they are using the momentum of some in the minority to suggest they are going to go ahead anyway.

Well, we will see about that. We are ready to go. Our job is done. And to suggest some expeditious action by including it in the appropriations process at this late stage simply is not the way the Senate is supposed to function. I know that all of us get frustrated from time to time relative to our chairmanships, but this is a travesty of the process if this is a successful effort to cherry-pick those things and put them in the appropriations process when we are ready to go now. We can have it done today. We should be allowed to proceed.

So I hope that the leadership would reflect on that at noon when we proceed with the remainder of the calendar and just how we are going to treat these provisions, specifically the omnibus parks legislation, because at noon we will be ready to go subject to an objection. If there is an objection, I hope those objecting will come up with an alternative so that we can meet their objections, because our job is done. Technically, there is no reason why the parks omnibus package should not move ahead as it was intended and designed to do and as reported by the Committee on Energy and Natural Resources.

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I certainly understand and sympathize with the distinguished Senator from Alaska [Mr. MURKOWSKI], who, as chairman of an authorizing committee, has before us an important bill on which time has been spent and many hearings have been held. It is enormously frustrating not to be able to have that put before us and acted upon. I am very supportive of the efforts he spoke of regarding the Presidio bill.

## WORK FORCE AND CAREER DEVELOPMENT ACT

Mrs. KASSEBAUM. Mr. President, I wish also to speak as chairman of an authorizing committee, the Labor and Human Resources Committee, about my frustration that we cannot act on a piece of legislation I think is very important. It deals with job training reform. It is called the Work Force and Career Development Act. Numerous hearings have been held on this bill over the past 2 years of the 104th Congress. It passed the Senate with only two dissenting votes. It passed the House. And now we have on the calendar a conference report. It is enormously disappointing to me that in the final days of the 104th Congress we are subject to dilatory tactics, and if legislation is not going to be called up today, or at the latest Monday, there is no hope of it succeeding.

So I would like to speak for a moment, before this legislation will be put in the dust bin of the 104th Congress, on the need for major job training reform. I would like to speak on why I believe it was so important for us to have been able to consider this legislation and my disappointment that it cannot be brought forward.

The legislation would have reformed our job training and training-related programs. There is no doubt that the current maze of training programs is woefully inadequate to address the very real and immediate needs of workers for training and education. I think nothing makes us more aware of this than reports we have continually heard about how important skilled workers are to our work force today and the importance of vocational education.

Despite over $5 billion which the Federal Government spends annually on our various job training programs, the results are less than impressive. Study after study has pointed out the waste and overlap among job training programs that now exists.

Just to name a few, in January of 1994, the General Accounting Office issued a report, entitled ''Conflicting Requirements Hampered Delivery of Services.''

Another GAO report was issued in March of 1994: ''Most Federal Agencies Do Not Know if Their Programs Are Working Effectively.'' Other titles include: ''Overlap Among Training Programs Raises Questions About Efficiency,'' and ''Major Overhaul Needed To Reduce Costs, Streamline the Bureaucracy, and Improve Results.''

According to a 1996 GAO report, entitled ''Long-Term Earnings and Employment Outcomes,'' few training programs have been rigorously evaluated to assess their true impact on the long-term earnings of participants. While there may be some positive effects for participants shortly after training, the GAO found that over a 5-year period JTPA, the Job Training Partnership Act, participants rarely earn much more than comparable individuals who do not participate in that program, and their employment rates are only slightly higher. Despite months of training and placement assistance, the GAO could not attribute the higher earnings to JTPA training rather than to chance alone.

All too often, Mr. President, training programs spell disappointment for those who have sought assistance in building a better life for themselves and their families. That is why I think this is such a missed opportunity. We have talked and talked about reinventing government. That was an initiative that President Clinton, when he took office, announced he was going to undertake. This is a perfect example of where we had the opportunity to do so, and now we find we are thwarted from voting on the conference report on this important piece of legislation.

We heard testimony before the Committee on Labor and Human Resources from Ernestine Dunn who said that her experience with Federal job training programs was ''a journey [she] thought would never end.'' She spent over 10 years and went through eight different job-training programs before getting the job skills and training she needed to get off welfare and into a permanent, well-paying job.

Her experience is not unique. With all the different programs and organizations that deliver services, people have difficulty knowing where to begin to look for assistance. As a result, they may go to the wrong agency or, worse, give up altogether. When training is provided, it often results in only part-time or temporary work. We must do better if we are going to create a world-class work force that can compete in the 21st century. I believe it is

our responsibility to see that we assist and work with local and State governments and the business community to do just that.

The Congress and the President both agree that reform is long overdue. Less than 1 year ago, as I said, we passed this with overwhelming bipartisan majorities. Last October, the ranking member of the Labor and Human Resources Committee, Senator KENNEDY, remarked that ''this is an area of public policy which is of great significance and importance to working families in this country and of great significance and importance to the United States as a nation and its ability to compete.'' That was true then and is even more true now. With ever rapid advances in technology, workers will have to constantly change and upgrade their skills in order to compete.

The importance of training and education were also central to the debate and passage of the welfare reform legislation this summer. In order for welfare recipients to successfully make the transition to work, they must have the training, education, and job skills that will help them get in jobs and stay in jobs. That is what this legislation is all about.

It is not about programming a child from kindergarten clear through high school in a career path. It is about giving our States and our local communities the resources to help design flexible programs that will meet the needs of Kansans, or meet the needs of those who live in New Hampshire or Maine or California. There are differing needs in differing States and at different times in a person's progress through school and work.

Again, that is what this legislation is all about. It would allow the States the flexibility to design integrated systems where services are delivered on a one-stop basis. No longer would an individual have to go to several different offices for help. With a one-stop system they could get job counseling, skills training, and other services all in one place. That is what the administration said they wanted as well.

Meeting these challenges will not be an easy task. One possible response might be to increase funding for education and training. We are on the way to doing just that. I am troubled, however, that we would pursue this course while leaving in place the same old programs which we all recognize do not work. More funding, I would argue, will not advance the type of major structural overhaul and consolidation of training and education programs that is needed to create a workforce system that can serve the local needs of job seekers and employers alike. It is a Band-Aid approach that deals only with the symptoms and not the underlying causes of the problem.

This bill would consolidate over 90 programs of various job training efforts scattered among 15 different agencies. It really does take us in a new direction that I think offers positive assistance. So, it is with enormous disappointment that I see these efforts may now be wasted—but I hope not—as we complete the 104th Congress. For those who will remain, because I will be retiring, it is my hope that what we have laid out here in months and months of work can provide a background for further efforts in the 105th Congress.

This legislation has been strongly supported by the National Governors' Association, both Democratic and Republican Governors. They believed this was one of the most important pieces of legislation that could be passed in this Congress.

The workforce development conference report that is now on the calendar is a result of 2 years of bipartisan work to develop a vision of a workforce development system for the 21st century. The elements of this common vision include:

Flexibility for the States to design systems that meet their own needs, while preserving the core activities traditionally supported by the Federal Government;

Greater coordination among educators, trainers, and the business people who create the jobs for which individuals are being trained;

Innovative strategies like vouchers to improve training; and

Improved effectiveness of programs by focusing on results, not bureaucratic redtape.

This conference report, I think, deserves the full support of all those, both Republican and Democrat, who were committed to achieving broad job training reform less than 1 year ago. One of the staunchest supporters of this effort is on the other side of the aisle, Mr. President, Senator KERREY of Nebraska.

Some have complained the conference report does not go far enough in preserving a Federal role in job training. Others claim it creates too broad a Federal role. I do not believe that any of the specific criticisms that were leveled against this bill are significant enough to bring down such a solid piece of legislation which has been years in the making.

I had hoped that what began as a bipartisan effort with passage of the reform efforts in both the Senate and House would come to completion in a bipartisan vote of support for the conference report. We are faced with a challenge of creating a new and coherent system in which all segments of the workforce can obtain the skills necessary to earn wages sufficient to maintain a a high quality of living. In addition, American businesses need a skilled workforce that can compete in the world marketplace. I believe this legislation gives the States the necessary tools to meet those challenges.

We should not have allowed the distractions of an election year to detract us from moving forward in a bipartisan fashion on this legislation, which I believe is so important.

Mr. President, I conclude by saying it is my hope that in the 105th Congress it will be one of the top priorities as we recognize how extremely important it is for us to address our skilled work force for the 21st century.

The PRESIDING OFFICER. The Senator from Maine.

## LEAVING THE SENATE

Mr. COHEN. Mr. President, it is altogether fitting that I follow the remarks of my colleague from Kansas. I think those who have been watching have seen just an example of the kind of passion that she has brought to public service, the kind of strength and integrity that she continues to display even in the waning moments of this session. I know the country is going to miss her service. I am certainly going to miss being a partner in so many endeavors that we have had over the past 18 years in the U.S. Senate.

I must say, this is both a sentimental and a sweet moment for me. It shortly will mark 24 years of serving in both the House and the Senate. It is a mere blink of the cosmic eye of time, and it has all been telescoped into these final few moments as we conclude this session. So it is sentimental in that sense, but it is also sweet in another, because I have been standing in the glow cast by so many friends and their kind remarks. Last evening, Senator BYRD took the floor and gave an encomium to me. I was pleased that I was not here to hear it, because, had I been here, I would have been too embarrassed to have remained on the floor.

If someone throws rocks at me, I am quite accustomed to throwing them back. But if you hurl a bouquet, then I am usually undone.

So, I thank Senator BYRD for his gracious comments last night, along with those of Senator NUNN, who also was most kind. He and I have served on the Senate Armed Services Committee for the past 18 years. I must say it has been truly an honor for me to have served with such a distinguished, intelligent, and dedicated individual, one who has dedicated his life to promoting a sound and responsible national defense policy, foreign policy, and, indeed, economic policy. It is my hope that sometime in the future we will be able to continue efforts in all of these areas.

While I have been caught up in the golden afterglow of the accolades of my colleagues and those of the editorial writers in my home State, I have always been mindful of Dr. Johnson's observation that: ''In lapidary inscriptions, men are not under oath.'' I suspect there may be some truth to that as far as the editorial comments are concerned or final tributes to our parting Members. I might say, for my own part, I have been little more than Aesop's fly on the wheel of history's chariot, marveling that I could kick up so much dust in a period of 2½ decades.

I have also been deeply humbled by the experience. I think it is a testament to the openness of the people of this country, especially the people of Maine, that a boy who was born in the bed of his mother on the third story of a tenement building on Hancock Street, in Bangor, ME, just a block away from what used to be described as the ''Devil's half acre'' could, in fact, be elected to the greatest elective body in the entire world.

Maine people have always demonstrated a generosity of heart and, also, I believe, self-serving as it may sound, a great soundness of mind, to judge people not on their origins, not on their economic status, ethnicity or race, but on merit, and that is why, historically, we can point to people like Margaret Chase Smith, who stood on this floor so many years ago and delivered her ''Declaration of Conscience.''

It is why the people of Maine elected Ed Muskie, whom we lost just a few months ago who demonstrated his commitment to this Nation's interest in helping to clean up our waterways, improve the quality of our air and became known as Mr. Clean, then Mr. Budget, and the enormous contribution he made through public service to the entire country. The people of Maine are very, very proud of him and are working to memorialize all of his work.

They elected George Mitchell, who, in a very short period of time, became the Senate majority leader and one of the most effective in the history of this body.

They elected OLYMPIA SNOWE to replace Senator Mitchell when he decided to retire. Soon I believe they are going to send Susan Collins to sit beside OLYMPIA SNOWE. Governor King, who is an Independent Governor of the State of Maine, made the comment when I announced my retirement, ''What do you do? What does a State do when it loses Babe Ruth and Lou Gehrig?'' I suspect he was referring to Senator Mitchell as being Babe Ruth and me as Lou Gehrig. But what do you do?

I might say the same for Kansas. What does Kansas do when it loses a Bob Dole and a NANCY KASSEBAUM? What the people of Maine will do is do what the Yankees did. They will go out and recruit Mickey Mantle, which they have done in OLYMPIA SNOWE, and Roger Maris, which they will have in Susan Collins.

I think all of us feel the sense of loss that so many are leaving—some 13 now, with Bob Dole, 14—the U.S. Senate at the end of this term. We feel that perhaps things won't go on as they should. People talk about the ''center no longer holding, of things falling apart.'' But I believe it was Charles De Gaulle who said ''That our graveyards are filled with indispensable people.'' There will be others equally qualified, if not more qualified, to take our place in this distinguished institution.

I had occasion to travel out to Ann Arbor, MI, yesterday afternoon to partake in a conference that was held at the Gerald Ford Library. The moderator of the panel, which consisted of Tom Foley, Bob Michel, and myself, hit me with a question the moment I arrived. He said, ''Why are you leaving? Why are you and so many others leaving?''

Of course, I could have given a glib answer and said, ''Well, I'd rather have people wonder why I'm leaving than stay and have people wonder why I'm staying.'' But it was a serious question that required a serious answer.

Each of us are leaving for different and profoundly personal reasons. Some are departing the Senate at the end of this session because of age. Some are departing because of health factors. Some are departing, like my colleague from Kansas, for family reasons, of wanting to be at home with her children and grandchildren.

For me, I must say, there is never a good time to leave the best job in the world. There is never a good time to do that. But for me, it is the best time. I have what I would call a Gothic preoccupation with the relentless tick of time. I served almost a quarter of a century on Capitol Hill now representing the people of Maine, and I know had I chosen to run one more term, the pressure would have been on to say, ''Well, now that you are chairman of one of the various committees on which you serve, we need to keep you where you are, so run again.'' So it would be 12 years from now I would then still be running after Senator STROM THURMOND, whom I am sure by that time would have renounced his late-blooming support for term limits and decided he wanted just one more term.

But the subject of term limits, of course, raises another issue. The people of Maine passed by way of referendum a proposal to place a two-term limitation on those who serve in the U.S. Senate. It was not binding, as such. It was not retroactive, and so it never would have applied to me or, indeed, to Senator Mitchell. But it basically said something about the mood of the people of our State; that they feel, or have come to feel, at least those who voted, that 12 years is long enough.

I must say, in the back of my mind, that weighed rather heavily; that even though it did not apply to me in any legal sense, in spirit, some were at least saying, you have been there twice as long as we would like to see people serve in the U.S. Congress.

I think it is a mistake. It is open to, obviously, a difference of opinion, with good will on both sides of this particular debate. But I think it is a mistake to suggest that people should only be here 12 years and move on. It will only, in my judgment, continue the churning of people moving in, moving out, and we lose a sense of history that a Senator ROBERT BYRD possesses and that of Senator MOYNIHAN and others. I can go down the list of people who serve with great distinction, who bring such a wealth of information, a sense of history, a sense of reverence for the finest institution in the world.

That is a personal judgment on my part, but I think we should be wary of just pushing people in, pushing them out, relieving people of their responsibility of voting. We have term limits. We have them now. They are called elections. If you don't like what your elected official is doing, then go to the polls and vote them out. But, no, it is an easy way to say, ''We don't even have to think about it, it is automatic. You have done your 12 years; now move on.''

So that was something that weighed at least in the corners of my consciousness as to whether I should stay or leave.

I must say to my colleagues that my goal in politics has always been quite modest, and that is to help restore a sense of confidence in the integrity of the process itself, to help bring Washington a bit closer to the main streets of my home State. I have always tried to bring a sense of balance and perspective and, yes, let me use the word, moderation. It is not in vogue today to talk about being a moderate. We are frequently depicted as being mushy or weak-principled or having no principle, looking for compromise—another word which has somehow taken on a negative tone.

I recall after supporting the crime bill 2 years ago, a call came into one of my district offices, and a man was very angry. He said, ''I am angry with your boss,'' to one of my staffers.

I said, ''Why was he angry?''

He said, if you excuse the expression, ''He's too damn reasonable.''

Perhaps that will be the epitaph on my gravestone.

I believe it is essential to have passion in politics, provided that passion doesn't blind us to the need to seek, find and build consensus. Republicans and Democrats have different philosophies. We are different. We see the role of Government in different ways, of either the need for its limitation or expansion. But we have the same goal, and that is to provide the greatest amount of good for the greatest amount of people in this country. I also think it is sheer folly to believe that either party holds the keys to the kingdom of wisdom, and I think the danger to our political system is that each party is going to plant its feet in ideological cement and refuse to move.

The Senate has changed since I first came here. The personalities have surely changed, and that is to be expected. It was inevitable. We had people of such stature like Senator Ribicoff, Senator Baker, Senator Javits, Senator Tower, Senator Jackson, Senator Rudman, Senator Danforth, and the list goes on. They have all departed from this institution, and we lost a great deal when they retired or passed away.

So the personalities have changed, but the process has also changed.

Toffler wrote a book some years ago in which he said we were entering the age of future shock, in which time would be speeded up by events and our customs and culture would be shaken in the hurricane winds of change.

Those hurricane winds of change have been blowing through this Chamber over the past three decades as well, and has changed, fundamentally, the operation of the Senate itself. The introduction of cameras into our Chamber has changed it, some for the good and some not for the good.

The House has always been able to act differently than the Senate. The House is a different body, a different institution with a different history. I served there for 6 years.

I recall reading that Emerson with a visitor in the gallery, pointed to the House floor, and he said, ''There, sir, is a standing insurrection.'' And that is what it is. It is far more energetic and boisterous and full of passion because that is the House of the people. That is where they are closest to the people that we serve.

The House undertook a 100-day march at the beginning of this session. They passed some major legislation. The pressure immediately was on the Senate: ''Why can't you do the same? We did all of this in 100 days. Why can't you do the same?'' And the answer is, the Senate was never designed to act in 100 days, to take up the same agenda in the same period of time. We were designed to slow down the process, to be more thoughtful about exactly what we were about, to take up major issues and to ventilate them, to debate them at length, if necessary, to allow the public to understand exactly what we were undertaking, to express their approbation or disapproval.

But now the pressure is on to move faster and faster, to become more like the House. That is a great institution, but we should not merge the two identities.

I think there has been a loss of reverence for our institutions. In fact, if you look, perhaps the Supreme Court may be the only institution for which there is a deep sense of respect and reverence, and perhaps that is because the mystique that surrounds it has yet to be torn away and shredded.

I find it troubling that we see shoving matches outside committee rooms in the other body. While poets have asked, ''What rough beast slouching its way toward Bethlehem,'' we have to ask, ''What rough beast slouching its way toward the Potomac?'' Is it the Russian Duma? Have we come to shoving matches to make our points? It was discouraging to see that passions are so high that we have to resort to fisticuffs.

Perhaps there is a recognition that we have gone too far. We can take some hope that Members in the other body are now holding retreats and actually socializing. Think about that. They are deciding to socialize, Democrats and Republicans, something unheard of for the past 2 years, and now starting to socialize to get to know each other a little bit better so that perhaps during the height of those passionate debates, they might still maintain a sense of order and respect.

I remember during the Watergate process I served on the House Judiciary Committee that was debating whether to bring impeachment articles against Richard Nixon. It was more than 22 years ago. And I raised a question. I said, ''How did we ever get from 'The Federalist Papers' to the edited transcripts? How have we come that far?'' And I wondered yesterday, in the same vein, how did we ever get away from the kind of relationships that Gerald Ford and ''Tip'' O'Neill and Tom Foley and Bob Michel had with each other where they could vigorously debate their philosophical differences but go out and play a round of golf or have a drink after debate ended that day, and now we find ourselves filing ethics complaints against each other, a volley going back and forth to see who can make the strongest charges against the other?

Mr. President, there are many reasons why this is taking place. It would take a full day and longer to analyze them from a sociological point of view. I would prefer to defer to someone of Senator MOYNIHAN's stature and knowledge, to talk about social issues. But I think radio and television has contributed somewhat to that stripping away of reverence for our institutions. We now have journalists who are heralded as celebrities. They have radio shows and television programs though which they have achieved a great deal of notoriety.

Some of them achieve notoriety by taking the most extreme positions possible and using the most inflammatory rhetoric they can, and, of course, as the rhetoric becomes more extreme, their popularity tends to soar. As their popularity soars, the invitations for them to come and address various conventions and groups also continues to escalate, as do their speaking fees.

Somehow, all of that excessive, inflated, and sometimes outrageous rhetoric starts to get recirculated back into the congressional debates, because then Members of Congress are invited to participate in those very shows and programs. They are then prone to come up with something equally extreme or quotable so that they can continue to be invited back on the programs.

So a little vicious circle has been set up and set in motion, people then vying for the best quote, the most inflammatory, provocative thing they can say in order to make the news on that program or another.

There is also the hydraulic pressure that everyone in this body and the other body faces from the endless quest for raising campaign funds.

There is the rise of the negative attack ads. It is a sorry spectacle that we have been witnessing all too much. We all say that they are terrible, but all of the consultants say, ''But they work.'' So we have allowed ourselves to lower the sense of decency and civility in this country by attacking character, trying to portray our adversaries, our political adversaries as enemies, as evil-minded people who are set out to destroy the fabric of this country.

We have witnessed the rise of special interest groups. There have always been special interest groups, but today they are far more organized, they are far more technologically advanced than ever before, and they have a greater capability than ever before of blunting and stultifying any attempt to forge legislation in the Congress.

John Rauch wrote an article for the National Journal some time ago—I think since has been expanded into a book—but it referred to the process as ''demosclerosis,'' that the arteries of our democratic system have become so clogged with special-interest activities and organizations that it is virtually impossible to work any kind of change because single-minded groups have more at stake in preventing legislative changes than the general public has in supporting them. So there is that intensity of interest, and they are able to hit a button and suddenly flood our offices with 5,000 letters overnight or several hundred phone calls in the matter of a few hours.

There is also, I must say, a reluctance on the part of the Members of this body and the other body to touch the so-called third rails, to touch politically volatile issues like Social Security and Medicare and entitlements. All of us have been shying away from these issues.

We have to rethink exactly what the role of a U.S. Senator is. I always felt that it was the responsibility of Members of this body who are elected to come to Washington, to become as informed as they possibly could, to have an open door to all special interests—and everyone in this country has a special interest—to be open to all issues and arguments and advocates, and then to weigh the respective merits of those arguments, to sift through them and come to a conclusion and vote, and then go back to our constituents and explain exactly why we voted as we did, not just react to or appease the most vocal among our citizenry.

Some of that has changed. We do not quite do that anymore. Today, we are being driven by overnight polls. Today, we are lobbied intensively by various groups. Today, everything has become compressed.

Margaret Chase Smith, I mentioned her earlier. She used to sit over here to my right. She never announced a vote until the roll was called—never. And that was her particular mark, saying, ''I want to hear what all the arguments are before I make my decision.'' Most people cannot do that today. Most people are not allowed that luxury of waiting until debate is concluded before announcing their decision. Those who do

run the risk of being criticized editorially or otherwise as being indecisive, possessing a Hamlet-like irresoluteness. You mean you do not know how you will vote on a bill that may come to the floor a month from now? Have you not thought it clearly through?

We even get ranked by various groups on legislation that we do not cosponsor, so that you have black marks listed next to your name if you refuse to cosponsor a bill that may never come to the Senate floor.

I have on occasion taken this podium and announced that the mail coming to my office and phone calls coming to my office were running heavily against the position I was about to take. Having said that on the Senate floor, my office would then be flooded with immediate calls saying, how dare you indicate that your mail is running two or three or four or five to one but you are going to vote the other way? How could you possibly be so arrogant? Well, of course, those callers presume that that body of mail and that volume of calls received reflect the will of the people of Maine, which may or may not be the case. Much of the time it is so highly organized it does not reflect the general will of the people of the State.

But it also presumes that we serve no function other than to tally up the letters and to tally up the phone calls. You do not need us for that. You do not need a U.S. Senator to do that. All the people have to do is just buy a few computer terminals and put them in our office, have the mail come in, count the phone calls, and then push a button and have a vote. You do not need us for that.

So we have to restore the sense of what the role of a Senator is. We have to really work to persuade our constituents that this is not a direct democracy, it is a republic. It is what Benjamin Franklin said: ''We have given you a republic, if you can keep it.''

So we have to dedicate ourselves not to a direct democracy, or to voting according to the passions of the moment of what an overnight poll may or may not show, but to consider thoughtfully and weigh the merits of the opposing arguments and then take a stand on an issue and try to persuade our constituents we have done, if not the right thing, at least a reasonable thing. If we cannot do that, we do not deserve to be reelected. That is the way the system should operate—not, take an overnight poll and formulate our policy to comport to what the overnight poll shows. Polling is now driving our policies, driving it in the White House—this is not the first White House—and it is driving it in Congress as well.

Mr. President, I am fond of quoting from Justice Oliver Wendell Holmes Jr, and the Presiding Officer as a very gifted attorney, I know, is familiar with his writings and his works.

He wrote at one point:

I often imagine Shakespeare or Napoleon summing himself up and thinking: ''Yes, I have written 5,000 lines of solid gold and a good deal of padding—I, who have covered the Milky Way with words that outshone the stars, yes, I beat the Australians in Italy and elsewhere, and I made a few brilliant campaigns, I ended up in a cul-de-sac. I, who dreamed of a world monarchy and Asiatic power. Holmes said, ''We cannot live our dreams, we are lucky enough if we can give a sample of our best, if in our hearts we can feel it has been nobly done.''

During the past 24 years, I have tried to give a sample of my best. I will leave it, of course, to the people of Maine to judge whether it has been nobly done. I mentioned a sample of the best, because yesterday for me was a very momentous day. I had the great privilege of cochairing a hearing held by the Senate Aging Committee and the Senate Appropriations Committee. For the first time in 18 years, I had the honor of sitting beside Senator MARK HATFIELD, a man whom I admire enormously, someone who stands as tall and straight and tough as any individual that has ever occupied these desks.

We held a hearing to deal with the issue of providing in some fashion more funding for research for medical technologies and developments. We had quite a remarkable group of people testifying before that joint committee. We had General Schwarzkopf who, having defeated Saddam Hussein's army on the battlefield, waged another kind of battle against prostate cancer. He was successful, and he is now waging a campaign on a national level to educate the American people of what the dread disease really entails and how it needs to be combated.

We heard from Rod Carew who talked about losing his 18-year-old daughter Michelle to leukemia, a very painful experience for him, and the television program that was shown to demonstrate her lightness of being, her generosity of heart and spirit was moving to all of us.

We heard from Travis Roy. Travis Roy is a young man from Yarmouth, ME. He was a great hockey player. He lived for the moment that he would take to the rink and play for Boston University. He suited up, stepped on to the ice, and 11 seconds later he became a quadraplegic, having been shoved head first into the boards. But to listen to him talk about what his aspirations are, that he wanted one day to have the kind of help, medical help that would allow him to get married, to hug his wife, to hug his mother, to teach his son how to play hockey, as his father had taught him, was quite a moment.

We had Joan Samuelson who has been waging a 9-year battle against Parkinson's disease. She talked about the day-to-day struggle that she has to encounter, and so many others, hundreds of thousands if not millions of others, have to confront every day of their lives, just to carry out functions that we take for granted.

We heard from a young woman from Oregon who is dedicating her life to become a research scientist but does not know if she will be able to complete that kind of education or whether the funding will ever be available to carry on medical research.

It was a momentous occasion for all of us. But what was equally poignant for me and memorable was the reaction of our colleagues. I paraphrased a poet during the course of the morning, and I said each of us, every one of us, here in the galleries, here on the floor, we all prepare a face to meet the faces that we meet. Every one of us puts on a mask every single day. But for at least a moment yesterday, every one of the Senators who were there dropped the mask of being U.S. Senators and revealed the pain and suffering that they, too, have known.

We had Senator PRYOR who talked about his son's illness, having cancer of his Achilles tendon and what that entailed. We heard from Senator CONNIE MACK who talked about the loss of his brother and his wife's fight against breast cancer. CONRAD BURNS, HARRY REID, BOB BENNETT, HERB KOHL—each one of them told a personal story of their own pain and suffering of that of friends and family members.

It was not, Mr. President, an adversarial hearing. It was a bipartisan meeting, a realization that we have to dedicate ourselves to defeating on a bipartisan basis common enemies that assault us daily. Yesterday we spoke of disease, but there are far more enemies that await us as we rocket our way into the 21st century.

There is something called a balanced budget. We can work toward a balanced budget on a bipartisan basis. This is not a political statement. This is a moral imperative. This is something that we have an absolute obligation to our children and our grandchildren to do. It does not matter whether you are a Republican or a Democrat or Independent. We have to balance the budget within a reasonable timeframe if there is any hope for ever solving this country's fiscal crisis.

Mr. President, we can have and we have to have a bipartisan consensus on the need for a strong national defense and a coherent and consistent foreign policy. I say this not as partisan, but we have lacked coherency, we have lacked consistency, and it has been to the great detriment of this country's credibility as the only superpower in the world.

I am fond of thinking back to a time when Churchill was being served his breakfast by his man-servant and, as the breakfast was being delivered to him, he said, ''Take this pudding away; it has no theme.'' Well, we have been lacking a theme in foreign policy for too long.

You cannot pick up today's paper without being disheartened, if you look at what is taking place in Israel today, or Russia, or Bosnia, or Iraq, or China, or Japan. You cannot adopt the policy or the position that, well, I am just going to focus upon domestic issues.

You can't focus just on domestic issues. You have to focus on foreign policy because foreign activities can overwhelm your domestic concerns and considerations.

We need to develop a strong bipartisan consensus on what the role of the country is to be in the next century. We have to do so and put aside those differences that we may have on other issues. Everyone is fond of saying, ''We can't be the world's policeman.'' I agree, but we can't afford to become a prisoner of world events either. It requires us to be engaged, and requires us to be engaged not only with the President, which we have yet to be engaged fully, in my judgment, on a number of key issues; we have to be engaged with our allies and, indeed, even our adversaries. We have to have a world view. There is no such notion of coming back to America, of zipping ourselves in a continental cocoon and watching the world unfold on CNN. We have to be actively and aggressively engaged in world affairs. History has shown that every time we have walked away from the world, the world has not walked away from us. The history of the 20th century has been one of warfare. What we need to prevent the 21st century from descending into warfare is an active, aggressive engagement in world affairs.

Mr. President, we need to have a restoration of individual and community responsibilities. We don't need to debate that issue as Democrats or Republicans. We have to return to the stern virtues of discipline and self-reliance. That should not be a matter of partisan debate. Everyone understands what has happened in this country by simply turning to Government to solve our problems. We have to get back to a sense of moral responsibility, fiscal responsibility, self responsibility, to be accountable for our own actions, and, yes, turn to the Government and have that Government care for individuals who are unable to care for themselves, be they poor, disabled or elderly.

We also, Mr. President, must work very hard on a bipartisan basis to heal the racial divide in this country. The words ''affirmative action'' are no longer in vogue; it is distinctly out of fashion to talk about affirmative action in America. Many people say it is the obligation of Government—if not the reality—to be colorblind. Well, we don't live in a colorblind society. It is a fiction. We live in a society in which racism is still very much alive. It is an evil that we have to rise up and confront day in and day out.

The notion that we are all starting from the same line, the same end zone, running a 100-yard dash, is pure folly. Can you imagine suggesting that we are starting out equal, when you have some young children in suburbia who go to bed with their laptops and teddy bears at night, and children in the urban areas who go to sleep still ducking bullets that are fired by gangs? Are they starting off equally in our society?

Affirmative action may not be the answer to these problems, but we cannot adopt a position of indifference or hostility to recognizing the need to overcome barriers that have been erected for centuries against people who have been deprived of their opportunity to participate fully in the American dream.

Mr. President, I could go on at length about the subject of the need to heal the racial divide, or the wound that has been opened up in our communities. I will save it for another time in a different forum, obviously.

I would like to conclude my remarks by referring to a book that was written many years ago by Allen Drury. If ever there was an author who captured the essence of what this institution at least used to be like, it was Allen Drury in his novel ''Advice and Consent,'' written and published in 1959. He said something which I have carried around with me from those very days when I first read the book. He said about us:

> They come, they stay, they make their mark writing big or little on their times in a strange, fantastic, fascinating land in which there are few absolute wrongs or absolute rights, few all-blacks or all-whites, few dead-certain positives that won't change tomorrow, their wonderful, mixed-up, blundering, stumbling, hopeful land, in which evil men do good things and bad men do evil things, where there is a delicate balance that only Americans can understand, and often they, too, are baffled.

It was a wonderful description of Washington itself. But I have gone further back into the past in Mr. Drury's writings, and I found something even more pertinent and important to me. He kept a journal. He used to sit up in that press gallery and look down upon the workings of the U.S. Senate. He kept a journal between 1943 to 1945. It is a remarkable piece of writing. It is so brilliantly and eloquently expressed, I don't think there has been a better piece of writing since that time. He said something about the Senate which I would like to repeat for my colleagues, because I am sure that the book is not on the shelves of all of us. He said:

> You will find them very human, and you can thank God that they are. You will find that they consume a lot of time arguing, and you can thank God that they do. You will find that the way they do things is occasionally brilliant, but often slow and uncertain, and you can thank God that it is. Because of all these things, they are just like the rest of us, and you can thank God for that, too. That is their greatness and their strength, and that is what makes your Congress what it is—the most powerful guarantor of human liberties free men have devised. You put them there, and as long as they are there, then you can remain free because they don't like to be pushed around any more than you do. This is comforting to know.

I don't know, if Mr. Drury were sitting up in the gallery today, that he would look down and find as much comfort as he did in 1943 through 1945. But I must say that I do.

After all that I have said in pointing out all the difficulties and all the problems that confront us as an institution, I take hope. I look at people like BOB KERREY of Nebraska, JOHN BREAUX of Louisiana, KENT CONRAD, JOHN CHAFEE, OLYMPIA SNOWE, SLADE GORTON, who is sitting in the Chair, BOB BENNETT, PAT MOYNIHAN, and they are just a few—in spite of all of the difference, all of the criticism we have witnessed in the past—and JOHN GLENN who just walked through the door. I include him by all means in that category of people that I look to the future with great hope and encouragement.

I want to just point out that, several years ago, when Senator SAM NUNN and Senator PETE DOMENICI—two more giants in this body—offered an amendment to curb the growth of entitlements, I thought they came up with a very rational, responsible proposal. It said, let us take the entitlement programs that are growing at such a dramatic rate and see if we can't rein in those spending programs a little. Everybody who is entitled to enter a program can still come in and we will provide a cost-of-living adjustment, a COLA, every year, and for the next 2 years we will even add 2 percent, and then we will cap it at that rate. It sounded eminently reasonable to me. But what happened? How many people voted for that? I think it was 26. Only 26 Members were prepared to stand up and endure the wrath of our constituents, for fear that we were taking away something that they were entitled to. Well, that has changed,

Mr. President, thanks to people like you, the senior Senator from Washington, and thanks to the others I have mentioned, and so many more, we had a vote recently in which we presented a balanced budget that included some very difficult choices. It included reductions in the growth of Medicare. It included some tax cuts—not as much as many had hoped but more than perhaps many believe we are entitled to at this moment in time, but, nonetheless, tax cuts; Medicare reductions; reductions of a half of a percentage point in the Consumer Price Index. Some would like to have at least 1 percent, but half a percent is a very courageous thing from Members to do in an election year. Forty-six Members of the U.S. Senate went on record in favor of that. That is why I am encouraged that we will find men and women succeeding those of us who are departing and who will look into the eyes of their constituents and say, ''This is something that is right for us to do.''

The Social Security system eventually will go bankrupt, the trustees say by the year 2029. Around 2015, revenues collected will be exceeded by payments to beneficiaries. Medicare will be broke in 6 years.

It is a tragedy that the White House has absolved itself of this issue and has refused to come to the grips with the issue of Medicare solvency. I know what is going to happen. They will wait until the elections are over, and then, whoever wins at that time—if it is

President Clinton who wins reelection, I can almost guarantee that the first thing he will do will call for the creation of a blue ribbon commission to resolve the Medicare crisis. It is an issue that should be debated this year. It should have been resolved this year, but it will not be.

I take hope, Mr. President, when I look at leaders such as TOM DASCHLE and TRENT LOTT. I know, again, what the reaction was when Senator Mitchell, my colleague from Maine—again, I point out he was one of the most effective majority leaders in the history of this body—when he left, there was a great expression of woe. ''What will we do?'' When our distinguished colleague, Bob Dole, left, all of us felt the pang and the anxiety of saying, ''What are we going to do now?'' Bob Dole is no longer with us—a master at bringing people together.

I believe that we are still in good hands. I am impressed with the majority leader, with his drive, intelligence, and determination and, yes, his pragmatism, his willingness on key issues to reach across the aisle, and to say, ''Can't we work this out? We have our differences, but can't we at least come to some kind of consensus on the major issues confronting this country?'' I am enormously impressed with his talents, and those of Senator DASCHLE as well, both men of outstanding ability and good will.

To those people who declare that ''the center can no longer hold; things are going to fall apart; the best are lacking in conviction while the worst are full of passion and intensity,'' I say nonsense. There are going to be people who will come to this Chamber who will be filled with passion, to be sure, who will argue strenuously for their positions. But I believe it is inevitable that they will come back to the center.

The center may have shifted slightly to the right. People are more conservative today than they were 10 or 20 years ago. But the center has to hold. If the center does not hold, then you will have stagnation. If the center does not hold, then you will have paralysis. If the center does not hold, you will have Government shutdowns. When that takes place, the level of cynicism that currently exists will only deepen to a point that is so dangerous that it will afflict us for generations to come.

Mr. President, Alistair Cooke summed it up for me in his wonderful book called ''America.'' In one of his chapters, he made the inevitable comparison between the United States and Rome. He said that we, like Rome, were in danger of losing that which we profess to cherish most. He said liberty is the luxury of self-discipline; that those nations who have historically failed to discipline themselves have had discipline imposed upon them by others. He said America is a country in which I see the most persistent idealism and the greatest cynicism, and the race is on between its vitality and its decadence. He said we have—paraphrasing Franklin—a great country, and we can keep it, but only if we care to keep it.

I believe based upon the many friends that I have made here—the people that I admire and who are leaving with me, but those, more importantly, who are staying and those who will come—that there is a genuine desire to keep this the greatest country on the face of the Earth, a country that is still a beacon of hope and idealism throughout a world that is filled with so much oppression and darkness, and this will remain the greatest living institution in all of the world.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## SENATOR BILL BRADLEY

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to my friend, colleague, and the senior Senator from New Jersey, BILL BRADLEY, as he leaves the U.S. Senate. I have served with BILL BRADLEY for nearly 14 years, my entire tenure in this body, and it is difficult to imagine what it will be like without him. Although we have different styles, rhythms, and backgrounds, we formed an effective team which fought together for our State's and our Nation's interests.

Throughout his life, BILL BRADLEY has achieved remarkable success as a scholar, an athlete, an author and an outstanding public official. And whether he was helping his team to championships at Princeton University, the Olympic arena, or the floor of Madison Square Garden, or helping to pass landmark legislation on the floor of the Senate, BILL BRADLEY always strives for the best. He has performed always as a rising star, and I know that this is not his apex.

Mr. President, in the Senate, BILL BRADLEY concentrated on a few areas and helped to translate his own vision into public policy. As a member of the Finance Committee, he continually fought for fair tax policy, honest budgeting, and economic policies that enhance growth. He is widely known as the author of the fair tax, which was the foundation of the Tax Reform Act of 1986.

BILL also knew that the single best economic advantage is a good education. So he designed a new way to help pay for college. His self-reliance loans give all students, regardless of income, the chance to borrow money from the Federal Government.

He has been a strong voice against gun violence and crime in our communities and a creative thinker in developing opportunities for urban youth. His efforts are reflected in the enactment of community banking and urban enterprise zone legislation, educational reforms and community policing programs.

But what many of us will remember most is BILL's passion when it comes to issues involving equality. BILL established himself as a serious and badly needed voice in the national dialog on racism, pluralism, and discrimination. He has challenged every American to confront the festering sore of racism. In his keynote at the 1992 Democratic convention, he warned that ''We will advance together, or each of us will be diminished.''

One of his most powerful moments in the Senate, and one which I will never forget, was his denunciation of the horrifying beating of Rodney King. I will always remember BILL standing at his podium, pounding it 56 times with a bunch of pencils. His blows were meant to represent the beating administered by the police to Rodney King. The sound, resonating through the Senate Chamber, was a powerful reminder of just how far we need to go on the road to equality.

In the international arena, BILL BRADLEY was so energetic and committed that he traveled to the former Soviet Union for a weekend—to try to facilitate understanding between the superpowers, and to foster peaceful co-existence through economic cooperation.

With all of his achievements, BILL's chief goal in the Senate was to further the interests of New Jersey. He has written that he once received a special gift, a collection of every variety of rock found in our Garden State. I, too, think that it is the perfect gift, because what could better symbolize a man whose commitment to New Jersey's interests and her people was always rock solid?

His hard-working schedule would, on occasion, take BILL to New Jersey twice in a single day, in order to fulfill his obligations to meet with constituents, to help solve a problem, to deliver a talk to students, or to simply stay on top of the Garden State's needs. And his famous New Jersey beach walks, which he took during every one of the past 18 years, are symbolic of BILL's constant presence and consistent commitment to our State.

BILL has written that he prefers moving to standing still, well I know that wherever his journey takes him, his ultimate destination will be success, and all of us will benefit from his efforts. To my friend, colleague, and fellow New Jerseyan, I thank you for the contributions you have made, and for those yet to come. I offer my wish for continued success and happiness.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

## REVISION AND EXTENSION OF REMARKS

Mr. HEFLIN. Mr. President, on Wednesday, September 25, 1996, notice

appeared in the CONGRESSIONAL RECORD that a final issue of the CONGRESSIONAL RECORD for the 104th Congress will be published on October 21, 1996, in order to permit Members to revise and extend their remarks. And then that there will be a publication of the RECORD, and that it would be available I believe on October 23. The material is to be submitted to the Office of Official Reporters of Debate at various times but up until 3 p.m. on October 21.

I ask unanimous consent that I be allowed permission to revise and extend remarks in connection with the space program, national security, trade, civil rights, crime, agriculture, drugs, foreign policy, domestic policy, and other related subjects including research and development matters relating to my State.

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

Mr. HEFLIN. I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

## FAREWELL TO ''THE JUDGE''

Mr. DASCHLE. Mr. President, the time has come that, I daresay, every Member in this Chamber, Republican as well as Democrat, hoped would never come. With the end of the 104th Congress, we must say goodbye to ''The Judge''—Senator HOWELL HEFLIN.

Since he was first elected to the Senate in 1978, the senior Senator from Alabama has always shown himself to be a southern gentleman of the first order. His word is his bond; his integrity and dedication to public service is without question; and his love of country and devotion for the U.S. Senate is apparent to all who know him.

During his 18 years in the Senate, Senator HEFLIN has been respectfully called the ''spokesman for Southern agriculture'' for his efforts to improve the life and work of America's farmers and to preserve his State's valuable agricultural heritage.

He is also commonly and warmly referred to as ''The Judge,'' not only for his years of service as the chief justice of the Alabama Supreme Court, but for his efforts in State court reform, his extraordinary leadership in fighting crime and drug abuse, and his service on both the Senate Judiciary and Ethics Committees. Dozens of times I have observed my colleagues seek his advice on how to vote on legal issues.

Mr. President, I would like to add another characterization of ''The Judge''—I think of Senator HEFLIN as ''Mr. Alabama.'' No Senator has more cherished or more ably respesented his or her State than the senior senator from Alabama. He has magnificently and skillfully combined the national interest with the interest of his State through his support of Federal agricultural programs, America's space program, and the maintenance of a first-rate defense. Only in 1 year during his 18 years in the Senate did he fail to visit each of the 67 counties in his State in order to do what he says he likes best—''talk to the home folks.''

The people of Alabama, obviously, appreciated his work and his service. Never once did he poll less than 61 percent of the vote in any election.

I will always remember ''The Judge.'' I will always remember him as a ''public servant who served with dignity, integrity and diligence, worthy of the confidence and trust that Alabamians placed'' in him.

And I miss him. I will miss his folksy, southern humor. His stories of ''Sockless Sam.'' His depictions of friends and foes alike—in his 1990 campaign, he did not run against a mere Republican, he ran against a ''Gucci-shoed, Mercedes-driving, Jacuzzi-soaking, Perrier-drinking, Grey Poupon Republican.''

Now the time has come. I say thank you and congratulations to Senator HEFLIN on a remarkable career in the Senate. I wish him all the best, and to his wonderful wife, ''Mike,'' as they embark on the next phase of their lives—their return to Tuscumbia, which, ''Mr. Alabama'' has called ''a wonderful little town to be from and best little town in America to go him to.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## UNANIMOUS-CONSENT REQUEST—H.R. 1296

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I ask unanimous consent, after consultation with the distinguished Democratic leader, that we may turn to the consideration of the conference report to accompany the Presidio bill, and when the Senate turns to the consideration of the conference report, at this time, the reading be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. On behalf of a number of my colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. Mr. President, I obviously regret hearing the objection from the other side to dispense with the reading of the Presidio conference report. I am informed by the clerk that this would take awhile. It has been estimated at some 10 hours or thereabouts. Needless to say, the Senate has many very important pieces of legislation that we must enact prior to the end of the fiscal year.

This objection is an obvious indication that Members on the other side of the aisle do not intend or do not want to have this significant parks bill have consideration before this body. The objecters have been informed, it is my understanding, if they were to let the Senate turn to the conference report, that I, as leader, was to immediately ask unanimous consent that the conference report be recommitted back to the conference committee in order that the conferees could address several issues raised by the President. Consequently, since the objection was raised, that conference committee unfortunately will be unable to meet and address these concerns.

So, obviously, the will of the Members will not have been addressed, they will not have an opportunity to proceed with that. I regret that the Senate Democrats feel a need to block the Senate from enacting this massive omnibus parks bill, the single largest environmental package we have had before us that affects 41 States and includes 126 separate parks and public land matters.

Each Member will continue to work with the Democratic leader. Speaking for the leadership, Senator LOTT has indicated he will continue to work with the Democratic Members who have objections, but time is running out. So I urge all Members to rethink this objection, allow the conferees to address this very important issue.

Further, Mr. President, we are prepared—the Republicans are prepared; as chairman of the Energy and Natural Resources Committee, I am prepared; our conferees are prepared—to recommit this bill to conference. We can fix the provision which the leader referred to in his statement which causes that small problem in the House.

What it was, was a small tax-related problem. As you know, most all tax issues must originate in the House, so we have taken that out. We have the report here, Mr. President, ready to go, 700 pages, the result of 2 years of work, 126 separate sections are in here, 41 States are represented in here.

We have heard from the administration, but they objected to the Utah wilderness. Utah wilderness was not included. They went ahead and initiated an action under the Antiquities Act. That is another story for another time.

Grazing was a major issue, more objection from the administration. Grazing is not in here. The Tongass issue in my State to extend a contract for 15 years so we could build a new pulp mill and save 4,000 jobs, 1,000 directly in the pulp mill by extending the contract. That mill will never be built. The existing mill will be shut down. We will lose our jobs. I do not know what those people will do. That was taken out.

Up in Minnesota, the Minnesota wilderness lakes bill was objected to by

the administration. We took that out. We have had communication with the administration. We have tried to be responsive. They keep changing the goal posts. They move them back. So now we are in a position where, I suppose, the administration has prevailed on some Members on the other side, and we are down in this mire again.

Now, we have still, if we can clear those objections, an opportunity to move this. We are ready to go, Mr. President. As I have said, the work is done and our committee has acted. What we have is a rather curious process around here where the authorizing committees, when we get down to the end, seem to have no voice. But the appropriations effort is now to pick a few things out of here, put them on the Appropriations Committee, and abandon the rest.

I looked at a list that came in from the White House last night, and it is significant, Mr. President, to see what they want deleted. They want conveyance to the city of Sumpter, which authorizes the Secretary to convey 1.5 acres to the city of Sumpter, OR, for public purposes. They are prepared to veto the whole package. This is supposed to be the people's President. What in the world does he have against a place for kids to play?

I just met with a spokesman for the White House. They do not have any idea what is in here. They are simply carrying the bucket. Somebody said, object to that, we do not want it. That is Senator HATFIELD's will.

Section 218, Shenandoah National Park—Senators ROBB and WARNER and Congressmen BLILEY and WOLF in the House. It is interesting to identify who is who, because there is a certain amount of partisanship that you cannot help but see as a reality. It adjusts a 1923 boundary authorization to meet today's park boundary. The White House staff informs me they would have reached the same conclusion on the boundary adjustment but they needed more ''process.'' Now, when they invoked the Antiquities Act, they did not need more process. They made a land grab in Utah of 1.8 million acres. It does not take anything away from the park. The old map authorized 500,000 acres. If we went to that limit, there would not be enough money in the Treasury to buy all the private farms and homes that would be in the park.

The Tular conveyance, CA, big issue in the House, affirms that land sold by the railroad to citizens in Tular, CA, is free from any title problems. That is section 219. They want that out. This was an attempt to bring some stability and certainty to land ownership in the town of Tular. This administration does not seem to care about the town, the folks, or their future.

Section 210, the Alpine school district, Senator KYL and Senator MCCAIN, 30 acres of lands for a public school facility. What in the world is wrong with supporting a school district and aiding in the education of schoolchildren? I thought this was the educational President. We took these up. We have had hearings, 2 years of hearings. We set up a process. This administration, in some of their rabbit-trail clearance process has come up with this lesson and said this is unacceptable.

I am saying we have an opportunity to move this, to remove the objections. If we do not, there is another opportunity and we can put the parks package as passed with the objectionable items they threatened to veto that I already outlined, and we will put the whole package in the appropriations bill and let it go. I pleaded with them to do that this morning. Well, they cannot accept all these little things. These are the little things they cannot accept now.

Coastal barrier resource system, all Florida issues, transfers 40 acres of development property out of 2.1 million acres of undeveloped resource area. This is what the Florida delegation and the Governor believes, Democratic Governor believes, is in the best interest of their citizens. Since this President knows better than the States and the elected officials what is good for the people, there is certainly no longer a need for State-level elected officials, if that is the case.

Section 224, conveyance to the Del Norte County unified school district, a big issue in California and House Members, transfers a small acreage to the school district for educational purposes. I guess it now takes more than a village to raise a child. The title to the new President's book is, ''All You Really Need Is a President To Raise a Child.''

I find this incredible, Mr. President. Here we are, picking the bones, if you will, of this legislation to suggest that Presidio should be lost, San Francisco Bay area should be lost, Sterling Forest should be lost. That is what they are saying. The Alaska peninsula subsurface consolidation, one of mine, authorizes the Secretary to exchange subsurface holdings of a small native corporation on an equal value—equal value—for lands and interest owned by the Federal Government. This will complete exchanges approved earlier. It was this provision of the bill that caused the tax problem. That was unfortunate. We have taken care of it. From this action I can only conclude that the President thinks it is a good idea to have private inholdings in national parks. We have taken that out.

Section 304—Olympic Committee, wake up—Snow Basin land exchange—I do not know whether they have simply written off the State of Utah as they have perhaps Alaska. Senators HATCH and BENNETT, Representative HANSEN. This allows expedited land exchange to facilitate the 2002 Winter Olympics which would be an economic boom to Utah, economic boom to the West, and an economic boom, of course, to the United States as well—the United States, Utah, the West. This has been in the process for 6 years, and we have received absolutely nothing from the Clinton administration as they try to balance some environmental objection. They want to balance it. I am not sure what the President has against the Olympics or the people of Utah. Maybe he would like to see the United States, I do not know, embarrassed in the eyes of the world by not coming through. As far as Utah, Alaska, Idaho, and a few other States, we are ready to secede from the Union. We would do better ourselves than trying to deal with a legislative process that this administration has dictated.

You know, I used to think, Mr. President, because we control the House and the Senate, we could perhaps get a few things done around here. It doesn't seem to be the case.

Section 309. Sand Hollow Exchange. Senators HATCH and BENNETT. Another Utah. They seem to be pointing at Utah. Equal value exchange to add acreage to Zion National Park and allows additional water to flow through the park.

His ''own'' people and the environmental community have pushed this exchange. I don't know what the President has against Utah. All I can conclude is that, perhaps, as a young man, Bill Clinton must have been pushed down by a big kid from Utah during recess. That is the best explanation I have heard.

Section 311. Land Exchange, city of Greely, CO, Senators CAMPBELL and BROWN. Equal value exchange to secure property needed by the city to secure ownership of a city's water supply.

Well, apparently, this administration would like to manage the city of Greely's water supply—having achieved world peace and cured the common cold, they apparently are bored and need something to do. Well, sorry, Greely.

Section 312. Gates of the Arctic National Park and Preserve land exchange and boundary adjustment. That is mine, Governor Knowles, Senator STEVENS, and Representative YOUNG.

This exchange would have led to more than a 2 million acre expansion of the Gates of the Arctic National Park and Preserve in Alaska—in exchange for lands in Naval Petroleum Reserve-Alaska.

Since when is helping the national parks a bad idea in the Clinton administration? The only conclusion that can be drawn is they don't like it because it is not their idea. I don't know what else.

Kenai Natives Association land exchange. This would facilitate an exchange between the Kenai natives and the Fish and Wildlife Service to allow an Alaska Native Corporation to gain the economic use of their land, which would result from the acre-for-acre exchange.

There seems to be no rhyme or reason in the White House position. On one hand, they don't want to add 2 million acres to a national park and, on

the other hand, they want to double the acreage put into a withdrawal.

Now, I know we can debate the merits of some of these. We did it in committee. But we had a committee action, Mr. President. We had a committee vote. We brought the package before this body. You can vote up and down on the package. Some members said, ''Senator MURKOWSKI, why do you have this big package with 126 sections in it?'' The reason we have this big package is obvious: Because Democrats—one specific Democrat from New Jersey had a hold on every single bill out of our committee. There were holds put on by the Senators from Nevada, one or the other. That is their own business. But that is why we could not move these bills in the orderly process associated with the every-day business of this body. So we waited until the end because that is all we could do, put it in the package, present it before the Senate, and that is where we are today.

Section 401. Cashe La Poudre Corridor, Senators CAMPBELL and BROWN, their number one priority. Establishes corridor to interpret and protect unique and historical waterway.

All I can conclude from their refusal to support this action is they don't think that the Cache La Poudre deserves to be protected. I guess the people of Colorado are wrong in wanting to preserve an important piece of their history.

Section 405. RS2477, a western issue, Senators MURKOWSKI, HATCH, BENNETT, STEVENS. Puts a moratorium on the putting new regulations in place without Congressional approval.

What in the world is the objection to that? That is the democratic process. This is ''just'' moratorium language. The minority and the BLM negotiated this language with us. We were all in agreement.

Out west again. Section 406. To be eliminated is Hanford Reach Preservation, Senator GORTON and Congressman HASTINGS in the House. Extends a moratorium on construction of any new dams or impoundments in this area.

Can we conclude from this action that Clinton wants to start building dams on the river? I don't know.

Section 502. Vancouver National Historic Preserve, Senators GORTON and MURRAY. It changes a historic site into a national park. I don't know whether Senator MURRAY and Senator GORTON don't know what their constituents want, but I assume they do.

Section 602, stricken. Corinth, Mississippi Battlefield Act. This is Senator LOTT, who has been working on it for a long time. Establishes a National Park Service Civil War site in Mississippi. Is there something wrong with honoring the events associated with the Civil War in Mississippi? Or could it be that this is the majority leader's State, Mississippi?

Moving a little further north in the south, section 603. Stricken. Richmond National Battlefield Park, Senators WARNER and ROBB. Establishes boundary in accordance with a new National Park Service management plan, dated August of this year.

The administration is concerned about the process. This did not seem to bother them when the President declared a national monument in Utah, which was created with no process. But the administration's excuse here, to establish a boundary in accordance with new National Park Service management plan, dated August of 1996. Is that an administration that is concerned about the process? Come on, give us a break.

Where were the administration's explanations when the land grab was made of 1.8 million acres in Utah, over the objections, and without the knowledge of the process even occurring—no public hearings and no notification to the Utah delegation. They didn't do it, Mr. President, as you will recall, in Utah. They went to Arizona and put the desk on the edge of the Grand Canyon—a big show. The press bought it, they are gullible. They bought it hook, line, and sinker. They knew there would have been a few objections. A few school kids would have said, ''Hey, what about our school funding from some of this land?'' There was no public process. I tell you, when you start to try to identify who is responsible for these things, the accountability is awfully hard to find in this administration, but there are a lot of rabbit trails that are easy to find.

Section 604. Revolutionary War, Senator JEFFORDS. That was a study to determine if these sites warrant further protection.

Most of the problems we have had with this administration is that they simply leap before they think. I guess the idea of studying the need for something before doing it perhaps is a bit alien in the concepts of the White House. That has been proven time and again. This is very important to Senator JEFFORDS. It is a study to determine if these sites warrant further protection.

Section 607. Shenandoah Valley Battlefield, Senators WARNER and ROBB again. There is an election in Virginia this year, I believe. This would establish a historical area. It doesn't make a new park. This they want stricken. This is what the delegation wants. That is why we held the hearings. That is why we had the input. That is why we responded. Can they not be trusted, their own delegation, to determine what's right for their own constituents? Evidently not, because the White House wants that stricken. That is part of their veto package.

Ski Area Permits, 701. This simplifies a very complex ski area fee collection process, making collection easier, cutting down on the administrative costs, and it provides more funding for the Forest Service and other Federal agencies that are collecting ski area permits. It is supported by the ski industry and supported by the ski operators.

As far as we knew there was not any objection to it. This is supported by the National Ski Association and the Western States elected officials. We are elected officials. That is what I do not understand about this process. We are supposed to know something about what the people want. We are supposed to hold hearings. We are supposed to initiate a process. We have done that in these 126 sections of this bill. Now they are saying this is what is wrong. This is what we want out. And we can only speculate that the rationale is based on the conversations we have had.

Make no mistake about it. This is a process of long deliberations. This package is part of a process. That is why it is so important it stay together. We have taken again those items out that they want to initiate a veto on, and now they have come back again.

Section 703—visitor services—would raise $150 million for parks to help with badly needed repairs of existing park structure. One hundred percent of new fees go back to the park.

I do not understand the opposition to this. We had testimony in support of it. It is simply ridiculous. The Park Service needs these funds to maintain operations.

This seems like a blatant attempt to tear down the national parks and blame the Congress. The national parks are over $4 billion behind on maintenance. Here is a way to generate some relief.

Section 704—Glacier Bay National Park—raises fees to support research and natural resource protection through a head tax on passengers that go into Glacier Bay. And the only way you can get in there is the cruise ships. It is a 90-day season. It starts Memorial Day and ends Labor Day.

What is wrong with that? Never let it be said that this administration would let scientific data get between them and a political decision.

Section 803—feral burros and horses. This is a Missouri issue; Senator ASHCROFT, and Senator BOND.

Notice the trend here, Mr. President, as we address the partisanship.

This bill would prevent the slaughter of wild horses by the National Park Service. It would prevent it. Take a look at it, you environmentalists out there.

Section 803—feral burros and horses; ASHCROFT, and BOND. The bill would prevent the slaughter of horses by the National Park Service.

It is not bad enough that the White House has declared an open hunting season on people of the West. They want to shoot the horses that they rode into the West on as well, it seems. It is the only conclusion I can come to.

Section 806—Katmai National Park Agreements. It means a lot to Congressman YOUNG. It authorizes the U.S. Geological Service to drill scientific core samples. This is volcanic research. In Alaska we have a pretty hot plate. It blows up occasionally. It is about ready to do it here. We have volcanoes. We have earthquakes. This is volcanic research authorization.

What is wrong with that? Maybe Mr. Clinton needs to live at the base of an active volcano, and he would appreciate the need for the advanced volcano research. And where do you do it? You do it where you have volcanoes. You don't do it in Vermont or Washington, DC. You do it out on the Alaskan peninsula.

That is what this is all about. They object. They want to veto this over that.

I hope the American public would just be indignant for picking out these—well, you have to judge for yourselves.

Section 811—expenditures of funds outside the boundary of Rocky Mountain National Park.

That is rather interesting because that again focuses in on the great State of Colorado—Senator CAMPBELL, and Senator BROWN.

It simply allows the National Park Service to build a visitors center outside the park, mostly with private funds. They don't want that.

Section 815—National Park Service administrative reform—provides authorities which the National Park Service has requested for years—aid parks in protection of resources and provide facilities for employees; provides facilities for National Park Service employees; provides Senate confirmation of the National Park Service Director.

In keeping with that theme, not only evidently does this administration—the President—not trust his park employees, now he wants them to live under substandard conditions, which a lot of them are doing.

So what we have attempted to do—this isn't the Senator from Alaska doing this. This is a process that occurred in our committee by the introduction of the bill, hearings held, voting it out to the floor, and putting it into the package. That is the process. We had a process, not like the inequities in the Utah land where there was no process.

Section 816—Mineral King—a California issue—extends summer cabin leases. I am not familiar with it—totally discretionary by the Secretary.

Opposition to this provision I think is simply ridiculous. The Park Service needs these funds to maintain operations.

This seems like a blatant attempt to tear down the national parks and blame the Congress, I guess.

Mr. DORGAN. Mr. President, I wonder if the Senator will yield.

Mr. MURKOWSKI. I would be happy to yield. But I want to finish my statement, and then I would be happy to yield for a question.

Mineral King—I want to finish that. That is a California issue—extends summer cabin leases totally discretionary by the Secretary.

Again, I can only assume that the President does not trust his Secretary of the Interior or his Park Service folks to do what, obviously, a majority of the committee felt was the right thing.

This bill, of course, gives them complete control.

Section 818—the Calumet Ecological Park—that is Senator SIMON and Senator MOSELEY-BRAUN—a study to extend the I and M Canal National Heritage Corridor to incorporate a large portion of Chicago.

I am not conversant on that. But it certainly sounds reasonable.

Section 819—they want stricken—acquisition of certain property in Santa Cruz.

There are goats evidently that are ruining the island. Provisions in this bill would allow the National Park Service to address the removal of the goats from the island and try to restore a more pristine condition. It does not authorize the shooting of the goats, I might add. This portion of the island that is not under Government management I am told looks like certain areas of Afghanistan. The remainder of this island needs to be protected.

Section 1021—the Black Canyon of the Gunnison National Park. This is a major issue for one Senator, Senator CAMPBELL.

It formally creates a recreation area. Changes monument status to a park. Creates a BLM conservation area. Creates 22,000 acres of wilderness. Has all the four management agencies involved operating under one complex. Extensive hearings; extensive support; no questions about this. But it is on the list for veto.

National Park Foundation—I believe Senator LIEBERMAN, and myself—provides for the opportunity for the private sector to sponsor the National Park Service similar to the sponsorship of the Olympic games. We accepted Senator BUMPERS' six amendments which clarify that the sanctity of our National Park Service will be maintained. Clarifies that in no way the corporate entity can overcommercialize the Park Service.

The national environmental community is ginning up opposition against this. Well, let them come up with the $4 billion that is necessary to provide adequate maintenance in our parks.

They are quick to criticize. But when somebody comes up with a solution, obviously, they criticize but they don't counter with a response.

Mount Hood—Senator HATFIELD—1028—exchange between private company and Federal Government. Provisions already in the continuing resolution.

Section 1029—creation of the Coquille Forest—Senator HATFIELD—equal value exchange creating a tribal forest.

Section 1034—Natchez National Historical Park—creates an auxiliary area to the National Park Service unit, and provides $3 million for intermodal transportation system and a visitors center.

Is this administration opposed to creating less intrusive modes of transportation to allow more people to be able to enjoy the magnificent national park system, or are they just opposed to Republicans getting something for their home States? I don't know whether this is just a partisan shot. But it sure looks like it.

Section 1036—rural electric and telephone facilities—it authorizes the BLM to waive right-of-way rental charges for small rural electric and phone cooperatives.

Section 1037. Federal borough recognition, payment in lieu of taxes. This allows the unorganized borough in Alaska to receive PILT payments. They are unorganized, few people living there; 60 percent of the Federal lands in Alaska are in this borough. The administration did not oppose this during the committee action, and the language was worked out in cooperation with them. The administration supported this in committee. This is a slap in the face to my State, the rural Alaskans in my State, who lose out on economic opportunity because of the massive amount of public lands in their backyards. What could possibly be the reason for opposing this other than it is in a State that probably will not vote for the President?

Alternative processing, 1038.

The PRESIDING OFFICER. The Senator's 5 minutes under the morning business agreement has expired.

Mr. MURKOWSKI. Mr. President, I have about 3 more minutes. I wonder if I may be allowed to complete this statement.

Mr. DORGAN. Reserving the right to object, and I shall not object, certainly, I would like to ask if we might lock in some time for a bill introduction following the completion of the work by the Senator from Alaska. I would like to be recognized for 12 minutes; the Senator from California, Mrs. FEINSTEIN, for 12 minutes; and Senator REID of Nevada, for 12 minutes.

The PRESIDING OFFICER. Is that a unanimous consent request?

Mr. DORGAN. Yes. I make that in the form of a unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MURKOWSKI. I thank my colleague.

Section 1038. Alternative processing. This is an attempt to save the remaining jobs in my State, in southeastern Alaska in a timber area. Why doesn't the President just tell us: I want the remaining jobs to go away. I want the communities to go away, or simply suffer.

That is what he is doing. What this would do would be to simply transfer timber that is being used as pulp, as a designation of that timber under an 8-year contract that is binding to be transferred over to sawmill use so that, as we lose our pulp mills, we can continue to have a supply under a contractual commitment to our sawmills. We only have four sawmills, three of which are running. The other one is not because they do not have enough logs.

So we have taken our pound of flesh on this package. We have withdrawn what we hoped the administration would support and that was a 15-year contract to allow a $200 million investment to bring our pulp mill up to environmental standard. They would not support that.

Section 1039. Village land negotiations. This is another slap in the face of Alaska Native people. This provision just asks the Secretary to talk to five tiny Alaska villages that have waited more than 20 years for a conveyance that they were promised. This is a classic example of the Federal Government using the old bait-and-switch routine on America's native people and having no intention, evidently, of making good on the promises.

Section 1040. Unrecognized communities in southeastern Alaska. That merely let five communities in Alaska establish as a group or urban native corporations. It involved no land transfer. It was a Alaska Native equal rights bill that gave these people simply an opportunity or the authority to proceed. No land transfer was associated with it—another solution in which the Federal Government has turned its back on Alaska Natives.

Section 1041. Gross Brothers. They served their country in uniform. They lost their deed. Their country is denying them the land they homesteaded, land they lived on.

Section 1043. Credit for reconveyance. This would have allowed Cape Fox Corp. to transfer 320 acres of land near a hydro project back to the Forest Service. They would not have gotten any land in exchange. I do not know why they oppose that. We are giving the land back.

Section 1044. Radio site report. A study to determine if radio sites are needed.

Section 1045. Retention and maintenance of dams and weirs. Forces the Forest Service to maintain specific dams and weirs in the Immigrant Wilderness.

Section 1046. Matching land conveyance, University of Alaska. This authorization is for the Secretary of the Interior to discuss—discuss, not mandate—a land grant with the University of Alaska, which has never received its Federal entitlement, on a matching basis with the State.

Once again, this is an education President striking again against education, and I just do not understand the rationale. This is the only statewide university in our State. It is a land grant college. It has no land in the largest State.

In conclusion, Mr. President, I want to advise my colleagues also that I have maintained that we have put this package in the most responsible form. It is ready to go. If it does not go, if it does not go in the package, it is not going to go. We will have to come back and start the process all over again. We will lose Presidio. We will lose the San Francisco Bay area cleanup. We will lose the issues in New Jersey, Sterling Forest. We will lose 126 sections of hard work that came out of the democratic process simply because, by executive mandate, this administration says they will not accept it. I find that unconscionable.

I am very pleased with the action of our leader in introducing this. I hope we can address the concerns of the minority, and I am willing to work with the minority to try to do that in the time remaining.

With that, I yield the floor. I thank the Chair and my friend for allowing me to continue. I appreciate their graciousness.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for up to 12 minutes.

Mr. DORGAN. I did not, when I asked the Senator to yield, intend to discuss goats or horses, or erupting volcanoes for that matter. I expect there will be a rejoinder at some point on the floor, but that was not my intention. I appreciate the courtesy of the Senator from Alaska.

(The remarks of Mr. DORGAN and Mrs. FEINSTEIN pertaining to the introduction of S. 2140 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

## DAKOTA, MINNESOTA, AND EASTERN RAILROAD CELEBRATES 10TH ANNIVERSARY

Mr. PRESSLER. Mr. President, this month marks the 10th anniversary of the Dakota, Minnesota, and Eastern [DME] Railroad. The DME is South Dakota's only statewide railroad and operates more than 1,100 miles. I offer my heartfelt congratulations to the DME. I particularly commend the many dedicated workers and officials who have worked to make DME such a successful rail service provider. All associated with DME should be proud.

I recall back in 1983 when I first became involved in a lengthy battle to preserve critical rail service slated for abandonment. The Chicago and NorthWestern was planning to abandon 167-miles connecting Ft. Pierre and Rapid City. That fight ultimately lead to establishment of the DME.

At first, many were skeptical about DME's prospect for success. Those same skeptics are believers today. DME's annual revenue and freight tonnage have doubled during the past 10 years. So has its number of employees. And, more than $90 million has been invested in main line infrastructure improvements during that same period.

I am proud to have played a role both in DME's creation and its successes. I have enjoyed working closely with rail shippers and DME to advance this critical transportation service. I remain committed to doing all I can to promote adequate and effective rail service for our State.

Mr. President, I ask unanimous consent that an article by Roger Larson and an editorial printed in the Huron Daily Plainsman detailing the DME odyssey be printed in the RECORD.

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

[From the Huron Daily Plainsman]

LAYING TRACKS FOR THE FUTURE

(By Roger Larsen)

Larry Pressler says 1989 marked the beginning of what he now calls his ''DM&E odyssey.''

Dakota, Minnesota & Eastern Railroad officials are more direct. Without the senator's intervention, they say, their corporation wouldn't exist.

And South Dakota's roads would be taking a severe pounding.

''If we weren't here, it would probably take about 50,000 semis hauling on the state and U.S. highways here in South Dakota, which would certainly cost the state a lot more money in road and bridge maintenance,'' said Lynn Anderson, DM&E's vice president for marketing and public affairs.

Looking back on their first 10 years in operation, DM&E officials say Pressler, at substantial political risk, was instrumental in the railroad's creation and survival.

It hasn't always been a smooth ride.

The short-line railroad was born out of necessity—and a sense of urgency—when the Chicago & North Western Railroad announced in 1983 that it wanted to abandon 167 miles of track between Pierre and Rapid City.

Pressler received an emergency phone call. Could he send a representative to a meeting of shippers and others in Philip?

He went himself.

''I worked with local shippers in organizing an abandonment protest,'' he said. ''That triggered a formal ICC (Interstate Commerce Commission) investigation.''

As C&NW pushed forward with its abandonment plans, an ICC field hearing was conducted in September 1983.

''The ICC decision in November denied the abandonment request,'' Pressler said.

The ruling by the administrative law judge surprised more than a few people who had become resigned to the situation.

But the judge based his decision on ''the serious impact of the loss of rail service on rural and community development or the lack of any viable rail or motor carrier alternatives to that service.''

''At that time, I was the only public official in the state who believed the 167-mile stretch could be saved,'' Pressler said.

Anderson doesn't believe the senator is overstating his involvement.

''Well, I think he was the key individual that worked to keep the railroad in place between Pierre and Rapid City,'' he said. ''Without the things he did and the support he gathered, I think there's a good likelihood the line would have been abandoned.''

The judge's decision, PRESSLER said, ''allowed us more time to work with C&NW to find a long-range solution to the Pierre-to-Rapid-City line problem. It was the only route west for years.''

Still, C&NW remained adamant. It appealed the ruling to the full ICC. In February 1984, it was upheld on a tie vote.

By August, the railroad again announced it would continue its efforts to abandon the track.

''C&NW made it clear that there was no interest in compromise,'' PRESSLER said. ''They wanted to get rid of it. Early attempts to come up with a long-term solution seemed to fall on deaf ears.''

Eyebrows were raised in January 1985 when C&NW extended its abandonment plans all

the way to Wolsey, pushing the total to 273 miles. The Aberdeen to Oakes line in northeastern South Dakota was also being considered for abandonment.

C&NW declined invitations to negotiate. The future of the rail lines looked bleak.

A breakthrough came when PRESSLER intervened in a proposed sale of Conrail to the Norfolk Southern Railroad, a merger that C&NW claimed would cost it $60 million a year in traffic diversions.

In return, C&NW approached the negotiating table with a commitment to find a potential buyer of its South Dakota track.

And in dramatic fashion, those along the track provided a huge show of support.

''C&NW joined me in a day-long working train trip in May 1985.'' PRESSLER said. ''We rode in a rail car between Rapid City and Pierre. Twelve hundred people turned out along the way to express their support for continued service. That really helped turn things around with C&NW officials.''

For the first time, the shortline or regional railroad concept was introduced.

And that trip across South Dakota's prairie seemed to have a calming effect on the players.

''It coalesced everyone,'' PRESSLER said. ''It was the first time all sides sat down and discussed the issue with the uniform goal to make the line work. Everyone agreed it would take some give and take.''

At a rail conference in September 1985, C&NW outlined a divestiture proposal which led to the birth of the DM&E Railroad.

A year later, the new railroad's locomotives were pulling cars full of grain, lumber, wood chips, bentonite clay and cement.

This summer, 100 miles of deteriorated track between Wessington and Pierre has been upgraded with new, 115-pound rail. This $20 million project is being financed by a bond issue the railroad will repay over 20 years with no state dollars.

The project is two months ahead of schedule. Crews are in the stretch run, laying new track between Blunt and Pierre.

In May, DM&E added 203 miles to its system when it purchased the ''Colony Line'' from the Union Pacific Railroad.

The line connects with the DM&E at Rapid City and extends north to Bentonite near Colony, Wyo., and south to Crawford and Chadron, Neb., where it links with Burlington Northern Santa Fe and Nebkota Railway.

''We are looking forward to a smooth transition'' DM&E president J.C. ''Pete'' McIntyre said when the sale was announced.

The railroad purchased 12 more locomotives and hired 50 employees, increasing the workforce to more than 300.

''These are good-paying jobs and benefits,'' *Pressler* said.

Also, the railroad announced it is spending more than $32 million for 625 new freight cars, including 325 covered hoppers to haul cement from South Dakota Cement Plant at Rapid City.

Others—such as grain elevators along the rail line—have made major improvements as well.

It's obvious to Anderson that had C&NW been successful in its abandonment efforts, the line wouldn't have been rebuilt.

''Business would have gone over to the Nebraska line,'' he said.

But because it didn't—and rail traffic now travels in South Dakota—it means long-term economic development for the state, he said.

''The C&NW had rerouted traffic out of the Black Hills to Nebraska,'' he said. ''When they failed to abandon the line from Rapid City to Pierre, they decided to sell it.

''After we began operations, and began upgrading the line and showed the ability to handle the carload business, we convinced C&NW to reroute that traffic coming across South Dakota in lieu of Nebraska.''

And then C&NW decided to abandon the Nebraska line.

''The reverse could have happened,'' Anderson said.

Ten years ago, one of the first repainted C&NW locomotives was named the ''Larry *Pressler*.'' Since then, locomotives have carried the names of cities along DM&E's service area.

The railroad also honored him by naming a Rapid City intersection ''*Pressler* Junction.''

*Pressler* admits he was like a kid in a candy store on a particularly memorable trip back home.

''They let me drive a locomotive a little bit once,'' he said.

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DM&E KEEPS S.D. ON THE RIGHT TRACK

In the middle of the night, a train whistle carries a mournful, lonely sound on the prairie air.

As homesteaders pushed westward in the 19th century, the advent of trains signaled hope and opportunity in the uncertain vastness of Dakota Territory.

Today, they continue to represent a kind of comforting stability.

They have become as familiar to the landscape as rolling grasslands and an endless horizon. But trains in much of west and central South Dakota were nearly derailed by a corporate stroke of the pen a decade ago.

Chicago & North Western Railroad wanted to abandon its deteriorating track between Rapid City and Wolsey. It talked about walking away from its line between Aberdeen and Oakes, N.D., as well.

In historic fashion, shippers circled their wagons and waited for reinforcements. And, as their forefathers had done with other territorial disputes, they pushed for a reasonable solution.

Into the mix came Sen. Larry Pressler, R–S.D., who rightfully used his political standing in Washington to force field hearings.

In the end, it came down to a little give-and-take. C&NW's back was scratched when a railroad merger elsewhere in the country—which could have hurt its bottom line—was opposed by Pressler. In return, the boys in the C&NW boardroom agreed to find a buyer for the track it wanted to abandon in South Dakota.

Thus, the birth of Dakota, Minnesota & Eastern Railroad.

DM&E has been a good corporate neighbor in its first 10 years. It has proven it can handle the needs of shippers, farmers and other customers up and down its 900-mile line.

And it's doing something else that's certainly long overdue.

It's putting its money—and longterm viability—where its mouth is.

With the current track upgrade between Wolsey and Pierre nearly complete, DM&E has invested some $90 million in infrastructure. Millions more dollars have been committed to purchase hundreds of new rail cars.

Trains have had a romantic, endearing quality in this part of the country for well over a century.

For those who truly care about the future, their whistles will continue to beckon with faith and anticipation.

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## ECONOMIC NEEDS OF PUERTO RICO

Mr. JOHNSTON. Mr. President, since 1973, my first year in the Senate, I have spent a great deal of time and energy on issues affecting Puerto Rico. I rise today to voice my concern for our fellow citizens in Puerto Rico, who have been greatly affected by our recent action to eliminate economic development incentives under section 936 of the Internal Revenue Code without providing them with an alternative program. I understand the need to curb excessive corporate tax benefits in order to get our Nation's fiscal house in order. However, in accomplishing this, we must not ignore the needs of the people of Puerto Rico. The 3.7 million American citizens of Puerto Rico deserve the opportunity to become economically solvent and self-sufficient. We must work hand in hand with them to develop a sound economic development program that helps achieve those goals. Modifications, improvements or alternatives such as a wage credit have been suggested for Puerto Rico. All of these options deserve serious consideration, but above all we must not allow the economy of Puerto Rico to be devastated by inaction or the wrong action by Congress. Although I shall not be returning for the 105th Congress, I urge my colleagues to give prompt attention to this issue early next year.

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## AMERICA, WHO STOLE THE DREAM?

Mr. HOLLINGS. Mr. President, lost in the rhetorical haze generated by pollster politics is a serious discussion of the principle challenge facing this Nation, that is, how can we arrest the decline in wages and living standards and restore the American Dream. Instead of addressing this fundamental issue, what currently passes for political discourse is a mindless discussion in which each candidate stands up and proudly proclaims that he or she is for the family and he or she is against crime. What neither party wants to address is the immutable connection between two decades of economic stagnation and dislocation, and the breakdown of families and the destruction of communities.

In the past decade over 2 million high paying jobs in manufacturing have disappeared. The social fabric of hundreds of communities have been ripped apart. Those who have jobs are working longer and harder for less compensation. Isn't it more than a coincidence that the breakdown in the family and the collapse of our inner cities would coincide with an unprecedented era of economic insecurity? Once the land of opportunity, America now has the worst distribution of income in the industrialized world.

Fortunately, the Philadelphia Inquirer has filled this void. In a penetrating 10 part series, the Pulitzer Prize winning team of Donald Barlett and James Steele have put a human face on the devastation wrought by our failed trade policy. From our unwillingness to enforce our trade laws to the sorrid spectacle of former U.S. officials lining up to represent foreign interests, Bartlett and Steele correctly identify the root causes of our economic decline.

The strength of Barlett and Steele's piece is epitomized by the vicious attacks that have been leveled at this prize-winning team. Barlett and Steele have drawn fire from the same crowd who have for decades produced the same mindless, conventional wisdom that equates unilateral free trade with economic growth. These are the same people, whose wild assertions about NAFTA and GATT, were utterly false.

During the NAFTA debate the purveyors of conventional wisdom anointed Carlos Salinas as the man of the decade, valiantly reforming the political system and transforming Mexico into a first world economy. NAFTA was supposed to usher in a golden era for U.S. exports to Mexico creating thousands of new high wage jobs. Two years later we have recorded $23.2 billion worth of trade deficits with Mexico. The Mexican economy collapsed into a depression and the man of the year, Carlos Salinas, is living in forced exile while the extent of his administration's corruption is documented in the pages of the New York Times and the Wall Street Journal. NAFTA was supposed to create a North American Free Trade Block to compete against Europe and Asia. Instead, Asian investment has poured into Mexico. A recent article in the Nikkei Weekly, specifically cites Mexico's low wages and NAFTA's duty-free access as the reason why Asian investors are flocking to Mexico.

Mr. President, the same group that attacks Barlett and Steeles' objectivity, never once, during the debate on the GATT, questioned blatantly false assertions made about the efficacy of section 301, or the GATT Rounds' impact on the U.S. economy.

While we were assured that the United States maintained its rights to use section 301, Japan's Minister of Trade and Industry boldly proclaimed that, ''the era of bilateralism is over, all disputes will be settled by the WTO.''

In the year since the GATT/WTO has taken effect, our trade deficit has continued to soar at a record pace. Trade has become a net drag on the economy, robbing the United States of close to 1 percent of growth as imports consistently out-pace exports. Most pernicious were the claims made by the members of the Alliance for GATT Now. Claims of export booms that would lead to increases in employment. The reality is that 250 companies are responsible for 85 percent of U.S. exports. These same companies have been among the largest downsizers in the American economy. Pink slips rained down on workers at AT&T, IBM, and General Electric. According to an executive vice president at General Electric, ''We did a lot of violence to the expectations of the American worker.''

How can those who have consistently been wrong about trade now turn around and question Barlett and Steele?

Mr. President, this provocative series in the Philadelphia Inquirer has undermined many of the dubious assertions about trade. Assertions that for decades have been unquestionably accepted.

I urge my colleagues to read this series, and I hope it will stimulate a much needed debate on the most serious issue facing this Nation.

## GLOBAL CLIMATE CHANGE

Mr. HELMS. Mr. President, Senator Sam J. Ervin, Jr., the distinguished former Senator from North Carolina, often said that the United States had never lost a war nor won a treaty. Well, during the summer, the Clinton administration quietly set the wheels in motion in Geneva for yet another disastrous treaty for the United States.

During July meetings, Tim Wirth, Undersecretary of State for Global Affairs, committed the United States to the negotiation of a binding legal instrument with the stated goal of reducing global greenhouse gas emissions.

Many experts agree that the premise for this new treaty, which excludes developing countries from enforcing the commitments to reduce emissions, makes its goal simply unachievable. Developing nations such as China will be the largest source of new greenhouse gas emissions in the post 2000 period, yet will be exempt from any new restrictions.

The United States currently is party to the U.N. Convention on Global Climate Change, signed at Rio in 1992 and ratified by the Senate in 1993. Under that treaty the member countries are divided into industrialized countries, termed ''Annex I countries,'' and developing countries, termed ''non-Annex I countries,'' for purposes of determining treaty commitments. The treaty tasks Annex I Parties to reduce greenhouse gas emissions to 1990 levels by the year 2000.

In March of 1995, the parties to the U.N. Convention laid the framework for the current negotiations when they met in Berlin, Germany, and agreed to the so-called Berlin mandate. The Berlin mandate states that the parties to the Convention would address this global problem post 2000 without binding any of the non-Annex I parties to new commitments. By agreeing to this disastrous concession—after making assurances to Congress that they would not do so, I might add—the means for addressing the issue as a global problem were removed from the table.

Mr. President, as things often happen, the flawed Berlin mandate became the building block for the latest round of concessions made by Tim Wirth in Geneva. There, parties approved a Ministerial Declaration which—in ''U.N. speak''—directs Annex I parties to ''instruct their representatives to accelerate negotiations on the text of a legally-binding protocol of another legal instrument.'' The Declaration directs that the commitments of Annex I parties will include ''quantified legally-binding objectives for emission limitations and significant overall reductions within specified timeframes, such as 2005, 2010, 2020.''

In plain English this means that any new treaty commitments regarding greenhouse gas emissions will set forth legally binding emission levels that must be met by industrialized countries only. The U.S. position turns basic principles of sound economic policy on its head since it directs industrialized countries to subsidize developing countries by polluting less while incurring higher costs so that developing countries can pollute more without incurring costs.

Some of our allies recognize the serious flaws in the current negotiations. According to the findings of an Australian Government study entitled ''Global Climate Change: Economic Dimensions of a Cooperative International Policy Response Beyond 2000,'' the treaty will not even achieve the desired environmental effect. The study finds that stabilizing carbon dioxide emissions of developed countries only at 1990 levels during the period from the years 2000 to 2020 ''would lead to minimal reductions in global emissions and would have higher costs for most countries than alternative abatement strategies.'' According to the Australian study, despite the additional costs, there will be no substantial reduction in the growth of global emissions because of the continued growth in the rest of world emissions.

Mr. President, even the elements that would provide some leveling of the playing field are nonexistent in the Ministerial Declaration that was approved by the parties in Geneva. For example, the document makes no reference to Joint Implementation [JI], a practice by which a country's emissions abatement costs can be spread across national borders. Under JI, a nation with relatively high marginal abatement costs can offset costs through involvement with projects in countries with relatively low emissions reduction costs. If countries were truly serious about decreasing the level of global emissions this plan would provide a global solution to the problem and bring economic benefits to the lower cost country in the form of foreign investment. These are clearly not the goals of the parties advancing this doomed policy.

According to a study by the General Accounting Office that I requested, during the period from 1993 to 1995, Federal agencies of the United States have spent almost $700 million on global climate change related spending. This is more than 70 percent of the total spending by the United States to advance major international environmental treaties. Despite the heavy resources being pumped into this Convention by the Clinton administration, Congress has yet to be provided a full economic analysis of the costs of the proposed protocol to the original treaty. Nor has the administration been forthcoming in its own proposals for

the new Protocol. Instead, a shell game is being played out in which the substance of the new protocol will be laid on the table in December, after U.S. elections.

During hearings last week in the Senate Energy Committee, the able Senator from Alaska, FRANK MURKOWSKI, raised serious questions about the administration's support of the current negotiations underway at the United Nations, particularly the possibility of a carbon tax. I can assure you that for so long as I am chairman of the Foreign Relations Committee any international legal instrument agreed to by this administration must not and should not put the U.S. economy at a competitive disadvantage to other countries. Most importantly, the treaty should actually achieve the purpose for which it is negotiated. Any treaty that comes before the Senate for ratification must ensure that U.S. businesses will remain competitive and U.S. jobs will be protected.

## HONORING THE PETERS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Jack and Irene Peters of Joplin, MO, who on October 12, 1996, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Jack and Irene's commitment to the principles and values of their marriage deserves to be saluted and recognized.

## ASYLUM AND SUMMARY EXCLUSION PROVISIONS

Mr. HATCH. Mr. President, I would like to comment briefly on the asylum-related provisions of H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The agreements we reached with the House in the conference report involved a number of compromises on provisions involving the asylum system. I worked very hard in conference to modify the House provisions, and I think we arrived at workable compromises that will be fair in practice.

The conference report's provisions on summary exclusion, also referred to as expedited exclusion, significantly revise the summary exclusion provisions of the Terrorism Act, which apply to those excludable based on document fraud or the absence of documents. The provisions of the Terrorism Act would not have provided adequate protection to asylum claimants, who may arrive in the United States with no documents or with false documents that were needed to exit a country of persecution.

Under the revised provisions, aliens coming into the United States without proper documentation who claim asylum would undergo a screening process to determine if they have a credible fear of persecution. If they do, they will be referred to the usual asylum process. While I supported the Leahy-DeWine amendment that was included in the Senate bill and that passed the Senate 51 to 49, the conference report represents a compromise.

The conference report provisions apply to incoming aliens and to those who entered without inspection, so-called EWI's but have not been present in this country for 2 years. Although the Senate provisions applied only in extraordinary migration situations, House Members felt very strongly about applying these procedures across the board. I think that, with adequate safeguards, the screening procedures can be applied more broadly. If any problems with these provisions arise in their implementation, however, and they do not seem to offer adequate protections, I am willing to consider changes to them.

The credible fear standard applied at the screening stage would be whether, taking into account the alien's credibility, there is a significant possibility that the alien would be eligible for asylum. The Senate bill had provided for a determination of whether the asylum claim was ''manifestly unfounded,'' while the House bill applied a ''significant possibility'' standard coupled with an inquiry into whether there was a substantial likelihood that the alien's statements were true. The conference report struck a compromise by rejecting the higher standard of credibility included in the House bill. The standard adopted in the conference report is intended to be a low screening standard for admission into the usual full asylum process.

Under the conference report, screening would be done by fully-trained asylum officers supervised by officers who have not only had comparable training but have also had substantial experience adjudicating asylum applications. This should prevent the potential that was in the terrorism bill provisions for erroneous decisions by lower level immigration officials at points of entry. I feel very strongly that the appropriate, fully trained asylum officers conduct the screening in the summary exclusion process.

Under the new procedures, there would be a review of adverse decisions within 7 days by a telephonic, video or in-person hearing before an immigration judge. I believe the immigration judges will provide independent review that will serve as an important though expedited check on the initial decisions of asylum officers.

Finally, under the conference report, there would be judicial review of the process of implementation, which would cover the constitutionality and statutory compliance of regulations and written policy directives and procedures. It was very important to me that there be judicial review of the implementation of these provisions. Although review should be expedited, the INS and the Department of Justice should not be insulated from review.

With respect to the summary exclusion provisions, let me remind my colleagues that I supported the Leahy-DeWine amendment on the Senate floor, which passed by a vote of 51 to 49. The compromise included in the conference report is exactly that: a compromise. I support the compromise because I believe it will provide adequate protections to legitimate asylum claimants who arrive in the United States. If it does not, let me say that I will remain committed to revisiting this issue to ensure that we continue to provide adequate protection to those fleeing persecution.

I would also like to comment briefly on one of the more significant changes to the full asylum process that are contained in the conference report. The Conference Report includes a 1-year time limit, from the time of entering the United States, on filing applications for asylum. There are exceptions for changed circumstances that materially effect an applicant's eligibility for asylum, and for extraordinary circumstances that relate to the delay in filing the application.

Although I supported the Senate provisions, which had established a 1-year time limit only on defensive claims of asylum and with a good-cause exception, I believe that the way in which the time limit was rewritten in the conference report—with the two exceptions specified—will provide adequate protections to those with legitimate claims of asylum.

In fact, most of the circumstances covered by the Senate's good-cause exception will be covered either by the changed circumstances exception or the extraordinary circumstances exception. The first exception is intended to deal with circumstances that changed after the applicant entered the United States and that are relevant to the applicant's eligibility for asylum. For example, the changed circumstances provision will deal with situations like those in which an alien's home government may have stepped up its persecution of people of the applicant's religious faith or political beliefs, where the applicant may have become aware through reports from home or the news media just how dangerous it would be for the alien to return home, and that sort of situation.

As for the second exception, that relates to bona fide reasons excusing the alien's failure to meet the 1-year deadline. Extraordinary circumstances excusing the delay could include, for instance, physical or mental disability,

efforts to seek asylum that were thwarted due to technical defects or errors for which the alien was not responsible, or other extenuating circumstances.

Once again, if the time limit and its exceptions do not provide adequate protection to those with legitimate claims of asylum, I will remain committed to revisiting this issue in a later Congress.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## ABUSE IN PRISONS OF THE RELIGIOUS FREEDOM RESTORATION ACT

Mr. REID. Mr. President, in this morning's Washington Post newspaper—and newspapers all over the United States have headlines that are comparable to the headline in the Washington Post—''Ring Used Religion as Cover To Sneak Drugs Into Lorton.''

Lorton is a Federal penitentiary in this area. This was on the front page of the Washington Post.

Mr. President, I wish I were not here today to say, ''I told you so,'' but I am here today saying, ''I told you so.'' When the Religious Freedom Restoration Act came up for a vote, I offered an amendment to exclude religion in prisons from the confines of that act. It was a very close vote in this body. It was defeated. People said, ''Don't worry about it. It won't cause any problems.''

From the day the Religious Freedom Restoration Act passed, it caused problems in prison. This article says a number of interesting things. Among which:

A drug ring posing as a church group smuggled cocaine and prostitutes into the Lorton Correctional Complex and filmed a pornographic video in the prison chapel, with a law protecting religious freedom to avoid scrutiny by guards. . .

Posing as members of the Moorish Science Temple—

Mr. President, I have nothing to say bad about this religion. It could have been any religion. They happen to be using this religion as a front for their criminal and basically immoral activities.

Posing as members of the Moorish Science Temple, a religion popular in jails, the group exploited what officials called a gaping loophole in Lorton's security.

Because of a 1993 federal law protecting religious freedom of prisoners, members were allowed to have private visits with inmates at virtually any hour and were subjected to only minimal searches, officials said. The members also routinely intimidated guards by threatening to sue them, they said.

''We had correctional officers who were afraid to do their jobs,'' said D.C. Corrections Director Margaret A. Moore . . ..

* * * * *

''This case is not an indictment of the Moorish Science Temple''. . .. ''It is an indictment of individuals who exploited a religious exemption to smuggle drugs.''

I was very happy that one of the leaders of this religion said, and is quoted in the paper, a man by the name of Harvin-Bey:

''We don't condone anything like that, and if they are members [of the Moorish Science Temple], then justice should take its course''. . . . ''It's sad that anyone would misuse any religious organization. That's not what our teachings promote.''

Skipping on:

Federal prosecutors and prison officials said they had suspected for several years that illegal activities were occurring during some religious services. Outsiders seeking to attend religious services in the complex only had to fill out a card, and prison officials did not verify whether they were church members. . . .

In addition . . . such visitors received numerous exemptions from standard security procedures at the District's 6,000-inmate prison complex [located] in southern Fairfax County.

Mr. President, the sad part about it, this was not uncovered by some great work done by the prison itself. There was an inmate who participated in taking pictures of people having sex during the religious service, and he passed these on to the authorities. That is the only way. They had somebody who thought, for what was going on there, that that was a little much.

They would never have uncovered this. They would have continued to let these activities—cocaine.

Posing as a drug seller in the maximum-security unit, the inmate received drugs brought in by mostly female visitors, many in dresses of the type often worn by Islamic women.

* * * * *

. . . Bell and Cook [these two individuals] allegedly brought in three women to a scheduled religious service in a conference room that was being used as a makeshift chapel. Prison officials earlier had intercepted a phone call between Bell and an inmate making plans to bring in the women. . ..

For about 10 minutes, an inmate using a smuggled video camera recorded sex acts between the women and the inmates. . . .

* * * * *

Moore said prisons nationally are experiencing problems—

Moore is the prison official talking.

Moore said prisons nationally are experiencing problems with the 1993 Religious Freedom and Restoration Act, saying it limits the ability of prison officials to restrict religious activities among inmates.

I repeat, I did not want to come here and say, ''I told you so,'' but I have to. I come here and say, I warned everyone. I warned the U.S. Senate that this would happen. This is a problem of inmates abusing the special protections provided under the Religious Freedom Restoration Act. The special protection should not be there. Prisons should be exempted.

During the consideration of this bill, I repeat, I offered an amendment to exempt prisoners from coverage of the act. It failed. I feared then, and I fear even more now, these special protections will be abused, would be abused, have been abused, and will continue to be abused by these inmates. I say regrettably that my amendment was defeated because it is now apparent that inmates are in fact abusing the special rights provided under this act.

I have worked with Senator HATCH, chairman of the Judiciary Committee, and I appreciate his efforts, his good will, in working to solve some of the problems that I see existing. He worked with me very hard earlier in this Congress to pass the Prisoner Litigation Reform Act. That is the one, you will recall, Mr. President, where prisoners were suing over whether they had to eat chunky or smooth peanut butter, or they were suing over how many times they could get their underwear changed or whether they were entitled to wear lady's underwear in a men's prison, some of these very weighty, substantive issues that they were wasting the court's time on. In Nevada, 40 percent of the Federal courts' time is wasted on this senseless litigation. So I appreciate Senator HATCH working with me on that legislation.

But I say that Senator HATCH told me that if there is a problem with this prison litigation, prison abuse with the Religious Freedom Restoration Act, he would work with me. We need some work done on this. We need to stop this foolishness. Why we would allow anything like this to take place—people whose civil rights have been taken from them basically who have committed so many crimes that they are in prison—and we are saying that they have the right to do anything they want regarding religion.

That is indicated in this newspaper article. We are not going to check who comes into the religious services. We are not going to check to see what they bring in. We are not going to check to see who they bring in or check to see what they do when they are having these so-called services. Mr. President, I think today's article in the Washington Post and the one that is appearing all over the country indicates why we need to do more.

I repeat again, to spread all over this RECORD, I appreciate very much what the chairman of the full committee has done to work with me on some of these problems I have. This is an important issue that we need to review as soon as we get back next year. I will pursue this problem. This is a problem the attorney generals all over the United States recognize as a problem—frivolous litigation—and now we have these problems that are raised by the Religious Restoration Freedom Act. We need to do more. I intend to do what I can with the U.S. Attorney General so that she appreciates the growing litigation they face in this area.

She has not been strong on this issue in the past, and I think that is not appropriate. I think she should be the leader in this issue to make the prisons prisons and not places to allow stuff like this to take place. Criminals do not enjoy the same rights and privileges as do law-abiding citizens. But, according to what we see in the papers today, they have more privileges, not less. The sooner we recognize that criminals do not enjoy the same rights and privileges as law-abiding citizens, the better off we will be.

I ask unanimous consent to have the Washington Post article printed in the RECORD.

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

[From the Washington Post]

RING USED RELIGION AS COVER TO SNEAK DRUGS INTO LORTON

(By Charles W. Hall)

A drug ring posing as a church group smuggled cocaine and prostitutes into the Lorton Correctional Complex and filmed a pornographic video in the prison chapel, using a law protecting religious freedom to avoid scrutiny by guards, officials said yesterday as they announced more than 30 arrests.

Posing as members of the Moorish Science Temple, a religion populated in jails and prisons, the group exploited what officials called a gaping loophole in Lorton's security.

Because of a 1993 federal law protecting religious freedom of prisoners, members were allowed to have private visits with inmates at virtually any hour and were subjected to only minimal searches, officials said. The members also routinely intimidated guards by threatening to sue them, they said.

''We had correctional officers who were afraid to do their jobs,'' said D.C. Corrections Director Margaret A. Moore, who announced several measures to tighten control of prison visits at a news conference in Alexandria.

U.S. Attorney Helen F. Fahey said she hoped the arrests will warn visitors not to smuggle drugs into Lorton. She emphasized that the crackdown was not intended as an attack on any religious group.

''This case is not an indictment of the Moorish Science Temple,'' Fahey said. ''It is an indictment of individuals who exploited a religious exemption to smuggle drugs.''

A. Harvin-Bey, grand sheik of Moorish Science Temple No. 74 in the District, condemned those involved in the alleged crimes at Lorton.

''We don't condone anything like that, and if they are members [of the Moorish Science Temple], then justice should take its course,'' Harvin-Bey said. ''It's sad that anyone would misuse any religious organization. That's not what our teachings promote.''

Harvin-Bey said the religion has attracted millions of worshipers across the country. There are about 10 temples in the Washington area, he said. The religion, which is open to all races, focuses on the ancestry of American slaves, saying they descended from Moabites who formed the Morrish empire.

A grand jury issued 38 secret indictments Tuesday. About 6 a.m. yesterday, federal agents and local police officers began arresting suspects. By 6 p.m., seven remained at large, said William Megary, acting special agent in charge of the FBI's Washington field office.

Officials said 21 suspects were from the District, eight from Maryland, two from Virginia and seven had unknown addresses.

All of the defendants were charged with cocaine distribution offenses, and two—Nathaniel Pleasant Bell and Karima Cook, both of Baltimore—also were charged with transporting women across state lines for prostitution.

Federal prosecutors and prison officials said they had suspected for several years that illegal activities were occurring during some religious services. Outsiders seeking to attend religious services in the complex had only to fill out a card, and prison officials did not verify whether they were church members, Moore said.

In addition, according to papers filed yesterday in U.S. District Court in Alexandria, such visitors received numerous exemptions from standard security procedures at the District's 6,000 inmate prison complex in southern Fairfax County.

In January, officials said, a cooperative inmate gave investigators vital access to the drug ring.

Posing as a drug seller in the maximum-security unit, the inmate received drugs brought in by mostly female visitors, many in dresses of the type often worn by Islamic women. The drugs were supplied by an undercover officer posing as a drug seller outside the complex.

Because all of the cocaine ultimately was routed to the cooperating inmate, none actually reached the general inmate population, prosecutors said.

On Jan. 23, Bell and Cook allegedly brought in three women to a scheduled religious service in a conference room that was being used as a makeshift chapel. Prison officials earlier had intercepted a phone call between Bell and an inmate making plans to bring in the women, authorities said.

For about 10 minutes, an inmate using a smuggled video camera recorded sex acts between the women and the inmates, according to Timothy J. Shea, an assistant U.S. attorney who helped supervise the investigation. The informant later was able to obtain a copy of the video inside Lorton.

Moore said the prison temporarily will issue no new passes to visitors who say they represent religious groups and will subject all current volunteers to criminal background checks. In addition, she said, guards will be ordered to constantly monitor services through observation windows and periodically walk through rooms where services are taking place.

Moore said prisons nationally are experiencing problems with the 1993 Religious Freedom and Restoration Act, saying it limits the ability of prison officials to restrict religious activities among inmates.

Todd Craig, a U.S. Bureau of Prisons spokesman, said representatives of religions who visit federal prisons already go through criminal background checks and receive extensive training on rules.

Jonathan Smith, executive director of the D.C. Prisoners Legal Services Project, said that he would closely review any restrictions on religious worship but that he probably would not oppose reasonable security measures.

''Religious activities in prisons are one of the most valuable tools available for an inmate's rehabilitation,'' Smith said. ''If they want to search visitors, I probably would not have a problem. If they say there will be no more religious visitors, we would very likely challenge that in court.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent to rescind the call for the quorum.

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

Mr. DASCHLE. Mr. President, I wish to make a couple of statements this afternoon in regard to our departing colleagues. Let me begin by talking about a fellow South Dakotan.

## SENATOR EXON'S RETIREMENT

Mr. DASCHLE. The Senate and the American people will greatly regret the absence of Senator EXON from this Chamber upon his retirement at the end of Congress. I cannot think of anyone in this body who reflects the concerns of America's heartland and the commonsense approach to problems so prevalent in that part of the country better than the senior Senator from Nebraska. I am very pleased to have been able to call him a friend now for a long, long time.

I have always felt a special bond with Senator EXON because he, too, was born and raised in South Dakota. His parents were active in the South Dakota Democratic Party. I do not know if that accounts for his outstanding career in the Senate, but I know it did not hurt.

Senator EXON has given a lifetime of public service. He served in the Army in World War II and afterward became a successful businessman and proud father of three. In the 1970's, he was elected twice as Governor of Nebraska, serving longer than any other person in the State's history. He was elected three times to the U.S. Senate, and through his hard work and dedication, he has earned the affection and the trust of the people of Nebraska who know him best.

Reflecting his rural upbringing, JIM EXON, without a doubt, is one of the most knowledgeable Members of this body on agricultural issues. As a Governor and certainly as a Senator, he has always had his hand on the pulse of rural America. I have turned to him on numerous occasions for advice and counsel, and will not hesitate to pick up the phone in the future on these same issues.

JIM EXON is also well-known for his command of budgetary issues. By the time he came to the Senate, Senator EXON had already established a proven record of fiscal responsibility. As Governor of Nebraska, he balanced that State's books time and again. Therefore, when he assumed his Senate duties and a seat on the Budget Committee, he did not enter the Nation's budget battles unprepared or unarmed.

After observing him closely in my time in the Senate, I can confidently say that Senator EXON stands second to none in his knowledge of the Federal budget and its impact on working Americans everywhere. As Senate Democratic leader, I have repeatedly drawn on his experience and wisdom for guidance in the many fiscal battles that have come to define this Congress.

As ranking member of the Budget Committee, Senator EXON has been my

most valuable ally and adviser as we developed a plan to balance the budget without compromising the priorities we stand for. He has never wavered in his commitment to balance the budget fairly.

Most of all, Senator Jim EXON will be remembered as having served the people of Nebraska and all Americans with dignity, diligence, and integrity. As a soldier, Governor, as a Senator and as a friend, he has exemplified all these virtues and many more.

His love for the Senate is exceeded only by his love for his family and the beautiful State of Nebraska, and I might add the not-so-successful team in the last weeks, the Nebraska Cornhuskers. I know that troubled him, and he has lost a great deal of sleep over that during the last week, and I am sure his fortunes will turn.

Both he and I have had the good fortune now to serve in this wonderful body for some time. I can say in all sincerity I will miss him a great deal. I wish Senator JIM EXON, his wife, Pat, and their family the very best in the years ahead.

Mr. President, at times like this you wish you could find other ways with which to express gratitude and friendship and the best of health to those who are retiring. Oftentimes, we wait too long to come to the floor to make these expressions of great affection and admiration for the public servants who come here every day. I could talk at some length about Senator EXON, as I now will about Senator Sam NUNN. They are men from whom I have learned a great deal, men of remarkable decency, men respected on both sides of the aisle, men with a sense of humor and a sense of devotion to country.

## FAREWELL TO SENATOR NUNN

Mr. DASCHLE. The day SAM NUNN cast his 10,000th vote, I mentioned that his first vote, on January 23, 1973, was to confirm a nominee to be Assistant Secretary of Defense. Since then, Senator SAM NUNN has become the Senate's leading authority on defense policies. He has served as chairman of the Senate Armed Services Committee from 1987 to 1994. He has introduced or cosponsored the most important legislation and the most important military and defense issues of the last two decades, including Defense reorganization, reducing the threat of nuclear war, Pentagon procurement reform, base closing, and restructuring of military pay and benefits.

He has earned the respect of virtually every colleague with whom he has served—Republican, Democrat, conservative and liberal, Presidents, Vice Presidents, Members of the House. He has earned, also, the thanks of every American throughout this country for his efforts to ensure the integrity and mission of our military establishment in the face of many of history's most significant challenges. Every administration since the 1970's has consulted him on military matters and considered him for top-level positions in their administrations.

Senator NUNN's career has neither been confined to nor consumed by military and defense issues, however. In the Senate, he has played monumental roles in laying the groundwork for national service, deficit reduction, and on efforts to redirect our national economic and tax policies. He has applied his talents and energy to a multitude of issues whenever they were required. I must say that America is better for it.

Mr. President, I congratulate my colleague, my advisor, my friend, Senator SAM NUNN, on his remarkable career, and I thank him for his service to this institution and to this country. Unfortunately, it is also time to say goodbye and wish him well in his future endeavors. We will miss him in the Senate, but I must say that we expect him to be very visible, very active, very involved, very engaged, both in public policy and in matters relating to private enterprise, for many, many years and decades ahead.

I hope that, should he have the opportunity to serve in other capacities in government, he will take them—not for his benefit, but for ours.

Mr. President, I yield the floor and 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. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## SENATE ETHICS RULES

Mr. McCONNELL. Mr. President, as everyone knows, we have, over the last year, year and a half, made some adjustments in the ethics rules for the Senate. The Select Committee on Ethics is principally in business to do investigative and disciplinary work, but its work in the area of Member and public education is also a major part of what the committee does, and that is less familiar to most Americans.

The committee's advice and counsel, typically provided to Members, staff and the public affected by the Senate code of conduct, in fact, constitutes a substantial amount of the work that the committee does in giving advice to people who are seeking not to run afoul of the rules of the Senate. On a regular basis, the committee answers questions and provides guidance on a wide array of subjects, from financial disclosure to the application of gift and travel rules, to conflicts of interest. Much of the advice takes the form of just responses to telephone calls, which are typically received by the committee staff. But, frequently, the committee responds in writing to a specific question raised by a Senator or, for that matter, somebody out in the public who is trying to get advice about how to structure an event. All inquiries, frankly, are welcome and are treated as confidential, in accordance with the committee's rules.

On occasion, a specific question raised with the committee is determined to have general relevance to the entire Senate. Over the years, the committee has published the answers to such questions as interpretative rulings. Between 1977 and 1992, the committee issued more than 440 interpretative rulings, all of which are publicly available.

The committee has also, from time to time, communicated with all Senators in the form of ''Dear Colleague'' letters on a particular point of the Code of Conduct. The committee did that earlier this year regarding the application of the new gifts rule. The committee has compiled various other documents explaining rules governing proper and appropriate Senate conduct.

The committee staff also conducts regular briefings for staff and orientation sessions when we have new Members coming in at the beginning of each Congress.

The sum and substance of this means that information and education are an important part of the work of the Ethics Committee. In order to facilitate and improve the committee's educational role, we have, today, published the first-ever Senate Ethics Manual. I regret that it is as thick as it is, but the Senate, over the last 10, 15 years has been increasingly made more complex in the rules by which we must live our lives, so we have had the staff work, over the last year, trying to develop a manual which, candidly, Mr. President, is not going to answer every question, but may help in providing a sort of quick, ready reference for Members of the Senate in trying to determine how to handle a matter that might raise some ethical question. Again, I apologize for the thickness of it, but I think it illustrates how many new rules we have adopted for ourselves and how much interpretation is needed in order to discover what to do under the new rules. So this will be made available to every Member of the Senate. I suggest that, for whoever in the office becomes sort of the office expert on matters of this sort, this be on their desk and, hopefully, that person will be able to be of some assistance to the Senator in the coming years in answering questions.

The manual is comprehensive. It covers gifts, conflicts of interest, outside income, office account, financial disclosure, political activity, the frank, Senate facilities, constituent service, and employment practices. It explains the rules and incorporates the interpretations that we have developed over the years. In addition, it contains many illustrations of situations that have occurred, or could occur, and sets forth the standard for appropriate conduct.

I am confident that every Senator will incorporate this manual in his or her important office documents. As I have suggested earlier, it will probably end up occupying a significant spot in the office of every Senator. I think it is not likely to eliminate the need to call the Ethics Committee for advice, although it may make those phone calls less frequent.

The committee staff worked long and hard on this manual, and they deserve the appreciation of the Senate and the American people. In particular, Victor Baird, Linda Chapman, Elizabeth Ryan, Adam Bramwell, Marie Mullis, and Annette Gillis toiled long hours over the last several months to bring this project to fruition. They have turned out, in my view, a very fine product.

As I indicated earlier, one copy of this manual will be made available to each Senator. In fact, this afternoon, one copy will be delivered to each office. I am not going to ask that it be printed in the CONGRESSIONAL RECORD, as it is quite thick, but I ask unanimous consent that the manual be printed as a Senate document.

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

Mr. MCCONNELL. Then there will be sufficient copies available to committees and subcommittees as well as the general public.

So, Mr. President, I hope that this ethics manual will be useful to Members of the Senate and to others who will need to become at least generally familiar with the rules of the Senate.

Again, I thank the staff of the Ethics Committee for an outstanding piece of work. It was really quite a difficult project. I thank them on behalf of all Members of the Senate.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with the time between now and 2:30 p.m. open for statements limited to 5 minutes each; I further ask that the time between 2:30 p.m. and 3:30 p.m. be under the control of the Democratic leader or his designee and the time between 3:30 p.m. and 4:30 p.m. be under the control of the Republican leader or his designee.

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

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

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

## COLORADO ENVIRONMENTAL PROJECTS

Mr. BROWN. Mr. President, I was shocked and saddened today to learn of the President's threat to eliminate or veto the parks bill that included a number of projects.

I was particularly disheartened over the decision to kill four Colorado environmental projects—surprised because, on a number of these, the administration has specifically reviewed them and signed off on them; that is, we had taken the trouble and the time to walk them through, to seek their advice, to incorporate their suggestions, and to work with them for something that could meet the President's guidelines.

Thus, after doing that—and having secured, at least in many of those projects, the administration's input and approval—we are now faced with a political hit list with regard to Colorado projects. I think it is particularly surprising when you look at where that hit list focuses. It focuses primarily in States where the President has had a difficult time in winning good reelect numbers—Alaska, Colorado, and Virginia are the heaviest hit on that hit list.

Mr. President, the projects in Colorado are bipartisan projects. They are ones that are of enormous benefit to the environment and the State. I hope that the President will reconsider.

This is raw politics to punish those who will not go along with the President's bid for reelection. And it is vindictive politics. It is beneath the Office of the President to engage in this kind of vindictive hit list based not on a rational review of the issues or reasonable discussions of the problems, but simply sending a cold power play to punish those States where the President's ratings are not high enough.

I called the White House this morning because I was concerned about these projects and about one project in particular which, I think, particularly saddens me, and asked why these projects were being eliminated. They were not able to give me an answer. The woman who was kind enough to chat with me did speculate with regard to one of them, and speculated that maybe they were concerned about it being a heritage area. And, of course, the major one involved the Cache La Poudre River bill which is not a heritage area. We specifically changed that aspect because Members of the House and others had concerns about heritage areas.

Mr. President, I want to talk for a moment about a project that we worked for more than 20 years on which is included in that Cache La Poudre area bill. The Cache La Poudre River is a river that was named by the French, obviously, in the pioneer days. It is a river that has provided the flow of communications, water, transportation, and a lifeline throughout eastern Colorado. It starts in the high mountains in northern Colorado, in those high mountain regions, and it flows down toward the plains. It is now Colorado's only wild and scenic river. I offered that as a Member the House of Representatives.

Peter Dominick did a study perhaps three decades ago on wild and scenic rivers in the State. And it was a great pleasure for me to see the passage of that wild and scenic designation. While Peter Dominick has long passed away, his sons came to that signing ceremony. It was, I think, a token of something very important because it is an effort to preserve part of our national heritage.

The La Poudre bill the President now wants to veto is one that takes that area of the river as it passes through Fort Collins and extends out on the plains. The suggestion is very simple. Let us see if there is some way to set aside the floodplain of the river as it passes through the city of Fort Collins and Greeley and by the city of Windsor on its way. It is an area of rapid growth. It is in the middle of a great urban area stretching from Denver, or perhaps even Colorado Springs, all the way up to Cheyenne, WY.

What a wonderful thing to have set aside open space of a floodplain area for riding and bike paths and hiking paths and recreation facilities in the heart and the middle of a great metropolitan area.

Mr. President, as you well know, many in our part of the world are not so sure they want the heritage broke, and it is controversial. But the saddest thing of all would be to see it grow and for us not to prepare for it, plan for it, and set aside the open space that will keep some of the quality of life that has attracted so many to that part of the world.

That is really what this bill is all about. It does it without a cost to the U.S. Treasury.

It does it by saying if there is surplus land in the State that is federally owned, this bill allows the exchange of surplus land in other parts of Colorado for part of the flood plain of the Cache La Poudre. It will not have a net impact on the Treasury, but what it will do is gradually see land that is held by the Federal Government in areas where it is not needed exchanged for land in the flood plain of the Cache La Poudre River. It promises, I believe, over a lengthy period of time to give us a substantial amount of open space that will be preserved throughout the Republic to the lasting benefit of the community.

Frankly, I think it is a question that needs to be addressed in the Western United States itself. The West is blessed with a large amount of public

land held by the Federal Government, but I do not think anyone, liberal or conservative, Democrat or Republican, would question the fact that sometimes that land is not held in the location where most would prefer it. Most of our land ends up being where settlers did not homestead it or where miners did not stake a claim. However, it is not the only basis that you ought to use for land allocation and ownership.

What this bill does is give us a chance to shift the ownership of the public land away from areas where it is not needed to areas where it clearly will be needed.

I cannot help but think that this measure has enormous environmental pluses in it, and I find myself dumbfounded that the President would choose to veto it. My hope is that the administration will be willing to sit down with us, let us know their concerns, and work things out if that is the case. But, also, I must say I am not willing to roll over on this. I am not willing to ignore good legislation. My suggestion is that if the President wants to work with Congress, he has to be willing to step forward and enunciate his concerns. Right now we are in a circumstance where the President has put these projects on a hit list without even being willing to name or articulate what his concerns are.

My belief is and always has been that good legislation is a product of thoughtful review and good communication between those involved not only at the legislative level but those outside of this body. I hope the President will reconsider his actions. Once before a President of the United States came up with a hit list for the Western United States. President Carter took vengeance out on the Western United States with his hit list. My hope is that President Clinton will not repeat that mistake.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank the Chair for recognizing me.

## ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT AGREEMENT

Mr. BREAUX. Mr. President, I take the floor to make a couple of comments about my extreme disappointment over the obvious fact that now this Congress will not be able to take up an agreement that has been worked on and negotiated for over 7 years that has now been completed but that will not be considered by our Congress through the ratification process.

The agreement that I speak to is the so-called OECD agreement, which is the Organization for Economic Cooperation and Development, which has brought together the shipbuilding countries of the world, and after 7 years and two administrations negotiating this agreement and having the other nations of the world that build ships sign on the dotted line saying that this agreement is right for this time, unfortunately, this Congress, and this Senate in particular, will not be in a position to even bring it up for ratification.

The bottom line is that this agreement, which has been negotiated for so long, has as its major purpose the ending of shipbuilding subsidies by the other countries of the world.

In my time in the Congress, I have heard from people who work in shipyards, people who own shipyards, people who have shipyards in their districts and in their States, that if we could only end the other countries' subsidies to their yards, government subsidies, we in the United States could not only compete with these other foreign shipyards but we could do much better than they are doing.

This agreement, I say to my colleagues and to all, does exactly that. After 7 years of negotiation under the leadership of the Clinton administration and Bush administration, both of which have said this is a priority, and this agreement has now been completed and signed, we at this last hour refuse to take it up because there are some in our country who have said it is not perfect so, if it is not perfect, we will not participate. The losers of this battle are the people who asked us to enter into these negotiations in the first place, the shipbuilding industry. It is unfortunate that now there is such a division among the industry that we in the Congress are not able to do something which helps everybody in a major way.

I am committed to continue our efforts in the next Congress. I am fearful, however, that other countries will see the U.S. lack of ratification of this international agreement to mean that they will then be able to engage in their own subsidy wars once again, and that will be most unfortunate because, if there is anything which is clear, it is that this country cannot participate and cannot win an international subsidy battle with other countries willing to heavily subsidize their shipbuilding industries as a matter of national policy.

We have no subsidies directly provided by our Government to our shipbuilding industry. That program, the construction subsidy differential program, was ended in the administration of President Ronald Reagan. He said we are not going to do that any more. Congress agreed, and there is no longer any shipbuilding subsidies in place for our yards in this country, but all the other countries that are major shipbuilders still have subsidy programs.

This international agreement got them all to sit down at the table after 7 years and say, all right, if everybody agrees they are not going to do it, we are not going to do it either.

That agreement is a win-win for the United States. Failure to ratify and approve that treaty is a lose-lose for the United States industry and the thousands and thousands of men and women who work in those industries, because if we do not enact this agreement and other countries continue to subsidize their yards, we will continue to lose business. We will continue to build only militarily useful vessels in this country and commercial shipbuilding will continue to go overseas to yards that are consistently subsidized by their governments, because in many of these countries shipbuilding is their biggest industry. It is not in our country, and therefore we do not subsidize it. This agreement would have put other countries on a level playing field with us.

I am struck by the fact that at the last minute, when some of our industry people came in and said, well, we do not like this agreement because of this, that and the other, my staff, USTR people, many Members of the Senate and in the House sat down and said, all right, we will try to get what we can to fix it to address your concerns. Those who opposed the treaty said, well, they needed explicit clarification that the United States would not under any circumstances change our Jones Act, and we did that and clarified that in the treaty, that that would be exactly the way they asked for it.

They said that they need explicit clarification that our national security interests would be protected by this treaty, and that the defense features and military reserve vessels would be outside of the agreement. And we put that into this treaty to be ratified.

They said they needed 30 additional months of the current title 11 financing program for our shipbuilders to cover projects that were close to having their applications in. And we did that.

They said they needed clarification that the limited restructuring subsidies for some countries, which were allowed under the agreement to four countries in order to reduce their shipbuilding capacity, would be actionable if they, in fact, increased their capacity instead of reduced their capacity. And we did that.

It is unfortunate that, in the end, some would agree only on a perfect agreement. If anyone has been here longer than 2 weeks, he or she knows there are no such things as perfect bills, perfect legislation, or perfect treaties—or perfect anything. We are humans who try to do the best we can. Perfection is not something that we, oftentimes, are able to achieve.

So, while this agreement may not have been perfect, we answered in each instance the opposition of those who continue to oppose this treaty. They, in my opinion, will be the ones who will ultimately suffer the most by their stopping this Congress from bringing forth this agreement for ratification.

I know there are a lot of people who worked very hard. I commend Congressman SAM GIBBONS, from the other body, who really tried to bring his people together on this issue. Senator BILL

ROTH, the distinguished chairman of the Senate Finance Committee, worked very hard with his staff to say, yes, let us meet to try to bring this together. Our Democratic leader, TOM DASCHLE, tried to urge people to sit and negotiate. And also, particularly, Senator TRENT LOTT, the majority leader, who hosted meetings with the differing parties to try to bring people closer together, to say, yes, we should get this agreement in a posture to which everyone could agree.

I will conclude, Mr. President. We have been ravaged, ravaged by the subsidy practices of other countries in the shipbuilding industries. This agreement that two different administrations hammered out and negotiated over a 7-year period was an effort to end those subsidy practices of those other countries so the United States, which does not have a direct subsidy program, would be able to compete with our competitors from around the world on a level playing field.

Unfortunately, in the absence of this agreement being ratified by this body, we as a country have a signature on a piece of paper which is meaningless because we in the Senate could not bring the parties together to see the benefits of this agreement. It is a most unfortunate set of circumstances. It is unfortunate because there will be thousands of men and women who work in these yards every day who will be disadvantaged and who will be less competitive, not because they have less skills or are less productive, but because they are unable to compete with other governments.

Our workers and our industry and our engineers and our technicians can compete with any other engineer or any other technician or any other worker anywhere in the world. But our workers cannot compete with other governments who are not concerned about making a profit. We cannot compete under those terms with another government that so highly subsidizes those industries in those nations.

It is clear, at a time when we are talking about reducing Medicaid benefits, reducing welfare benefits, reducing benefits in Medicare, that we are certainly not going to start subsidizing our shipbuilding industries in the opposite direction.

So I am extremely disappointed, but, as always, I try to always be optimistic. There will be those in the next Congress who will realize this was a tragic mistake. I say to the other countries around the world that they, too, should look upon this effort, not as a final failure on the part of the United States, but rather only a pause in the legislative process, and, in the next Congress, hopefully we will get back on track and get our industries together to allow this Congress, and particularly this body, to approve what I think is a good treaty.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## THE U.S. ECONOMY—ON THE RIGHT TRACK

Mr. CONRAD. Mr. President, yesterday we received more good news on the performance of the U.S. economy. Yesterday, the Census Bureau reported outstanding news with respect to increases in personal income and reductions in the levels of poverty in our country. I believe a significant part of the reason for the excellent economic performance is the Clinton economic plan that was passed in 1993. I believe that plan has contributed by reducing the deficit, reducing the deficit 4 years in a row. That took pressure off interest rates, and that fueled an economic resurgence in this country.

I think when we evaluate the performance of the last three Presidents on the question of deficit reduction, the record is remarkably clear.

Back in 1981, President Reagan came into office and inherited a deficit of $79 billion. The deficit promptly skyrocketed under the theory of supply-side economics—the notion that we could dramatically cut taxes while increasing defense spending and somehow it would all add up.

Unfortunately, it did not add up. In fact, the deficit exploded. The deficit went up to over $200 billion a year and stayed at that level through much of the Reagan administration, although there was some improvement in the final years of that administration.

Then we saw President Bush come into office. He inherited a deficit of about $153 billion, and then the deficit truly went out of control. Each and every year the deficit rose, until in the final year of the Bush administration, we had a budget deficit of $290 billion. That was the budget deficit.

Perhaps it would be helpful to explain the difference between deficits and debt, because I often find that people are confused by the two. Deficits are the annual difference between what we raise in revenue and what we spend. It is the annual difference. Debt, of course, is the accumulation of all of the deficits.

Under President Clinton, unlike President Bush where the deficit went up every year, in the Clinton years, the deficit has declined each and every year. In fact, we went from a unified deficit of $290 billion——

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

Mr. CONRAD. I will be happy to yield.

Mr. REID. It is true, is it not, I say to the Senator from North Dakota, that 4 years in a row of declining deficits, the last time that happened was in the 1840's—that is 1840's—prior to the Civil War; is that true?

Mr. CONRAD. That is correct. The first time that we have seen the deficit decline 4 years in a row under one President was back in the 1840's.

Mr. REID. I also ask the Senator from North Dakota, in looking at the chart as I came into the Chamber, it appears to me that the deficit is only one-third of what it was at the height of the Reagan deficits.

Mr. CONRAD. If you measure the deficit against the size of our national income, which is probably the best measure of the deficit, that is true. In fact, the deficit measured against the size of the economy is the lowest it has been since 1974. In fact, we now have the lowest deficit of any of the major industrialized countries in the world. Again, I think that is the central reason we have seen this economic resurgence.

Mr. REID. Can I ask one final question? And that is, I think the Senator from North Dakota would agree that even though the last 4 years have been remarkable in driving down the annual deficit, I think we would all acknowledge we are working toward a zero deficit; is that true?

Mr. CONRAD. I think that is the goal that many of us share. I hope that would be what we could accomplish, to have a balanced budget in this country. It is critically important that we do that, because we face the demographic time bomb of the baby-boom generation. In very short order, the retirement of the baby boomers is going to double the number of people eligible for our major programs, from 24 billion to 48 billion. That is why we have to keep the pressure on to keep the deficit down.

I will conclude the point with respect to the Clinton administration's performance. In 1992 President Clinton promised he would cut the deficit in half. He has done much better than that. In fact, the deficit is down about 60 percent during the Clinton years.

Interestingly enough, the Federal Reserve Chairman, not known as a strong supporter of the Clinton administration—in fact, originally appointed by a Republican President—said that the deficit reduction in President Clinton's 1993 economic plan was ''an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter.''

This is the Chairman of the Federal Reserve in February of this year indicating that the Clinton plan was the central reason we have seen that dramatic improvement in the deficit during the Clinton years.

Not only do we see an outstanding story with respect to deficit reduction, this chart shows what has happened to real business fixed investment in billions of 1992 dollars. This chart goes back to 1985. You can see, ever since Bill Clinton has been in office, we have seen a dramatic improvement in business fixed investment. In fact, this is the best record for increases in business investment for any President since World War II.

The good news doesn't stop there, because we also see the misery index at its lowest level since 1968. The misery index is a combined measure of the unemployment rate and the level of inflation. The misery index is now at the lowest level it has been in 28 years.

Again, the good news doesn't stop there. We remember when President Clinton was seeking the office of President. He said that he would have as a goal the creation of 8 million jobs in the first 4 years of his administration. He has exceeded that. He has delivered on his promise. We have more than 10 million new jobs. In fact, we have now reached 10.5 million new jobs.

And unemployment is down, down sharply, under President Clinton. In December of 1992, the level of unemployment in this country was 7.3 percent. This chart shows in June of 1996, it was down to 5.3 percent. It has gotten even better since then. The level of unemployment was down to 5.1 percent in August 1996.

We have also experienced strong economic growth under President Clinton. In fact, this chart compares private-sector growth under President Clinton as compared to President Bush. Under President Bush, the private sector grew at a rate of 1.3 percent during his 4 years. Under President Clinton, this chart shows 3.1 percent. With the latest update, private-sector growth in this country is up to 3.2 percent during the Clinton years. In fact, this is the highest rate of growth of any of the last three Presidents—private sector economic growth, the best of any of the last three Presidents.

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

Mr. CONRAD. Mr. President, I will be happy to yield.

Mr. REID. You have talked about the private growth in our economy. Will the Senator agree that we have a smaller Federal work force now than we had during the years of President John F. Kennedy? Federal jobs have been cut back significantly; is that not true?

Mr. CONRAD. It is true. The Federal work force is at its smallest level since the 1960's, during the administration of President Kennedy. I might also point out, and I think this is interesting, that Federal spending—this President is accused of being a big spender—Federal spending measured against our national income has gone down each and every year of the Clinton administration. Interesting.

During the Bush administration, Federal spending went up. Under President Clinton, Federal spending has declined each and every year as measured against our national income.

I might just conclude that yesterday we got more good news. We got the Census Bureau report showing that incomes are going up; poverty is coming down. Median household income showed its largest increase in a decade. We had the largest decline in income inequality in 27 years. We saw the biggest drop in poverty in 27 years; 1.6 million fewer people in poverty. We saw the poverty rate for the elderly drop to its lowest rate ever, lowest rate ever for elderly poverty, and the biggest drop in child poverty in 20 years.

It seems to me that part of any Presidential campaign ought to be the record. The record, with respect to the economy, of this administration is crystal clear: The deficit is down, unemployment is down, poverty is down, incomes are up, jobs are up, business investment is up. That is an outstanding record. I hope people will have a chance to learn this record between now and the election. I think if they do, this President will be reelected with a resounding vote. I am happy to yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me yield myself such time as I may consume of the hour that has been set aside.

Mr. REID. Would the Senator from North Dakota, prior to the senior Senator from North Dakota leaving the floor, allow me to just ask a couple questions of the senior Senator from North Dakota?

Mr. DORGAN. I would be happy to.

Mr. REID. I say to my friend, the senior Senator from North Dakota, that you have made an interesting and I think a compelling case how things have improved during the past 4 years, from lower Federal employment, to higher private-sector employment, millions of new jobs, 10 million new jobs created, the lowest poverty levels in 27 years. You have gone through that, and I think made, as I indicated, a compelling case.

But I would like to ask the Senator a question. Do you realize in the State of Nevada—this is not on the overall economy of this country—but in the State of Nevada, which is a State sparsely populated but growing, the most rapidly growing State in the Union, do you realize that the unemployment rate in Nevada has declined from almost 7.5 percent when President Clinton took office now to about 5 percent? Were you aware of that?

Mr. CONRAD. I was not aware of that. But I was aware of national figures that showed the unemployment rate declining from 7.3 percent nationally to 5.1 percent today, the lowest level of unemployment we have had in this country in 7 years. I think that is another indicator that the Clinton economic plan, which passed in this Chamber by a single vote, is a plan that is clearly working.

Mr. REID. I would also ask the Senator—in fact, you have made an interesting and, again, a very dynamic case for what has happened with private-sector growth during these last 4 years nationally. But let me ask you if you know that in Nevada, there are 2½ times as many new private-sector jobs per year than during the previous 4 years? That is a tremendous increase.

Mr. CONRAD. That is a remarkable accomplishment. I think any objective observer who looks at the economic indicators can only conclude that this economic plan has been remarkable in its success. In fact, last year, for the first time in many years, the United States was judged to be the most competitive economy in the world. That designation has been given to the United States again this year. It is the first time in a very long time we saw the United States replace Japan as the most competitive nation in the world. So again, I think the evidence is clear and powerful and compelling that this President's economic plan is working and working well.

Mr. REID. I will just ask one last question before the floor is taken by the junior Senator from North Dakota. In Nevada, we have had new business incorporations increase by 14 percent—that is big for any State—but 14 percent during the 4-year period of time. This is in the State of Nevada, not nationally, but the State of Nevada.

Mr. CONRAD. Again, it follows the trend we are seeing nationally. President Clinton has the best record in terms of an increase in business investment, the rate of increase, of any President since World War II. You see the stock market at an all-time high. Virtually every indicator shows clearly that this economic plan has been a tremendous success.

I might just say that when we passed that plan, we took a lot of heat for it. I remember our friends across the aisle said that this plan would crater the economy. They said that if we passed this plan, it would increase unemployment, it would reduce economic growth, it would increase the deficit. They were wrong. They were wrong on every single count. The fact is, those of us who voted for that plan, it was controversial and we took a lot of political heat for passing it, that plan has proved itself and proved itself remarkably well.

Mr. DORGAN. Mr. President, on the last point, the Senator talks about what the reaction was to the plan in 1993 that required some amount of fortitude to vote for because it was not popular. The political thing would have been to vote ''no.'' And half this Chamber did. It passed by one vote. Speaker GINGRICH said at the time, ''This will lead to a recession,'' August 6. ''Pass this, it will lead to a recession.'' What has happened? Well, the deficit is down, unemployment is down, inflation is down, jobs are up, economic growth is up.

I will just discuss a bit some of the things that you have talked about. I thought I would just tell a story, if I might, that happened to a friend of mine the other day that describes context. You always have to put things in context, because what happens in politics is, someone comes to the floor of the Senate—and it has been done a lot lately—and they will take one little piece that you are able to find, and

they will hold it up to the light and say, ''Look at this. Isn't this ugly? Isn't this awful? Look at this awful bad news.'' That is the way this system works.

Of course, bad news travels faster than good news. The old saying: ''Bad news travels halfway around the world before good news gets its shoes on.'' So people do this. Let me talk about context.

A friend of mine has a precocious 3-year-old. She went to the video store, because they were going to be home for the weekend and they thought they would get a couple movies. They went to the video store and bought a little cartoon for the 3-year-old to watch and then a couple of movies for her and her husband to watch for the weekend.

She told me this story. After they went to the video store and got these three movies, they stopped at the grocery store, and this precocious 3-year-old of hers, as they are walking past the checkout counter in the grocery store, the little boy said, ''Well, Mommy got us some movies for the weekend.'' The cashier said, ''Really?'' He said, ''Yes. She got a cartoon movie for me and two adult movies for them.'' What happened is the little boy was explaining on the way to the grocery store, ''Gee, I get to watch three movies,'' and the mother said, ''No. We bought one for you, and the other ones are for myself and your father.'' ''Why can't I watch them?'' ''They are for adults.'' Then he tells the cashier, ''Mommy got two adult movies.'' Well, he was technically accurate, but contextually, in the context of this discussion she told me, she was trying to look for a cash register to crawl under.

That is what happens with respect to all of this discussion. It loses context when you take just a part of it and hold it up.

The Senator from North Dakota and the Senator from Nevada talked about where we are and where we are heading. The question is, it seems to me, not so much in isolation but in the context of the broader economic question, are we headed in the right direction or are we headed in the wrong direction? Are we moving forward or are we moving backward?

Let us just not listen to Senator CONRAD. He wears a blue suit, serves in the Senate, and talks, and Senator REID wears a blue suit and serves in the Senate and talks, and I am talking. So people say, ''Well, you're politicians on the floor of the Senate. All you do is talk about these things.'' Let us not listen to us.

Let us listen to money magazine. Here is what they say:

> The majority of Americans are better off on most pocketbook issues after 3½ years under [President] Clinton, who's presided over the kind of economic progress any Republican President would be proud to post.

Barron's:

> In short, Clinton's economic record is remarkable. . . . Clinton also rightfully boasted that, ''our economy is the healthiest that it has been in 30 years.''

Business Week:

> [I]nflation is low, growth is good, and the dollar is strengthening. America is in its best economic shape in 20 years.

Reuters:

> Clinton has run up an enviable record in the past 4 years, cutting the budget deficit each year, and making good on a campaign promise to cut the deficit in half.

That is not us. Money magazine, Barron's, Reuters, Business Week are telling this story. It is the story that Senator CONRAD just told with charts—steady economic growth, deficits down, way down, and inflation down, way down, 5 years in a row, unemployment down to 5.1 percent. This is a remarkable economic story.

Are things perfect in our country? No. Are we finally heading in the right direction? Are we seeing higher deficits? No, we are seeing much lower deficits. Are we seeing unemployment grow? No, we are seeing unemployment diminish, more people are working. That is movement in the right direction.

This economic news in our country is news that most of us ought to view as remarkable news, that ought to be a source of strength to the American people.

Senator CONRAD just touched in the last part of his presentation on some things that just came out yesterday, and we were at a meeting with the President last evening, in fact, a meeting with the President yesterday at noon, the three of us were there, and then a gathering with the President last evening again where he talked about the new Census Bureau information.

I would like to share it with people because it is important. Typical household income up $898 in 1995, the largest increase in a decade. Typical African American family's income is up $3,000 since 1992. The median income of African-American families has increased from $22,900 to $25,900, the largest decline in income inequality in 27 years. We have had a problem with income inequality, the poor getter poorer and the rich getting richer, the largest decline in that inequality in 27 years. The number of people in poverty fell by 1.6 million, the largest drop in 27 years. The poverty rolls are not growing, they are shrinking. The poverty rate fell to 13.8 percent, the biggest drop in over a decade. The African-American poverty rate dropped to its lowest level in history. The elderly poverty rate dropped to 10.5 percent, the lowest level ever. The biggest drop in children living in poverty in 20 years. The largest drop in poverty rate of female-headed households in 30 years. This is from the census data about what is happening in the American economy.

The point I want to conclude with is that we put this country on course with a plan that was not popular and we paid a price for that. I understand that. It was not popular at the time. It turns out to have put this country on solid footing to move toward greater economic strength, more jobs, more economic growth, less unemployment, less inflation. It was the right thing to do and America is heading in the right direction.

While there might be some who are complainers in America, we have a designated corps of complainers in our country who never want to do anything for the first time, have never found anything they are pleased about. They might want to find small areas where they would say, ''Gee, this is not right. This is not working.'' While they have complained it will not work and it is not right, we have set it right and are making it work and are moving this country in the right direction. That is the story of the economic numbers.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield to the Senator.

Mr. REID. There are two Senators from North Dakota on the floor and they, of course, attended the meeting yesterday where the President came and talked to us. There was no press, not a single press person in the room, and I listened very closely as did my colleagues.

The thing I will never forget, I am confident I am not telling tales out of school, is when the President showed us this, he said, ''Last night, late at the White House, I was given this, and I sat there alone looking at one page and almost cried,'' because he has also, as you recall, gone through literal hell, people criticizing his economic plan. The President of the United States, alone in the White House, said when he saw this he became so emotional he almost cried because this is good news.

Would the Senator agree this is good news? This is the glass being half full, not half empty. We all recognize, as I indicated to the Senator from North Dakota earlier in this discussion, we can do better. We can do better. But the glass is half full. It is not half empty.

The American people deserve to hear this good news. Would the Senator agree?

Mr. DORGAN. I absolutely agree. As I said earlier, good news does not travel very far, very well, or very quickly. There is an industry that is interested in seizing and entertaining people on bad news. Part of that industry is in American politics, because they understand that negatives far more easily motivate people than do positives. I understand even though today we could have people come to the floor and hold up a bunch of negatives and say, ''Is this not awful,'' we do not have a situation that is perfect in this country. Circumstances exist where the American people govern this country in a representative government. We make decisions, at times, decisions that the American people probably do not want us to make, but we do it in what we think is in the best interests of this country.

This President is a mortal President. I like him. I vote with him when I

think he is right. Yesterday I voted against him. I thought he was wrong on something. He is not a perfect President. None of us is perfect. This President has attempted to be a leader. When he took office in 1993 he proposed a plan that says this is a tough plan, and it is tough medicine, but let us, together, try and eliminate this Federal budget deficit. I would like you to vote for a plan that does it. Part of the medicine will be, yes, some increases in taxes, although most of the tax increases went to the very highest income people in this country, and especially some spending cuts in areas where we were spending too much money, and it was a package that we voted for, and I was pleased to vote for it. It was the right thing to do. We did not get even one vote from that side of the aisle. You would expect somebody to make a mistake occasionally and vote wrong. Not one would vote with us. We won by one vote, one single vote in the House and the Senate.

We put in place an economic plan that was the right thing to do. The result? More employment, less unemployment; more economic growth, lower inflation and lower deficits. That is a country that is moving in the right direction.

I am happy to yield the floor and allow the Senator from Nevada to take some time at this point.

Mr. REID. Mr. President, I want to spend a little bit of time reviewing the good news that we received yesterday. The good news, I repeat, typical household income went up last year almost $900. In 1995, the median household income increased 2.7 percent. This is tremendous. It is now up to $34,076, the largest 1-year increase since 1986. Typical family income is up over $1,600 since the President's economic plan has passed. Median family income has increased, up to over $40,000 a year in 1995. That is an increase of over $1,600, as I indicated, since his plan passed in 1993, when the Vice President of the United States had to come in and cast the deciding vote because it was on a 50–50 tie with Senators.

Under President Bill Clinton, the typical Afro-American family in America's income is up over $3,000. The median income is up to almost $26,000. This is a $3,047 increase compared to when President Clinton took office.

Mr. President, 27 years—we have had the largest decline in income inequality in 27 years. In 1995, household income inequality fell as every income group from the most well off to the poorest experienced a real increase in their income for the second straight year. One measure of inequality, something called the Gini coefficient, which is something economists use but is deemed to be the most reliable judge of inequality, dropped more in 1995 than any year since 1968.

People in poverty. Mr. President, enough people are off poverty to fill the States of North Dakota and the State of Wyoming and then have people left over—1.6 million people are off poverty. This is significant. This is even though the population is growing. We are still maintaining this drop. It is the largest 1-year decline since 1968.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I am happy to yield to the Senator.

Mr. DORGAN. That would be the equivalent of five Wyoming's, as I calculate?

Mr. REID. Mr. President, 1.6 million—I think Wyoming is about 600,000, so it is about 2½ to 3½ Wyomings.

Mr. DORGAN. I thought Wyoming had a smaller population than that, but it is sufficient to say you could take a number of the States in the northern Great Plains that are not heavily populated and you can compare the kind of progress we have made in a number of these areas by referring to those States.

It is remarkable when you take a look at income data provided by the Census Bureau, no one would have predicted this kind of economy would produce that in this 3½-year period.

Mr. REID. I say to my friend, the reason I mention States is these are real human beings, real people that go to work every day, hopefully, if that is possible, if they have a job. But these people get up every morning and go to bed every night—real human beings, 1.6 million of them are off poverty. That says a lot, I think.

The poverty rate fell to 13.8 percent, the biggest drop in over a decade. In 1995, the poverty rate dropped from 14.5 percent to 13.8 percent. That is the largest 1-year fall in the poverty rate since 1984. Since President Bill Clinton's economic plan was signed into law, the poverty rate declined from 15.1 percent to 13.8 percent, the biggest 2-year drop in the poverty rate in 23 years.

The Afro-American poverty rate dropped to its lowest level in history. I repeat: The Afro-American poverty rate dropped to its lowest level in history. In 1995, the rate declined from 30.6 percent to 29.3 percent. That is the first time it dropped below 30 percent and is the lowest level since data was first collected in 1959.

The elderly poverty rate dropped to its lowest figure ever —ever—to 10.5 percent. Of people over the age of 65, only 10.5 of them are in poverty. That is tremendous. By far, that is the best of any country in the world. In 1966, 28.5 percent of American elderly lived in poverty. That was before Medicare came into being. Medicare has kept a lot of people off the poverty rolls. In 1995, the elderly poverty rate declined to 10.5 percent. That is a new record low for elderly poverty—ever—not in the last decade or two, but ever. Not only do we have seniors poverty rate declining, but child poverty has dropped to its lowest level in 20 years, also. So seniors and children are doing better. We are doing better by them.

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

Mr. REID. I am happy to.

Mr. CONRAD. You mentioned that the poverty rate for the elderly was at a level of 28 percent, or more than 28 percent in 1966.

Mr. REID. Almost 29 percent.

Mr. CONRAD. Almost 29 percent was the rate of poverty for the elderly; 29 percent of the elderly lived in poverty as recently as 1966. What did it drop to?

Mr. REID. It dropped to 10.5 percent.

Mr. CONRAD. To 10.5 percent. You know, sometimes we say, well, the Government doesn't do anything that has much value. But here is a case where the portion of our elderly population that lived in poverty has been reduced from 29 percent of the elderly to 10.5 percent. That is a dramatic improvement in the lives of real people. I think that is something people can be proud of. I think Bill Clinton and his economic plan, which has led to an economic resurgence in this country, ought to get some of the credit. This President deserves some of the credit.

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

Mr. REID. Yes.

Mr. DORGAN. I heard a Senator come to the floor of the Senate a while ago and say, ''For this President to claim credit for the good news about the economy is like a rooster claiming credit for the sunshine.'' There are some here who are unwilling to give this President credit for anything.

I read this, a few moments ago, in Money magazine, who understands. Barron's, Business Week, and Reuters give the President credit. Do you think this President would not have been given the blame for an economy that was faltering and failing?

Let me read, if I might, a comment by the Chairman of the Federal Reserve, Alan Greenspan. He said:

> The deficit reduction in President Clinton's 1993 economic plan was an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter.

That is language from an economist. It could be clearer, I suppose. But he said ''unquestioned factor.'' The President's plan is an ''unquestioned factor'' in contributing to the improvement in economic activity that occurred thereafter.

Paul Volcker, former Chairman of the Federal Reserve Board, said:

> The deficit has come down, and I give the Clinton administration and President Clinton himself a lot of credit for that. I think we are seeing some benefits.

The Philadelphia Inquirer, in a series they did, said:

> What the GOP won't admit is that the President also helped the economy grow. Clintonomics showed enough fiscal discipline that it helped produce the lower interest rates, which, in turn, spurred economic growth.

I still hear people, who are Members of the Senate, come to the floor and say, ''Well, the only people who care about the Federal deficit are we conservatives, we Republicans.''

The people who care about the Federal deficit are the people who stood up and owned up to a vote in 1993 and said, ''I will cast an unpopular vote in order to reduce this Federal deficit and get interest rates down and put this country back on track.'' Some of our colleagues who did that are not here. They lost their seats as a result of that. But the fact that we did that in 1993, according to all of these sources—don't just listen to me, but to these sources—the fact that we did that created the circumstances that allowed the American economy to grow and produce the kind of news we heard yesterday. Once again, this President is providing leadership in the right direction, and this country is moving ahead and in the right direction, rather than languishing or moving backward. That is the point I wanted to make today.

Mr. REID. Will the Senator read that quote from Barron's and from Money magazine again?

Mr. DORGAN. The Money magazine article was in August, last month. It says the following——

Mr. REID. And things have gotten even better since then.

Mr. DORGAN. Yes.

It says this:

The majority of Americans are better off on most pocketbook issues after 3½ years under President Clinton, who has presided over the kind of economic progress any Republican President would be proud to post.

Barron's magazine said:

In short, Clinton's economic record is remarkable. Clinton also rightfully boasted that our economy is the healthiest it has been in 30 years.

Finally, Business Week—and these are not publications that would normally be supportive of a Democratic President—Business Week said:

Inflation is low, growth is good, and the dollar is strengthening. America is in its best economic shape in 20 years.

So if one doesn't want to listen to us because they say, ''Well, obviously you are partisan on that,'' these publications are not partisan voices who evaluate this economy and say that America is finally on the right track. It is growing, moving ahead, reducing poverty, increasing employment, reducing inflation, reducing interest rates. That is good for this country.

The point today is, again, in an era of so much bad news and in a society which entertains people with other people's dysfunctional behavior and bad news, it is time to trumpet a little bit that we are finally moving in the right direction—deficits down, unemployment down, employment up, inflation down. It is finally important for us to say that we have turned the corner, and America is moving ahead.

Mr. CONRAD. If the Senator will yield, I just want to comment on the question of who gets credit and who gets blame.

The blame game is very popular, especially just before an election. Some are holding this President responsible for anything that has happened anywhere in the country during his time as President, even if it relates to things for which the President has very little influence or control.

The national economy is one place where the President does have significant influence and control. I just say to my colleague, the Senator from Nevada, that facts are stubborn things. President Reagan said that: ''Facts are stubborn things.'' My colleague from North Dakota says there are others that are not partisan voices who are confirming that this President's economic plan is working.

I would say that even those of us who are partisans can report facts and report them accurately. I would be prepared to debate any of my colleagues at any time and any place on the question of the facts presented here. Every single one of these facts is verifiable by anybody who cares to check. These numbers indicate clearly this President's economic plan has worked. The deficit is down each and every year of the Clinton administration, and down dramatically.

The head of the Federal Reserve says to us that it is unquestioned that the President's economic plan contributed to this improvement. This improvement has radiated through this economy, improving incomes. The Senator from Nevada reports the biggest increase in personal income in a decade; the biggest reduction in poverty in 27 years.

All I can say to my friends across the aisle is if they had a President with this economic record they would be running a campaign of ''It's morning in America.'' They ran that campaign when the debt and the deficits were skyrocketing. Now we have a case where not only is the economy improving, income is improving, investment is improving, unemployment is being reduced, inflation is being reduced, and the deficit is declining—but this President has done it without writing the hot checks adding to the deficit—adding to the debt. That was being done during the 1980s.

So this is even a more remarkable accomplishment—to have this economy showing this resurgence and this strength even while President Clinton is bringing the deficit down each and every year—bringing the deficit down 60 percent. It took a vote that occurred here in 1993 on the Clinton economic plan, and it passed by one vote.

Mr. DORGAN. I wonder if the Senator will yield?

Mr. REID. I am happy to yield to the Senator in one second. But think how much better the economy would be if we were not having to pay the interest on the debt that accumulated during principally the Reagan and Bush years. I mean we would have no deficit.

Will the Senator acknowledge that?

Mr. CONRAD. The Senator is absolutely right. It is very interesting. If we didn't have to pay the interest on the debt that was accumulated during the Reagan and Bush years, just those years, we would have a balanced unified budget today. That is a fact.

Mr. REID. I say also the document about which we speak today is not something that was prepared by the Democratic National Committee, or the Democratic Senatorial Campaign Committee. This came from the Census Bureau. These are facts. And as the Senator from North Dakota has indicated, facts don't lie. These are the facts.

Mr. DORGAN. Will the Senator yield for a moment? If we go back 6, 7, or 8 years—6 years, for example—and think of where we were, deficits at record highs and increasing each year. There were the junk bonds, failed savings and loans; the derision with almost a financial casino in the country with the taxpayers paying the bill from S&L's that go belly up, junk bonds that were nonperforming, people going to prison, the placing of junk bonds under circumstances that were not legal. Do you remember when we were, 6 or 7 years ago, deep in debt, and getting deeper?

The point we are making now is that this country has turned around. It didn't happen just by accident. It happened because a set of Federal policies were put in place that said here is what we should do: We should turn the corner, and move in this direction—cut spending. This President proposed that; cut spending.

We have 250,000 roughly fewer Federal employees on the public payroll today than when this President took office. A quarter of a million Federal workers, who were working when this President took over from a Republican President, are no longer working for the Federal Government. It is the smallest Federal Government in decades in real numbers.

Mr. REID. Since John Kennedy.

Mr. DORGAN. Since John Kennedy was President.

I want to add one more bit of context to this. It is not my intention to come to the floor—nor is it the intention of Senator CONRAD, or Senator REID, or others who will join us—and say that we on the Democratic side of the aisle, or this President, President Clinton, are infallible, that we have not made mistakes, that we are solely responsible for everything that is good. That is not my point. It is not my point.

But my point is when others come to the floor and continue to kick and flail away at every tiny little thing they can find wrong, hold it up, and say, ''Isn't this ugly,'' and entertain us for hours with this today because, ''Gee, this is awful.'' Let us put in context where this country is headed, and who had the courage and the plan to move it in that direction. This President deserves some credit for that. I can name names. I will not do it. But I could just for fun go down a list of people here and what they said in 1993. They said this President is going to lead us into a recession; this plan will not work; this plan will bankrupt America; this plan will lead to slower growth; this

plan will lead to less employment; this plan is in the wrong direction. It turns out that every single one of those people were dead wrong—not just wrong but dead wrong.

This economic plan put this country on the right path so that deficits came way down, interest rates came down, unemployment came down, new jobs went up, and inflation came down. They were wrong. This plan worked.

I mean, I have people in my hometown who are the kind of people who oppose everything for the first time. We all know people like that; just sit around and play pinochle and complain. No matter what somebody proposes. It is wrong; it will not work; and it can't work. This country was not built by complainers. While they were playing cards and complaining other people were out building, and doing.

This President came to office with a mission. He said here is a plan. And this plan he said, I think, will restore vitality to the American economy, and move us in the right direction. And it was surprising that some people found that the Democratic President provided leadership in a way that cut Federal spending, cut Federal programs, reduced the deficit, and put the country back on track, but he did.

I think the purpose of this discussion today is to put that in full context so that we can talk about something that ought to be good news for everyone—Republicans and Democrats—that every American ought to believe that it is better for us, no matter who gets credit if our country is moving in the right direction, because internationally we now must compete with tough, shrewd international competitors in a game where there are winners and losers, and the losers suffer the British degree of slow economic decline and the winners experience new jobs, hope, and opportunity. That is why it is so important to have this economic strength and why it is important that we are finally back on track with an economy that is stronger.

Mr. REID. I want to finish with two thoughts:

One, we had the lowest drop in elderly poverty. We talked about that; the biggest drop in child poverty; and, the largest drop in the poverty rate of households in 30 years.

There are statistics that relate to the State of Nevada. Bank lending increased by $10.5 billion. Home building increased by 25 percent per year during the years of President Clinton. Almost 5½ times as much new manufacturing jobs were created; 261,000 workers are protected by family and medical leave. We have new police officers, and that is going up. A lot of good things have happened.

What I say to my two colleagues on the floor today and the Presiding Officer is to build just briefly on what the Senator from North Dakota just said. I think with the Presidential election winding down and 5 or 6 weeks until it is over, I hope that, if we gain nothing else from our experiences during these past 2 years, we should recognize how much better things would be if we had a Congress that was willing to work, where you had a conference and where both parties were in on the conference; where instead of having the majority run roughshod over the minority you had people working together for the good of the country.

As it has happened in years gone by in this great body and the one down the Hall in the Capitol, I hope, if we learn nothing more, it is time that we develop and urge a thirst for bipartisanship here because of what has happened in spite of the polarization that is taking place here in Congress. Think about how much better it would have been had we worked together on these issues.

I yield to my friend.

Mr. CONRAD. Mr. President, I was going to make another point. When I got up this morning I went to get the Washington Post. Right on the front page is the reporting of what we are talking about here today. The headline on the front page of the Washington Post is, ''Household Income Climbs.''

The subheadline is, ''Census Bureau Also Reports Poverty Rate Drop.''

So if anybody is watching this and wondering if this is an accurate recitation of what the Census Bureau is reporting, you can just turn to your local newspaper and you will find these news reports all across America.

''Median household income rose 2.7 percent * * * after being adjusted for inflation.''

Inflation is running about 3 percent. So incomes actually went up about 6 percent last year—biggest increase in a decade. Over the same period, the Washington Post reports the poverty rate declined from 14.5 to 13.8 percent. The number of people in poverty fell by 1.6 million.

That is the statistic the Senator from Nevada was using—the largest decrease in 27 years. The largest decrease in poverty in America in 27 years. That is the statistic both the Senator from North Dakota and the Senator from Nevada were using. If we need evidence this plan is working, here it is right here in this morning's newspaper.

Let me just conclude:

> The benefits of economic growth were spread widely through the economy—in nearly all occupations, all education levels and all income categories.

That is the kind of economic results you would like to have, and this economic plan is delivering those results. We ought to stay the course. We ought to stick with this plan. Absolutely the worst thing we could do is take a riverboat gamble and go back to the old days of supply-side economics in which somehow, as Senator Dole said last year, you cut taxes and you are supposed to get a big, big revenue increase. As Senator Dole said last summer—he said, you know, we tried that in the eighties. That was the idea that NEWT and the House Republicans had. We said everything would be all right. Well, it wasn't.

That was Senator Dole speaking just last summer, and only when he found himself 20 points behind in the polls did he decide a different policy would make sense. And if anybody is wondering whether his plan adds up, I just give you two numbers. We are projected to spend $11.3 trillion over the next 6 years. Our income is projected to be $9.9 trillion. Those two do not match up. You cannot spend $11.3 trillion and have income of $9.9 trillion and add up.

Mr. DORGAN. Is that under the Dole plan?

Mr. CONRAD. That means you are going to add to the debt.

Mr. DORGAN. I ask the Senator a question. Is that the projected income under the Dole plan?

Mr. CONRAD. That is the projected income under current law, that we would spend $11.3 trillion, we would have income of $9.9 trillion. And what does Senator Dole say? The first thing he wants to do is cut the income by $550 billion. Now you have a $2 trillion gap between spending and income. That is how you raise the debt. That is how you raise deficits. That is how you put this economy right back in the ditch.

If we are going to go back to a policy of debts, deficit and decline, that is the path to take.

I might just say Senator Dole says cut the income $550 billion. That would create a $2 trillion gap between our spending and our income. You would then think, well, he is going to propose $2 trillion of spending cuts to make up for it. Oh, no. He is not even close. He has about $700 billion of specific spending cuts that he has recommended, and if you look at the spending cuts what you find is he is saying we ought to cut just one category of Federal spending about 30 percent. And the category he has chosen is what Senator REID from Nevada knows well—domestic spending. He wants to cut it 30 percent, I say to the Senator.

Mr. REID. Education.

Mr. CONRAD. Law enforcement.

Mr. REID. Environment.

Mr. CONRAD. Environmental cleanup, roads, bridges, airports. He wants to cut those 30 percent. In fact, by the sixth year, he would cut them 40 percent.

If anybody in this country thinks the way we should build for the future is to cut, in the sixth year of Senator Dole's plan, education 40 percent, cut law enforcement 40 percent, cut the construction of roads, bridges and airports 40 percent, sign up to the Dole plan because that is precisely what he is recommending to the American people. That would be a disaster for the economic future of this country. And even with those cuts he is nowhere close to adding up. Instead, we are going to get a huge increase in the debt. That will increase interest rates. That will slow the economy. That will put our economy in the ditch. That is a policy of

debt, deficits and decline, and we ought to avoid it at all cost.

I yield the floor.

Mr. DORGAN. Will the Senator yield?

Mr. REID. I would be happy to yield, indicating that one of the things we have not talked about here today with the Clinton plan is something that we recognized very clearly in Nevada. As a result of the Clinton economic plan, in Nevada nine times more Nevada families received a tax cut than an increase. It happened all over the United States. In addition to that, businesses got tax breaks in the Clinton plan of 1993. We fail to talk about it. In the little State of Nevada, almost 7,000 small businesses got a tax break when we passed the deficit reduction plan.

Mr. CONRAD. Will the Senator yield just on that point?

Mr. REID. I will be happy to yield.

Mr. CONRAD. I asked my staff to find out in North Dakota what happened because we continually are told these are the big taxers and the big spenders. I have reported what happened to spending. Every year under the Clinton administration spending as a share of our national income has gone down—each and every year.

Big spending? I do not think so. This President has reduced spending measured against our national income. And on the tax side, in my State of North Dakota, as a result of the 1993 plan, 29,000 people got a tax cut because of the expansion of the earned-income tax credit that was included in the Clinton plan; about 1,400 people got an income tax rate increase. And who were they? They were couples earning over $180,000 a year and individuals earning over $140,000 a year. So 20 times as many people got a tax reduction as got a tax increase.

Mr. DORGAN. If the Senator will yield, one of the concerns I have about the proposal now for a substantial across-the-board tax cut offered by Senator Dole is that it is so at odds with what is required of leadership at this point. I said on the floor yesterday, and I will say it again, I admire Senator Dole. I think the service he has given to this country is something most Americans should be thankful for and grateful for. He has been a good public servant.

I said yesterday I would not trade one Senator Dole and his experience for all 73 House Republican freshmen who boasted they had no experience and came here and proved it quickly.

I admire Senator Dole, but the fact is a test of leadership in our country is are you willing to do what is necessary for this country? Are you willing to propose what is necessary? President Clinton came in 1993 and made a proposal that was not popular. He knew and we knew people are not going to belly up to this one and say, well, sign me up; please let me have some of that—spending cuts and tax increases.

We knew that was not going to be politically popular. We knew it was going to be hard to do. It turned out to be extraordinarily hard to do. It turned out it passed in this Chamber by a tie-breaking vote being cast by the Vice President. So it turned out to be enormously difficult. Why? Because it was not popular. It was tough medicine. It was needed to put the country back on course. That is the test of leadership.

Mr. REID. And it was very partisan.

Mr. DORGAN. It turned out to be very partisan, regrettably. I wish it would have been a bipartisan effort to say, if we have to do some heavy lifting, let us all lift. But that was not the case. In any event, what has happened now is that Senator Dole, who has always stood here in this Chamber and said I do not agree with those who say let us have a big across-the-board tax cut and the deficits, the heck with the deficits, let us not care what happens as a result of it, he has always been one who stood in the well of the Senate and said these things do not make any sense. This does not make any sense. Now he has been convinced apparently to propose an across-the-board tax cut which will substantially reduce the revenue and substantially increase deficits. And do not trust me on that. Trust the Concord Coalition, a bipartisan organization or nonpartisan organization run jointly by a former Republican Senator and Democratic Senator who say this is going to vastly inflate the Federal deficit.

It seems to me, given the economic story we have talked about today, the question is, do we want to move in that direction again: swollen deficits, slower growth, more unemployment? Or do we want to continue with the plan that has worked for our country?

Mr. REID. I would say to my friend, in closing, we have heard a discussion here this afternoon about the economy and how the glass is half full rather than half empty. I have heard on the Senate floor, over the past month or so, the same type of discussion as it relates to crime in America; that is, ''the glass is half empty, it is not half full,'' when we should recognize that the violent crime rate has dropped for adults. We are making progress with the approximately 40,000 new police officers throughout America. We are making great progress. We should talk about the positive effect of how crime is being attacked in this country rather than continually dwelling on the negative.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Georgia controls the next hour.

## TAX RELIEF

Mr. COVERDELL. Mr. President, it is not going to be the subject I intended to address, but I could not help hearing some of the remarks from the other side about how onerous it would be if we were to allow the American family to keep more of what it earns in its checking account via tax relief. I am going to talk for just a second about it.

An average family in my State gets to keep 47 percent of its gross income. In 1950 those people got to keep 80 percent. Now they can only keep 47 percent after they get finished paying their Federal tax bill, State, local, the cost of Federal regulations, and extra costs they pay in interest payments because of the national debt that has been drummed up by an ever-increasing and larger Federal Government here in Washington.

Mr. President, 47 percent is what is left at the end of the day. I will say as long as I am here that any effort to bring relief to those average families and to allow more of their earnings to stay in their checking accounts is laudable and correct, because we have pushed the average family to the wall. That which we ask them to do, get the country up in the morning, feed it, house it, shelter it, take care of its health, is virtually impossible to do today with what is left in that checking account after some Government bureaucrat marches through it.

It is not my purpose to discuss it here this afternoon. But lowering the economic pressure on the average family in our country would do more to end the stress and the anxiety and the behavioral problems in our middle-class families than any other thing we can do. You can track the stress in those families and track it day by day, month by month, year by year, as we ratcheted up the tax pressure on those families. You can see the effect it has had on them—smaller families, no savings in their savings accounts, lower SAT scores, more members of the family having to work just to keep up; in some of them, not only both parents working but both parents having two jobs.

I am absolutely mind boggled that we would be arguing that it would be some evil and sinister thing to lower the tax pressure on the American family.

## RE-CREATE A MELTDOWN

Mr. COVERDELL. Mr. President, we are hours away from the end of the fiscal year. There are leadership meetings occurring everywhere. I have become convinced that the other side has concluded it is to their political advantage to try to re-create a meltdown here.

We have learned from reading in the paper that the now famous Dick Morris, political consultant to the White House, spent 5 months planning the last shutdown, and we see the exact same characteristics as we come to trying to bring the year to a logical and bipartisan closure. Let us remember that, unlike a year ago, we have 60,000 troops in harm's way right now in Iraq and Bosnia. We have just watched a hurricane sweep across our eastern shores, and we have families desperately trying to dig out. We are 6 weeks from an election, and we ought to get the electioneering out of the

Halls of Congress, come to closure here, lower the anxiety level for all those families involved, keep the Federal Government on course and move the campaigning to the elections.

Our majority leader, I believe, has done everything humanly possible to keep this in a bipartisan manner, keep tempers cool. He has come out here on the Senate floor and offered a resolution that would keep that safety net under our troops and under our disaster-stricken families. He has offered both sides six amendments and then come to closure on Wednesday night at a logical hour.

What was the response? ''No way.''

He then offered to start a debate on a resolution that would keep the safety net under the Government this past Tuesday with no limits on the amendments in process but an agreement that we would finish in an orderly manner by Wednesday night. What was the answer? ''Absolutely not.''

Then he said, let's take the Department of Defense appropriations conference report and, with a continuing resolution, you know, a safety net under the Government, omnibus spending vehicle attached to it. ''No way.''

So, option after option is presented, denial after denial occurs, and the clock is running and the troops are still in harm's way.

The White House has indicated that it wants to make the illegal immigration bill, which is a very, very large piece of legislation on which hours and hours and hours have been expended, wants to make this a center point, some sort of a leverage to bring us to the brink. I am reading from the Los Angeles Times: ''Clinton seeks to halt further limits on noncitizens. Holdup of appropriation would vex GOP members anxious to hit campaign trail.''

Washington—Setting up a confrontation with Republican leaders, the White House indicated Thursday that President Clinton will not sign a must-pass spending bill [that is the safety net] until the GOP agrees to amend separate immigration legislation.

There will be others who will speak to this, but the White House said you have to take out the Gallegly amendment. The Gallegly amendment left States the right to choose to allow legal immigrants in schools or not, and it has been argued and argued and argued. But the Republican leadership of the Senate and House said, ''OK. In an effort to maintain the safety net, in an effort to bring a bipartisan conclusion to the 104th Congress, we will remove it.'' So, they did. After they did it, the White House says, ''No, that is not enough. Now we want more changes in it before we will agree to sign it.''

This reminds me of the system that apparently Dick Morris organized a year ago. Let me read from one of our daily papers, the Washington headline. It says:

Immigration and Naturalization Service officials have learned that about 5,000 of the 60,000 immigrants naturalized in six days of mass ceremonies in Los Angeles last month concealed past criminal records that might have disqualified some of them from citizenship. . . .

Of the 5,000 who proved to have criminal records . . . their alleged crimes ranged from serious offenses, such as murder and rape, that would disqualify them from citizenship to minor violations that would not.

This article says, ''Clinton administration election year program to naturalize 1.3 million new citizens during this fiscal year ending October 1 * * *''

In other words, it is a rush, it is a political plan we have here to rush people through so fast that the FBI cannot even provide the traditional background check that would have spotted these murderers and rapists who are now U.S. citizens because of this political program.

Right here, it reads:

Because of the rush to naturalize citizens, none of this FBI data was available to the Immigration and Naturalization Service before the ceremony.

What kind of nonsense have we gotten ourselves into here? What price are these elections worth?

It reads that:

Prior to the inception of citizenship, USA officials said the INS generally waits until it receives the result of an FBI check on applicants for naturalization before granting them citizenship.

But that was pushed aside because the politics of this program was more important.

Now we come to this illegal immigration bill, and all of a sudden, it has become bigger than running the Government, and one cannot help but miss the connection that we have throttled up this immigration bill, we have used it as a wedge against keeping an orderly transition of Government, a safety net under these troops that are overseas, our seniors, our children's programs, school programs, all set aside for the politics of the moment.

The idea of strategically using immigration and naturalization politically, the idea of a political plan for posturing to destabilize our troops, disaster victims, is not a very pretty picture. No wonder there is so much cynicism about this process that goes on in our Capital City.

Mr. President, we have been joined by the senior Senator from Utah, by the chairman of the Judiciary Committee of the U.S. Senate, by an individual who has been deeply involved in this process since its inception. I yield up to 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

Mr. HATCH. Mr. President, I have to say I am very disappointed. The Clinton administration is playing political games with the illegal immigration reform bill. This is one of the most important bills of this whole Congress. The Congress has worked very hard on this very necessary legislation.

On August 2, 1996, President Clinton wrote to Speaker GINGRICH. The only item on which he said he would veto the immigration bill was the Gallegly provision on the free public education of illegal aliens. The provision was, in fact, contained in a draft conference report proposal circulated on the evening of September 10 by Republican conferees.

At no time in the next 2 weeks, as this draft proposal was circulated, was I advised that the administration wanted to remove title V of that proposal, dealing with restrictions on benefits for aliens.

Indeed, the administration mentioned the Gallegly provision was really the big item to them; that if we took Gallegly out, the President would sign the bill.

In order to accommodate this administration and facilitate passage of this very tough illegal immigration bill, the Republican conferees dropped the Gallegly provision outright, and I argued for the dropping of that provision, mainly because I wanted to get this bill through because there are excellent provisions in this bill that are desperately needed.

Additional changes were made to accommodate other concerns expressed by some Members on the other side of the aisle. For example, illegal aliens' use of Head Start programs, English as a second language programs, and job-training programs would not count in the determination of whether the alien had become a public charge and, therefore, subject to deportation. A legal immigrant's use of emergency medical services would not be subject to deeming.

But the administration is now engaging in a shell game. Even though we removed the one item the President said would lead to a veto and made still other changes in the September 10 draft, and even though the President had 2 weeks to weigh in and did not do so, the administration is now calling upon its congressional allies to slow down and even derail this bill unless wholesale changes are made to it. These changes are coming out of left field. By so demanding, the President is acting as the ''Guardian in Chief'' of the status quo.

These tactics make me wonder whether the President really favors tough anti-illegal-immigration legislation. Why did he wait until after the conference to make these demands as a condition of his support for the bill?

The American people want Congress and the President to deliver on this subject. The Congress is prepared to do so. Is the President?

Let me go over just a few of the items in the conference report that the President is helping to delay action on.

This is the illegal immigration conference report. On border control and illegal immigration control, we provide for 5,000 new Border Patrol agents, which are dramatically needed at this time if we are going to make any headway in this battle; 1,500 new Border Patrol support personnel; and 1,200 new Immigration and Naturalization Service investigators, which are very badly

needed. They will not be there unless this bill passes.

We provide for improved equipment and technology for border control; for an entry-exit control system to keep track of the aliens who are supposed to leave the United States; and for additional and improved border control fences in southern California. All of that is included in just part of this bill.

Let me go on.

With regard to alien smuggling, document fraud, and illegal immigration enforcement, we provide:

Increased criminal penalties for alien smuggling and document fraud;

New document fraud and alien smuggling offenses;

New Federal prosecutors to investigate and prosecute immigration violations;

That alien smuggling penalties will be calculated for each alien a smuggler has smuggled in;

Wiretap authority in alien smuggling and document fraud cases; and

A new civil penalty for illegal entry.

We also make it unlawful to falsely claim U.S. citizenship for the purpose of obtaining Federal benefits, which has been going on now for years, and it is time to bring a stop to it. This bill will do it, and this President is stopping this bill.

With regard to removal of illegal aliens, we streamline the removal procedures so it can happen, so it can be done. Illegal aliens who are removed will be inadmissible for certain periods.

We revise expedited exclusion provisions of the Terrorism Act to ensure that those with valid asylum claims receive adequate protections from persecution. We take care of those with valid asylum claims.

You can see, these are just a few more of the things that this bill does, all of which are absolutely critical to solving this illegal alien problem in our country. Let me just go on.

With regard to criminal aliens—and we have plenty of those in this country right now; they are causing an awfully high percentage of the crimes in our country today. We have expanded the definition of ''aggravated felon'' for the purposes of the Immigration and Nationality Act. We have mandatory detention of most deportable criminal aliens. We have improved removal of deportable criminal aliens.

We eliminate loopholes under which criminal aliens have stayed within the United States. We improve the identification of deportable criminal aliens. We increase the Immigration and Naturalization Service detention space by 9,000 beds, something they tell us absolutely has to happen or we are going to have an even greater crisis on our hands than we have now.

We also have additional financial resources for the detention of criminal aliens and other detainees, which is absolutely critical if we are going to fight and win this battle with regard to illegal immigration. Let me go a little bit further.

With regard to interior enforcement, we provide that State and local authorities will be able to perform immigration control functions, including transporting illegal aliens to INS detention facilities across State lines, something that currently we have difficulty doing. A lot of States, just to get these people out of their States and get them into detention facilities, would pay for the costs themselves. Many States would provide the sheriffs' deputies and others to get these people out of their States. We provide they can do that, of course, with the cooperation and help of the INS.

We ensure at least 10 active-duty INS agents in each State. We certainly think that is critical. Of course, in the major border States, we have many more than that.

We improve legal border crossing.

We have increased border inspectors to speed up legal border crossing.

We have commuter-lane pilot projects for frequent border crossers.

As you can see, all of these various provisions that we have in this bill are absolutely crucial if we are going to make any headway against this problem of illegal immigration.

I have to tell you that it took this Congress to do some of these tough things. I want to personally compliment the distinguished Senator from Wyoming, Senator SIMPSON, for working so hard as subcommittee chairman to get it done, and the whole Judiciary Committee, because it was there that we really worked out the difficulties between the Democrats and the Republicans, and I think came up with a pretty superior bill, which now has become primarily the bill that came out of conference.

I want to compliment LAMAR SMITH and Mr. GALLEGLY and Mr. MCCOLLUM, and others over in the House who have played a tremendous role in this matter.

In the Senate, of course, Senator SIMPSON and everybody on the Judiciary Committee deserves enormous credit. On the other side of the aisle, Senator KENNEDY and Senator FEINSTEIN have really played significant roles, although Senator FEINSTEIN is primarily working with us today to try to get the bill through. She has done an excellent job. She has fought hard for her State. She realizes California, Texas, Arizona, Florida—all of these Southern States, these border States—have to have the bill. So she is fighting to get it. At the same time she is fighting her guts out, this administration is trying to undercut her and undercut what we have done.

It is an amazing thing that we have been able to bring 535 people together in the legislature, at least a majority of them, to pass a bill that will make a difference in this country.

This conference report passed overwhelmingly in the House for good reason. People over there are concerned about what is happening. And it will pass overwhelmingly here if we can get it up. Frankly, the only logjam in getting it up happens to be the President of the United States and his cohorts who are all over Capitol Hill trying to ruin this illegal immigration bill.

To me, I cannot understand that kind of reasoning. I cannot understand that type of activity. I cannot understand the President doing this. I cannot understand why they are not working with us to get this bill through, especially since we made every effort to get the Gallegly amendment out of that bill.

To be honest with you, the Gallegly amendment was not as bad as some people have been making out. It was a rule of Federalism. All Mr. Gallegly and California wanted is for the States to have a right to determine whether or not they will educate illegal alien kids, at a tremendous cost—$2 billion to $3 billion in California.

I do not think there is a State in this Union that would decide not to do so, even California, in spite of what some out there would like to do. But the fact of the matter is, it was not a bad amendment in terms of Federalism. It would not have hurt anybody, in my opinion. We even modified it to try to please the President, so we grandfathered K through 6 and 7 through 12. We provided a safety valve so we could rip it out of the bill at a future time, with expedited consideration by the Congress. But that was not good enough.

Finally, it came down to literally just ripping it out of the bill, calling it up maybe separately, but ripping it out of the bill to satisfy this President who said he would not veto this bill if we got rid of Gallegly. No sooner did we do that, and last night they come up here and said, we want title 5 out of the bill. Title 5 is a pretty important provision of this bill. As a matter of fact, it contains a number of very important provisions if we are going to get a handle on illegal immigration in this country. It is incredible to me that they would do that after they gave their word, it seemed to me, with regard to the Gallegly amendment and taking it out of the bill.

Mr. President, I see my time is up. Let me just finish by saying this. This is an important bill. It is one of the most important bills in this country's history. We can no longer afford to allow our borders to be just overrun by illegal aliens. There are some indications that this administration has been soft on letting people into this country, most of whom vote Democratic once they get here as noncitizen illegals. Frankly, a lot of our criminality in this country today happens to be coming from criminal, illegal aliens who are ripping our country apart. A lot of the drugs are coming from these people.

This bill will play a significant role in making a real difference for the benefit of our country, and I am calling upon the President and the people at the White House to get off their duffs

and start helping us to get it passed and quit this type of activity. I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks by the Senator from Utah. I now yield up to 10 minutes to the senior Senator from Missouri and the chairman of the appropriations subcommittee on VA–HUD.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mr. BOND. Mr. President, I thank my colleague from Georgia. I appreciate the opportunity to explain to some of my colleagues, and those who might be interested, what is going on with the appropriations process.

I think all of us know that the time has come to shut down this session of Congress. We have a couple of very important things pending.

The fine chairman of the Judiciary Committee has just described what needs to be done on a problem that everyone recognizes, and that is the problem of illegal immigration. Can we move forward on that bill? I think it is one of the key elements of a resolution of this session of the Congress. But everybody knows that before we leave town we have to provide the appropriations measures to keep the Government running and to keep programs going which the Federal Government has undertaken as a responsibility.

I understand that perhaps an hour or so ago the Democratic leaders on this side and on the House side had another one of their infamous non-infomercials, a news conference in which the facts were not necessarily the absolute requirement of any of the discussions. I believe they were talking about how the Republicans intend to shut down the Government again.

Let me be clear about one thing, Mr. President. The distinguished occupant of the chair chairs an important appropriations subcommittee. The appropriations bills are extremely important, and we work on those appropriations bills on a bipartisan basis.

I have the pleasure of serving as chairman of the Veterans' Administration, Housing and Urban Development, and Independent Agencies Subcommittee. And on that subcommittee, I am greatly aided and assisted by my ranking member, Senator Barbara MIKULSKI, a Democrat from Maryland.

Now, we often have disagreements on those measures, but we work them out here on the floor. We can, in this body, pass measures that are greatly objectionable because of the right of any Senator to filibuster. So we, in essence, need to have 60 votes for a controversial provision in any measure. And we customarily operate on the basis of courtesy to take into consideration the views of the minority.

In this VA–HUD bill, we went a long way because there were a lot on this side of the aisle who were not thrilled about AmeriCorps, the national service program. Yet, as an accommodation to those who felt strongly about it—Senator MIKULSKI was an original sponsor of it; it had the strong backing of the administration—we put $400 million in that bill for AmeriCorps. We carried it over to conference with the House. And the House, many on our side, felt even more strongly in opposition. We made the point that we fought the battle and we won because we knew it was important to Members on the Democratic side here, to the President. We included that in the bill.

Our bill has some very, very difficult things. Allocating scarce funds for housing, for urban affairs, for the Veterans Administration, for EPA, for NASA, for the Federal Emergency Management Agency. We worked all those out. During the course of those conversations, we had not only the budget requests from the White House in front of it, but we were assured that the White House had conversations with and expressed their views to the members on the minority side in our committee.

We came up with what I think was a good bill. It passed overwhelmingly. It had some additional things on it this time. It became not just an appropriations bill, it is an authorizing bill, a new entitlement bill. But we got it through.

Yesterday, at about 10 o'clock, the President signed the VA–HUD bill. He signed it, signed it into law. It is law. The appropriations bill is the law for spending for those key agencies for the coming fiscal year.

Imagine my surprise when I was summoned to a meeting of the negotiators on the omnibus appropriations bill to handle the unresolved issues in appropriations. I was told by Mr. Panetta, a representative of the White House, that they wanted to put $160-plus million in the VA–HUD bill. I said, ''Excuse me, I believe the President just signed the bill yesterday.'' They said, ''Well, the President had some reservations and he wanted more money.''

There are a lot of things, Mr. President, on which I wanted more money. We did not put enough money into the preservation of low-income housing. We need to do more in terms of an investment to make sure we have an affordable housing stock, that we have the stock of housing that is either publicly owned or reflects public assistance through section 8 programs in this country. If we had more money in the budget I could find some very, very important places to put it in terms of housing, in terms of science, space, and environment, giving more money to the States for their State revolving funds.

The White House said, ''But we want to add some more money to your bill.'' I said, ''This is the bill that you signed about 26 hours ago.'' They said, ''No, we had reservations.''

Mr. President, I heard of the old trick of moving the goalposts. Some may like the analogy of the Peanuts cartoon strip, where every fall Lucy promises to hold the football for Charlie Brown. She says she will not move the ball this year, but every year she takes the ball away.

We are beginning to learn very slowly, too slowly I am afraid, that this administration does not negotiate in good faith. This administration has some other game they are playing. It is not designed to achieve a reasonable accommodation between the parties, between the legislative and executive branch, to move forward on appropriations.

Now, if there is a shutdown, let me assure you it will be a shutdown engineered by the White House and their allies in Congress. This is where the responsibility will lie.

Why do we have a number of bills that are not signed? Mr. President, you and I have been here while we went through the process. Now, a lot of people may not understand what we say by the term ''filibuster by amendment.'' But for those who do not understand the procedures of the Senate, unless you have a unanimous consent agreement, unless there is an agreement before you start out on a bill, you can continue to add things and add things and add things. You can never come to closure. As Republicans we have 53 votes. If we wanted to cut off debate we have to have 60 votes. We cannot stop people from talking or filibustering by adding amendment after amendment after amendment. That is what was done on Treasury-Postal. I worked on the Treasury-Postal bill in the previous Congress as the ranking member, and it funds some very important things—White House, Treasury, Customs, GSA, things like that are very, very important. There are not 50 different amendments that needed to be offered to that bill.

I remember one of the measures we voted on was a measure to establish a new Federal responsibility, a new Federal responsibility relating to guns in schools. Mr. President, if there is one area where the Federal Government has not been before, it is in local law enforcement. I suggest that the Federal Government has fallen short in those responsibilities which are properly the Federal Government's responsibility.

We fought—and when I was the ranking member, Senator DeConcini was the chairman of the committee, my good friend from Arizona—we fought against cutting back on the Customs work in interdiction, to stop drugs coming into this country. We have cut too much in the Federal law enforcement agencies. We certainly do not need to be setting up new Federal responsibilities which directly overlap and are totally inconsistent with local law enforcement responsibilities.

But that amendment was voted on on the Treasury-Postal appropriations bills, after 3 days on the floor, a bill

which should take at most 2 days to debate those issues, that genuinely related to appropriations for Treasury-Postal accounts. We had so many amendments still hanging out that the majority leader had to withdraw the bill.

We went on to Interior, to try to get a resolution for those. Then the amendments kept coming out of the woodwork. If anybody does not understand it, I can tell you unless you have 60 votes and can invoke cloture continually, you can continue to hold this place hostage by offering amendments or talking as long as you want.

Now, we have made a good-faith effort across the board to get the appropriations bills done. I have no interest in going back and reopening one of the appropriations bills that has been signed. More and more ideas keep floating in from the White House. They want to add this. They want to add that. They want to write their own legislation. It is as if they never worked in a government where there was a strong opposition party—in this case, a party in control of the Congress.

I came from Missouri where I served as Governor for 8 years with a 2–1 Democratic majority in both houses. I learned early on, I had to learn, that bipartisan cooperation, comity, honesty in dealing with the other side was essential to make the process move. We do not have that here. It is perhaps the fact that the President comes from a one-party State.

All I can say is we are doing our work on appropriations. We are going to move forward on appropriations. I hope our leaders will make the best offer they can, trying to guess what the White House's latest demands are to accommodate as many as they can. If they will not, we should do a continuing resolution and get out of town.

One last piece of business that we have from the small business committee, since my colleagues on the other side are not present I will not at this point ask unanimous consent to proceed to H.R. 3719. That is vitally important if we are to keep the lending programs, 5047(a) program, SBIC program working, for the Small Business Administration. It is being held up on the minority side. I will come back and explain in detail why the SBA and small business in this country needs that measure. I hope the hold is lifted so we could pass this measure, many of the provisions of which have already been passed in this body.

I acknowledge and appreciate the work of the Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator for his remarks. The moving goalposts, as he has described, become clearer and more evident with each passing hour here in the Nation's Capitol. Unfortunately, the anxiety level of those—not suffered by us—by the families of the troops overseas and flood victims and all those people dependent on the system, needing the safety net we are trying to put in place.

We have been joined by the senior Senator from Wyoming who is the preeminent authority on legal and illegal immigration and has been undergoing this moving goalpost now for some period of time. I am glad he could join us.

I yield up to 10 minutes to the Senator from Wyoming.

Mr. SIMPSON. I thank my colleague from Georgia, Senator COVERDELL. I think it is tremendous that you have arranged this bit of time to share with the American people so we each get to step forward and tell the theory of the moving of the goalpost. To me it is the moving of the stadium. I think they moved the end zones, the stadium, and as far as I know, the campus. We will review this for a minute.

I have been doing this stuff for 31 years. It is called legislating. You do it with Democrats if you are a Republican, and hopefully if you are a Democrat, you do it with Republicans. It cannot work any other way.

Over the years of my time here I have served as chairman or ranking member with some very unique partisan people. Senator Al Cranston with the Veterans' Affairs; Gary Hart, nuclear; TED KENNEDY, Senator KENNEDY, with Immigration and Judiciary; JOE LIEBERMAN, BOB GRAHAM, nuclear; JAY ROCKEFELLER.

These are the things that I have done. It has always been done with civility. It has always been done openly and honestly. I can't function in an atmosphere where people lie. That is what is happening here, and I am appalled by it. Let me tell you, it isn't about TED KENNEDY, who is one of my most delightful friends, and I have the highest respect for him. Let me tell you what happened yesterday. Get it down. The administration, the White House—remember, they told us if we would take the Gallegly amendment off the immigration reform bill, it wasn't, ''Well, I might,'' but it was, ''I will probably sign it.'' It was said that way. We didn't have any reason to believe they would not sign it at the White House.

Last night, in good faith, myself, Senator KENNEDY, HOWARD BERMAN, a Democrat from California who I delight in and enjoy very much, Congressman LAMAR SMITH, who is just one of the most splendid young men I know, who does a tremendous job with the chairmanship of immigration, the four of us sat down to see if we could give a little on title V because the latest request from the White House was, ''If you get rid of title V, we will complete all the work on the CR and sign it by tonight at midnight.'' The only thing wrong with that is nobody had ever agreed to give up title V—not ORRIN HATCH, the chairman of the committee, not Senator KYL, a member of the subcommittee, not Senator FEINSTEIN, who has been an absolute stalwart in working with me; she deserves extraordinary credit for doing strong, strong legislative work in an atmosphere of high emotion from her State. She and Senator BOXER are more affected than anybody else in this place. They have stepped up to the plate, and it is a great honor to work with them.

So we are going to get down to title V. I said we are going to go to cloture next Monday on that bill, and we have about 70 votes in our pocket, which will get you cloture in any ballpark here; you need 60 votes. So most of the Republicans would vote for cloture, and thanks to the work of Senator FEINSTEIN and others on that side of the aisle, we would get cloture because there are 15 to 20 Democrats who will get cloture for us and help with that. So here we are.

On August 2, the President wrote a letter to the Speaker to express concern about a single provision of the immigration bill, which was authorizing the States to deny a free public education to illegal aliens. The President threatened to veto the conference report if that provision or anything like it was included. No other provision was opposed in that way.

After several weeks of hard, considerable debate and efforts to develop an acceptable compromise—admittedly, it was done, I think, in too much of a partisan way, but it was done and everybody knew what happened; everybody has seen the conference report—we agreed to delete the provision that was very popular in the House and had considerable support in the Senate. Yet, within the last day or so, the White House and Democrat allies have moved the goal posts. They have been attempting to obtain even further changes. All the time there is something new.

You have had it reported here. I have never seen anything like it in 31 years of legislating. It would be bad enough if this were done by another veto threat, and early in the session. But this time the President is attempting to blackmail this Congress into accepting the changes he wants in the immigration bill, as well as changes in several other bills. Get this one: You could tell by the tenor of the discussion when the White House person entered the room last night that what they were really trying to do was get the stuff they could not get in the welfare bill and get it out of the immigration bill and correct the deficiencies in the welfare bill. I am not having any part of that. The President signed the welfare bill. I commended him on that. I thought that was great. He got flack and he wants to change some of it. But he isn't going to do it on this watch and, surely, he is not going to do it with an immigration bill. I can assure you of that.

Then we have this threat to refuse to sign the CR. We have the threat to close the Government. Let me tell you, that won't work this trip because we are going to stick around to see that the Government does not shut down, because we are going to shovel this back and say there is nothing in there that would shut the Government down.

The Democrats and the Republicans in the House and the Senate, trying their best, did what they could. If they fail, then the Republicans, which is the duty of leadership, produce a bill. If the President wants to veto it, do so.

So here we are. You can see the scenario—oh, it is so vivid. Tuesday, we will have to think about closing the Government. Guess who will take the flack for that? Those bone-headed Republicans that let it happen the last time. That is not going to happen this trip because there is nothing in there to veto. It is called doing the business of the United States. It is done by people like MARK HATFIELD and Senator ROBERT BYRD, and by people like Senator MIKULSKI and Senator BOND, and it is done by people like Senator FEINSTEIN and Senator SIMPSON; it is done that way over here. Maybe the White House does not understand that, but I understand it.

So now what are the changes that we want here? Oh, well, title V, get rid of title V. Why would you want to get rid of title V? I will tell you what is in it.

Without the requirements that sponsors earn at least 140 percent to 200 percent of the poverty line, welfare recipients will be in a position to sponsor immigrant relatives, even though they will be unable to provide the support for that relative that they have promised. These immigrant relatives will then be able to qualify for welfare programs costing the United States billions of dollars.

That is in title V.

Without the amendments making a ''public charge'' deportation effective, immigrants who go on welfare soon after their entry will be able to continue to receive it indefinitely, without fear of deportation.

That is in title V.

Without ''deeming''—in other words, considering that the petitioner and his or her income is that of the immigrant—for immigrants now in the country, many immigrants will continue to receive welfare, even though their middle-class or wealthy relatives who sponsored them are perfectly able to provide needed support.

That is in title V.

Without the new welfare verification requirements, illegal aliens, who claim to be U.S. citizens and just stand there and say they are, will continue to receive assistance, such as AFDC, Medicaid, and public housing.

That is in title V.

Without the provision authorizing full reimbursement to States—listen to this one—now being forced by Federal mandate to provide emergency medical services to illegal aliens, the heavy burden of that mandate will continue to grow.

That is in title V.

Without the provisions expediting removal of illegal aliens from public housing—which is the work of Senator REID and what he has been talking about for years—illegals will continue to occupy public housing, displacing U.S. citizens and lawful resident aliens.

That is in title V.

Without the prohibition on States treating illegal aliens more favorably than U.S. citizens, States will be able to make illegals eligible for reduced in-State tuition at taxpayer-funded State colleges.

That is in title V, together with all the stuff to clean up their use of unemployment compensation, their use of the Social Security system, and much, much more.

That is what is in title V.

There we are. I thank Senator FEINSTEIN for being most courageous in the face of the onslaught that I am sure she is going to get. I want to commend Senator KENNEDY, who worked with me until 2 in the morning to do a package, which must have drawn such a great big chuckle this morning when it got down to the White House. I have been doing this a long time, and I have always done it with absolute honesty. I have done it with orneriness, with passion, and I have done it with glee, with grief, but I didn't lie. This is appalling, absolutely appalling.

If the trick is simply to shut down the Government, well, that is nothing. I never spent a nickel's worth of time figuring out how to do a bill that would go to the President so he would veto it so he would lose California. That has never been in my scenario—never would be; don't care about that. I care about doing something about illegal immigration. We couldn't do anything about legal immigration. That is for another date.

Ladies and gentleman, this is a strong, potent, powerful bill. And, if all goes well, it will be voted on; Monday at 2 o'clock on a cloture vote. And cloture will carry. The debate will be cut off, and after the hours of postcloture and debate are over, we will do that on through the night, we will vote. We will do an immigration bill, and place it on the President's desk. I hope and pray that he will sign it. But it isn't crafted to blow up in his face, and it was not crafted by people who come to Congress, as they have been doing in these last days who stand in front of you and do something different than they said they would do before. And I am sick of it.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I am grateful to the Senator from Wyoming for coming and sharing these last 2 days with us, and the American people. It is quite an alarming story.

We have been joined by the senior Senator from New Mexico, the chairman of the Budget Committee, and I yield up to 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Thank you, very much, Mr. President. I thank the Senator from Georgia.

Let me thank Senator SIMPSON for his forthrightness and the way he conducted himself as a Senator. The fact that he has been honest, and the fact that he has been diligent in everything he has done around here, lends great credence to what he is talking about here today.

Frankly, let me just pledge to the Senator—not that I can be of any help, but I agree with everything he has said here on the floor. In fact, I think there is a lot of game playing going on right now, not only with reference to that bill but also the immigration bill. But there are a lot of other things going on about who is going to be responsible for closing down the Government. Everybody is on that kick. We have a few hours, and we have to get our work done. That is what the Senator has been talking about—getting our work done. There isn't anybody trying to close the Government down. And the President is getting almost everything he has asked for in major expenditures in terms of education, and in terms of the environment. What is there to close the Government down over? It can't be the kinds of things he was talking about last year. It must be something very strange that is in somebody's craw around here. And I wonder just precisely who it is and what the agenda is.

I do not think we ought to be threatening each other with closing down the Government, or using tricks, or gimmicks to try to blame it on somebody. We can get this job done, and get it done right. Every piece of legislation that is ever dreamed up can't get passed. With 200 amendments around here that have nothing to do with appropriations, we can't fix all of those in the last 72 hours of the U.S. Congress.

I didn't come down here to talk on that. I came to take on the economy and a few of the contentions presented on the floor of the Senate by some on the Democratic side about the status of the economy. If I get enough time when I am finished analyzing what really has happened and whether there is really anything to brag about in terms of how the economy has proceeded in the last year or two, if I have enough time, what I have to say will fit right into why Senator Dole has a new economic plan.

Let me first suggest that yesterday some Census data came out that permitted the President of the United States and some Members of the other party to tell the American people that things are really going right, and that the economic facts are really on the side of staying the course that the President has set for America.

One of the things that they talked about has to do with real median household incomes. Listen to this. They are saying the real median household income rose. And so they are saying we are on the right track. It is going up.

Let us get the numbers and let us get the facts. It rose from $33,178 in 1994 to $34,076—not a significant increase, but an increase. But what was not said was

that even as it has increased, it is still lower than it was in 1990 under President Bush. It was only higher in 1995 relative to the low levels it fell to in the early 1990s. It increased in 1995 because it went down after 1990 during this era that the President claims is a great economic era and we ought to maintain the status quo. Under the Bush administration it was $34,914, which is almost $900 higher than it is now. The year 1995's level only rose from 1994 because it was recouping some of the ground lost in the preceding years.

Arguments are also being made that Census data shows a lessening of income inequality in 1995. They note that the income share of the top quintile has gone down some, thus bridging that gap between the poor and the rich, or the rich and the poor. Let us look at that.

In 1995, there is seemingly something to brag about because the top quintile's income share went from 49.1 percent to 48.7 percent, four-tenths of a percent down. What isn't said is that the income distribution was much more fair in 1992—at that point, the top quintile had only 46.9 percent of the total income pie. Thus, income inequality was much less when the President was inaugurated, it then worsened significantly, and then eased back fractionally last year. For this, we should tell America the economy is doing splendidly? When in its best status under President Clinton, income inequality is still worse than the last year of the previous Presidency.

I do not choose to make this a battle among Presidents in a partisan fashion. But I do choose to say that when I left the White House yesterday at a bill signing, I heard our President make these statements. Somebody wanted my comments. I will tell the Senate what I said to that newsperson. I said, ''I do not want to comment now, because I want to go back and look at the facts because something intuitively tells me that there is another side to this story.'' I came back and asked: Is there? I just told you that, indeed, there is.

Let me take another one. We are talking about trying to have the lower income people get a bigger share of the economic pie when compared with the wealthier people. So bragging is going on that in fact the bottom quintile did increase its share a little bit in 1995, in terms of the size of the income pie that they took in. There again, it is interesting to note that that the bottom quintile's income share was higher in the last year of Bush Administration than it is now during the bragging year. It only went up in 1995 because their share went down so far during the first 2 years of this administration.

But most importantly, there is another aspect of the Census report which concerns me greatly - real median earnings for full-time workers in America are still going down—not up. The very same survey that yielded some limited good news about 1995 median incomes says the following: For men in 1995, real median earnings were down 0.7 percent, and for women, real median earnings were down 1.5 percent—not up; down. In fact, real median earnings have fallen in every year of the Clinton administration for both men and women.

That brings me to what I would have been saying on the floor in light of some of the discussions about the Dole economic plan. And I am going to run out of time. But it is a perfect entre to say to those who want to listen, that the distinguished Republican majority leader who is running for President of the United States had two options on the economy when he decided to run. One was to say, ''The status quo is neat. Let us just stay on the status quo for the next 4 years, if I am elected President.'' That would have put him right alongside of our President saying things are really going very well. Or he could ask some experts for the best we can put together. ''Can we do better? Should we do better?'' He did that. And the answer given by eminent economists—not wild-eyed economists with new theories, but mainstream Nobel laureate economists—was, ''We can do better and we should do better.'' Then the question was asked: ''How do we do it?'' And, interestingly enough, what our candidate for President has been busy trying to do is to argue for the six-point plan they recommended, a plan which would produce some economic figures that would be truly worthy of boasting about. I am not here saying he has presented his message magnificently. But, I believe that if the details of his plan got out to the public more fully, it would change the election as people identified increasingly with his vision of America.

Mr. President, I have just summarized for the Senate what the situation is with reference to incomes for men and for women in the year 1995. And even though some Members on the other side of the aisle and the President have touted an increase in real median household incomes in the year 1995, I remind the Senate that is the case only as compared with 1994. But if you look to 1990 during the Bush administration, median household income was higher than it is today. Furthermore, throughout every year of the Clinton administration, real earnings for full-time workers have fallen. They grew by minus seven-tenths of a percent for men, and minus 1.5 for women. That means we are not making any real headway in what people are earning for the time they spend working trying to get ahead.

It also means that income inequality is not getting any less. The President has championed the fact that the wealthy people's share of the total income pie came down in 1995. While this small move toward lessened income inequality is welcome, this gain is small in comparison to significant widening of income inequality which has occurred during his Presidency. In fact, the income distribution is far more unequal today than it was in 1992, the last year of the Bush Presidency.

Coupled with these above facts, there are other striking economic woes that now face the U.S. economy. We are experiencing the slowest growth rate of any recovery in the last 50 years. We have the lowest productivity growth during any Presidential term in the last 50 years. Tax burdens for middle income individuals have risen sharply under this President. The personal savings rate is now at its lowest average level of any President's term in 50 years. With this unfortunate backdrop, it is no wonder that many Americans wonder why they are working harder and getting less for their work.

Senator Dole, as I indicated in my earlier remarks, looked to five or six of the best economists around and they suggested it need not be this way; that we ought to be able to do it better. What they suggested, he adopted after a few months of study and discernment.

The conclusions reached were that Senator Dole and his running mate should not run for the White House, based upon trying to keep the American economy as it is now and keep the fiscal policy as it is now and the tax policy as it is now and the regulatory policy as it is now and the education policy as it is now, because to do so is to extend this very serious negative backdrop of the American economy for working men and women. The wealth machine that is enumerated in the gross domestic product is not getting big enough each year for those people working to get more for what they do, rather than stagnating or getting less.

Essentially, Senator Dole concluded, as I urged him to do, that we ought to try to do better, and that meant he had to come up with an economic plan that experts would say would do better. One that would ensure that the earnings of all Americans and median household incomes would be up in 7 or 8 years as compared with 1992 or 1996 or 1995.

These economists recommended six things. Six things are his plan. Where people have learned about these and understand them, they opt for this economic direction instead of the status quo. First, he suggests that to get there we ought to adopt a constitutional amendment to balance the budget. Clearly, I believe it is fair to say that whomever is President next year can cause that to happen, for it would already be out there in the States with ratification working had this President wanted it, for all he had to do was say the word and one or two—I cannot remember which—Democrats would have clearly gone with him.

The next key item is a program to balance the budget by the year 2002. Might I say in that regard that there are some who insist that he tell us how, our candidate for President Dole, tell us precisely how he would do that. Mr. President and fellow Senators, he

is not President, he does not have OMB with a couple hundred staff. He cannot produce a 1,000-page document. But he has said essentially here are some things I would do. There are two parts to it and they are both easily understood. Adopt this year's Republican budget and implement it, and then reduce spending over the next 6 years, 1 percent a year for a total of 6 percent over 6 years.

Now, what do you get for that is what the American people ought to ask. And they get the next part of this reform. And it is tax rates are cut 5 percent a year for 3 years—a 15-percent reduction in tax rates. Let me spell out what this means for ordinary citizens. A married couple with two children earning $30,000 would save $1,272 per year. A married couple with two children earning $50,000 would save $1,657 per year. A retired couple with no children earning $60,000 would save $1,727 per year.

This is money that average citizens in our sovereign States would keep. Money that now gets sent to Washington in taxes. They could keep and spend this money however they see fit, instead of under the Federal Government's budget and programs.

In addition, the capital gains tax, which is an onerous imposition upon the sale of assets and the sale of investments would be changed to be 50 percent of what it is now, or 14 percent. All our industrial partners in the world tax these kinds of asset sales much less than we do, and they make their money and their resources work better for them, and make the economy more vibrant. We must do the same. This is a direct effort to cause growth to occur more. It would make productivity go up, for there is more to invest and more to be saved.

His fourth point was to do away with the IRS as we know it.

Furthermore, in his first term, he intends to reform the entire tax structure, to press hard for savings and investments which are now penalized under the code because, for the most part, they are taxed twice.

And that left two other major points, for you can see this plan of his is not just a tax cut, tax reform plan.

The two remaining issues are very important. Modify the regulations on business in America so that you keep those that are needed and effective, and you reduce those that are not effective and not needed. Now, how does that help? To the extent that we are spending money for excess compliance, it cannot go into the pockets of our working people. It cannot be part of real growth for it goes into unnecessary expenditures that cool the economy rather than let it grow.

On that score he recommends in this plan that the best economists in America helped prepare, that the justice system, the civil justice system should be also amended, modified and made more responsive by eliminating some of the drag and costliness of litigation that is truly not necessary for the American people's well-being. Such litigation extracts an enormous cost from the economy, which goes to attorney's fees and court costs, public punitive damages and things like that that almost everybody thinks are significantly out of hand. To the extent that cost is put on the economy, there is less there for wage earners to get in their paychecks and for small business to earn as the businesses grow.

And then last but definitely not least, if you are going to have more productivity in America and begin to reduce income inequality significantly and permanently, we must reform our education system. Others have different solutions. They say ''why don't you tax the rich more?''. Well, let me give you a very living example that it does not work, because we have taxed the rich more under this President's economic policies and, lo and behold, the spread between the rich and the poor got bigger. I just told you that in my previous remarks.

It did not get littler; it got bigger. In fact, the President is bragging today because in 1 out of the last 3 years, income inequality came down a bit, but it never was as favorable as it was in the last year of President Bush's term. So, that is not a solution.

Almost everybody says we have to do a better job of training some Americans who are not getting educated very well, not getting trained very well, and thus do not get in the mainstream and cannot earn good money on good jobs. One of the economists advising our nominee, the Republican nominee, is a Nobel laureate named Dr. Becker, from the University of Chicago. His expertise is the development of the human side, that is people development in a capitalistic society. The recommendation is that President-elect Dole be bold, and he say boldly and firmly: We are going to make education in the ghettos and in the barrios and in the areas where our young people are getting inferior education, we are going to change that even if we have to give them scholarships to move out of that area to get educated in another school.

There would be a whole reshuffling, reorganizing, reforming of how we educate those who are getting poor education in this system, for whatever reason. While we are busy about that, the way we train post-high-school kids and young people for living jobs in the workplace, that we take the money we are spending and, instead of throwing it around in hundreds of programs, that we focus it clearly in a competitive way, with a lot of choice on the part of the recipients, in an improved job training program.

Now, Mr. President, for those who would choose to say this plan cannot be done, I merely suggest that they do not know Robert Dole. They do not know these marvelous economists, full-blooded, true-blue Americans, mainstream, but the best, who say the status quo of today is not good enough. A status quo where real median household incomes are worse than in 1990, where, for men and women who are employed full time, average earnings are still coming down, not going up. That means, contrary to the braggadocio of this administration about what kind of jobs are coming on, that facts seem to indicate many of the new jobs are cheap jobs, where the administration would suggest they are not. That fact that I just gave you would indicate, since there are more jobs but median real earnings are still coming down rather than up for full-time workers, it would mean they are not getting better jobs, in terms of the new entrants in this job market.

So, when you add all these up, I conclude—and since the issue was raised on the floor today I thought I would give my version to whatever Americans are listening and to whatever Senators truly care—I think it can be done, I think we can do better than today's status quo.

Let me suggest, for those of us who have been trying to move this huge battleship, the battleship of Federal expenditures, which turns ever so slowly in this huge ocean of demands, of people wanting more from their Government, it moves slowly. But for those of us who want to continue the movement in the direction of balancing the budget, we can say to those who will listen to us about the Dole plan: If we cannot do it, we cannot prove balance, then we will not do the plan. If we cannot prove balance, we will not have the tax cuts. If we cannot prove that we know how to turn the expenditure ship in the direction of balance, then obviously we will not carry out this plan.

I thank the Senate for the time, and I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I have an agreement from the other side to have 5 more minutes under my control of the time for the Senator from Texas.

Mr. DOMENICI. I yield the floor, and if I can find time later in the afternoon, I will complete this.

Mr. COVERDELL. If I might, Mr. President, tell the Senator from New Mexico that after her 5 minutes, it will go to a period of morning business until 5 and there will be ample time.

Mr. WARNER. Mr. President, reserving the right to object, if that is——

Mrs. HUTCHISON addressed the Chair.

Mr. WARNER. Could I be recognized for a period of time following the distinguished Senator from Texas for a period not to exceed 5 minutes, with the understanding that an equal amount of time should be offered to Senator Bob GRAHAM of Florida. The purpose for the Senator from Virginia and the Senator from Florida is to introduce a bipartisan bill for consideration by the next Congress.

Mr. COVERDELL. If I might respond to the Senator from Virginia, I am going to ask unanimous consent for 5 minutes to be accorded to the Senator from Texas, and then under——

Mrs. HUTCHISON. Mr. President, will the Senator yield and let me just ask if he would consider letting Senator DOMENICI finish with 3 minutes and then giving me my 5 minutes, and then I think perhaps Senator BYRD is going to ask for some time. So we could work something out so that everyone would have an opportunity with Senator WARNER as well.

Mr. DOMENICI. Do not ask for me to have 3 minutes because I want to use the regular order as best we can, and I need more than 3 minutes.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senate is now in a period of morning business.

Mr. COVERDELL. Let me ask unanimous consent that the hour of controlled business under the Senator from Georgia be expanded 5 minutes—and we talked to the other side of the aisle—so the Senator from Texas may finish her remarks. I will then ask unanimous consent that the period for morning business be extended until the hour of 5 with statements limited to 5 minutes each, which I believe will accord the Senators from Virginia and Florida their opportunity.

Mr. WARNER. And the Senator from Florida, Mr. GRAHAM.

Mr. COVERDELL. Yes. So I ask unanimous consent that the period I control be expanded for 5 minutes and that that time be dedicated to the Senator from Texas.

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

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. And I shall not object, but I would like to be recognized following the distinguished Senator from Virginia and the Senator from Florida about whom he has referred. I would like then to be recognized for such time as I may consume. That time would be probably 30 minutes, 35 minutes, or some such. I want to speak about the great senior Senator from Georgia, who will be leaving us, and I do not want to be cramped for time. But I will not overstay my welcome on the Senate floor. So I would like to be recognized at that point for not to exceed such time as I may consume, which probably will not be more than 30 minutes, but it could be 35.

Mr. COVERDELL. If I might respond to the Senator from West Virginia, I do not know the purpose for which the leader asked for morning business to be extended until 5.

I am advised that is certainly appropriate, and I am glad to accord the Senator from West Virginia the appropriate time he is seeking.

Mr. BYRD. I thank the Senator.

Mr. WARNER. Mr. President, could the Chair restate the entire unanimous-consent request as it applied to the Senator from Texas, the Senator from Virginia, the Senator from Florida, and the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Chair will ask the Senator from Georgia to restate his unanimous-consent request.

Mr. COVERDELL. I am asking unanimous consent the time I control be extended 5 minutes to accord the Senator from Texas 5 minutes; following that unanimous consent, that 5 minutes be granted to the Senator from Virginia, followed by the Senator from Florida for 5 minutes, and then to be followed by the Senator from West Virginia for up to 30 minutes, and that the hour of morning business be extended until the hour of 5:30 with statements limited to 5 minutes each.

Mr. GRAHAM addressed the Chair.

Mr. BYRD. Mr. President, reserving the right to object, I do not want to be limited to 30 minutes. But I will be very considerate of the desires of others to speak.

Mr. COVERDELL. I would amend the unanimous consent to extend the Senator of West Virginia the time that he needs, but that there be a period of morning business to extend 30 minutes at the conclusion of his remarks with statements limited by each Senator to up to 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, reserving the right to object, and I hope not to, will the Senator from Georgia add at the end of the statement by the Senator from West Virginia 20 minutes. I had 20 minutes earlier in the day which was taken for another purpose. I would request 20 minutes at the conclusion of the Senator from West Virginia in morning business.

Mr. DOMENICI. Mr. President, reserving the right to object——

Mr. COVERDELL. I would have to check, I say to the Senator from Florida. I would have to check with the leadership before I could agree to that position. But I have agreed to the 5 minutes in accordance with the Senator from Virginia. The Senator is included in that.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. GRAHAM. Mr. President, I will withdraw my objection at this time, but I want to alert the Senate that at some time I will be reinitiating my request for 20 minutes for purposes other than that which I am going to speak in conjunction with my colleague and friend from Virginia.

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

## GOOD FAITH NEGOTIATIONS

Mrs. HUTCHISON. Mr. President, I wish to commend the senior Senator from Wyoming for an outstanding job on a bill that really will put teeth in the laws against illegal immigration into our country. He has been working for months in a bipartisan way to make sure that before the end of this session we did a meaningful job of addressing a terrible problem in my State and for the whole country, and that is an influx of illegal aliens that is causing the taxpayers of my State and our country millions of dollars.

The senior Senator from Wyoming worked until late in the night last night trying to make sure that this bill stays together. All we have heard from the White House is that the White House objected to the Gallegly amendment, and beyond that would sign the bill that was indeed a bipartisan bill in both Houses of Congress.

Today, we have a change of mood, and all of a sudden now the bill that will stop, or at least give us a chance to stop, the illegal immigration into our country is now being held up by the White House saying, no, we want you to take out title V. Now, title V would, in fact, take out the enforceability of the welfare reform bill that also passed this body and this Congress overwhelmingly.

It is time for us to have an integrity in the system that says once you come to an agreement, it is an agreement, our word is good, and we go forward. We cannot have the goalposts changing every time we make an agreement. I believe that Senator LOTT has really tried to work with his colleagues on the other side of the aisle to offer them all of the options to do what is the responsible thing that we must do in order to fund Government before October 1 when the fiscal year ends.

A week ago, Senator LOTT asked Senator DASCHLE if he would like to have a continuing resolution offered in which there would be six amendments on each side, and then we would pass the continuing resolution that would fund Government. That was rejected. Then another offer was made. Let us start debate on Tuesday on a continuing resolution to make sure that we do the responsible thing and keep Government going. Unlimited amendments on either side, but we finish by Wednesday night. That was rejected. The last offer was a Department of Defense appropriations conference report that all the other spending bills that are now outstanding would be put together with, and that has not yet been accepted.

The time has come for it to be called what it is. That is a delay tactic, an inability to come to an end, a closure so that we can all do what is responsible, and that is fund Government.

I think Senator LOTT is trying very hard. Senator HATFIELD was up until 4:30 in the morning this morning trying to negotiate in good faith with the White House and both sides of the aisle and both sides of this Capitol, trying to do the right thing, but has been thwarted at every step either by delay tactics during the process of handling

the appropriations bills for the last few months or delay tactics right now.

Mr. President, we are trying. Our leadership is trying. We want a bill for illegal immigration that all of us have agreed to. Now is not the time for the White House to step in and change the level of negotiation. We were finished with negotiation. We agreed that the Gallegly amendment would be done separately. Now, all of a sudden, title V is supposed to be taken out of the bill and that takes a very important part out of the bill. I have a State that has 1,250 miles of border with Mexico. We are under siege, not only with illegal aliens but with drugs coming across the border and we need relief.

Mr. President, I know my time is up. I am asking that the President of the United States work in good faith with Congress. We are trying to do the responsible thing. We do not have much more time. We have made offers but have been unable to gain their acceptance. Mr. President, now is the time for responsibility on a bipartisan basis. It is a two-way street.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER and Mr. GRAHAM pertaining to the introduction of S. 2143 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRAHAM. Mr. President, I ask unanimous consent that, immediately upon the conclusion of the remarks of the Senator from West Virginia, I might have 30 minutes to speak on another subject.

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

The Senator from West Virginia is recognized for such time as he may consume.

Mr. BYRD. Mr. President, I thank the Chair

## TRIBUTE TO SENATOR SAM NUNN

Mr. BYRD. Mr. President, we are rapidly approaching that season when we shall witness the departure of many of our colleagues who have elected not to serve beyond this Congress.

Mr. President, I was the 1,579th Senator of 1,826 men and women who have served in the U.S. Senate from the beginning. I have seen many fine Senators come and go. As I think back over the years, something good might well have been said about most, if not all, of these Senators. We are prone, of course, to deliver heartfelt eulogies, speeches declaring our regrets that our colleagues choose to leave the service of this body.

About all of these Senators whom I have seen depart the Senate, some good could be said, unlike Lucius Aelius Aurelius Commodus, the Roman emperor who served from 180 to 192 A.D., one of the few Roman emperors about whom nothing good could be said.

I don't think that any of the Senators that I can recall at the moment who voluntarily retired with honor from this body were Senators about whom nothing good could be said. But shortly, we will witness the departure of one of the truly outstanding United States Senators of our time, and when I say ''of our time,'' I mean my time as a Member of Congress for 44 years, a Member of this body for 38 years. The departure of SAM NUNN will be an irreparable loss. Someone might be able to take his place over a period of years.

I remember the death of Senator Russell, Richard Russell of Georgia, on January 21, 1971, 25 years ago. In the course of those 25 years, one-quarter of a century, I have to say that I have not seen the likeness of Richard Russell, except in Senator SAMUEL AUGUSTUS NUNN.

So it may be another 25 years, it may be 50 years before we see the likeness of Senator NUNN.

I pay tribute to this distinguished colleague who is retiring from the Senate after 24 years—illustrious years. There are many things that one can say about SAM NUNN, as he has been consistently productive, growing in stature year by year to become, without doubt, the leading Senate voice on national defense security and alliance issues—the leading voice. His accomplishments, of which there are many, are notable and derive from an approach to his work which is unfailingly thorough and well-focused. He is blessed with an exceptional intellect, and in Senator NUNN's case that sharp intellect combines with a much rarer talent for harnessing creative visions to practical techniques. SAM NUNN has been especially successful as a legislator in this body because of his ability to reduce complicated issues to an understandable scope, while avoiding oversimplification. Then he works patiently and persistently to build bipartisan support.

Indeed, his many ideas and initiatives are often shared and supported by his colleagues across the aisle. In a day when bipartisanship is as rare as platinum and gold and rubies, and certainly as valuable, SAM NUNN epitomizes that for which so many of us strive, and often fail to achieve—bipartisan consensus which the people so desire and which fuels large majorities behind legislative endeavors. The ingredients of vision coupled with practicality, and balance between liberal and conservative views, mark his spectacularly successful career as a Senator and are textbook examples for the younger Members of this body and the newer Members of this body in the years to come to heed and to emulate.

SAM NUNN hails from Georgia, where commitment to the Nation's defense runs deeply, and from whence some of our greatest legislators on national defense have emerged. He has upheld the great Georgia tradition so ably begun by his granduncle Representative Carl Vinson, with whom I served in the House of Representatives before coming to the Senate, and his predecessor, Senator Richard B. Russell.

While Senator NUNN has only served as the chairman or ranking member of the Armed Services Committee for 12 years, his record of achievement and the reverence in which he is held in this body are comparable to that—and I know—comparable to that of the great Russell. This is a feat of enormous distinction. The State of Georgia has to be extremely proud to have given such talented sons to our Republic, men who have so well borne the mantle of responsibility to protect the defense of our Nation and promote its fighting forces.

Now, if you ask SAM NUNN what he regards as the most important of his many, many achievements in affecting and directing U.S. policy in the national defense arena, I doubt—and I have never asked him this question—but I doubt that he would mention the more widely publicized of his achievements, such as his role in developing the Stealth fighter; or the many initiatives he authored to reduce the dangers of war in the Russian-American relationship; or the meaningful measures enacted to reduce and make safer the world's inventories of nuclear weapons and fissile materials; or even his role in broadening and deepening American leadership in NATO, in Bosnia, in the Persian Gulf, or in Haiti. It is in the less heralded, less glamorous but critically important area of the morale and welfare of our men and women in uniform that is at the top of the list that SAM NUNN might himself cite as his most noteworthy achievement in the defense area.

Senator NUNN was the key player in meeting the needs of the All Volunteer Force so that we could attract and retain the kind of men and women who could effectively manage and lead our forces across the globe in all environments. He constructed a benefits package for the men and women who fought so well in the Kuwait Desert in Operation Desert Storm. He crafted the post-cold war transition measures that address the needs of our military personnel as they make their way from the front lines of the cold war back into American civilian society.

He has worked tirelessly to instill a sense of pride and loyalty in our uniformed men and women that is of such great value to the Nation. As Edmund Burke said on March 22, 1775,

> It is the love of the people; it is their attachment to their government, from the sense of the deep stake they have in such a glorious institution, which gives you your army and navy, and infuses in both that liberal obedience, without which your army would be a base rabble, and your navy nothing but rotten timber.

Now I have been privileged to serve with SAM NUNN as a member of the Armed Services Committee and with SAM NUNN as its leader. Senators are not renowned for their managerial skills, but the Armed Services Committee under SAM NUNN's leadership has been superbly managed.

In my 44 years in Congress, I have yet to see a chairman of any committee who excelled SAM NUNN. In my humble judgment, he is the best committee chairman that I have ever seen in these 44 years in Congress, including myself. I worked hard at being a good chairman. But Senator NUNN, to me, represents the ideal, the model, the paragon of excellence as a chairman.

Unusual among authorization committees in the Senate, he produced, from 1987 through 1994, eight straight authorization acts, each of which continued major initiatives to build a better managed, sounder Department of Defense. He was the key figure behind the so-called Goldwater-Nichols Reorganization Act, which decentralized power in the armed services, giving more on-the-ground authority to our unified commanders in the geographic areas where they had to prepare forces to fight in various contingencies. He developed the legislation which produced the Defense Base Closure and Realignment Commission, which cut through the political snarls involved in closing bases, and has been a most effective tool in downsizing the DOD establishment in a fair and orderly way.

Over the years our uniformed leaders have consistently looked to SAM NUNN as their champion, as a strong but sensitive force, who empathized with their special needs and could be counted on to take the kind of action appropriate to best enhance the morale of the men under their command. He did not fail them.

Perhaps some of the most creative ideas that SAM NUNN willed into reality came in the knotty area of reducing the quantum of danger in the Russian-American relationship. He championed, together with JOHN WARNER, programs to increase communication between the American and Russian leadership, and thus reduce the possibilities of tragic, accidental nuclear war. Together with RICHARD LUGAR, he crafted a successful program to dismantle nuclear weapons possessed by the states of the former Soviet Union. He led the Senate Arms Control Observer Group for many years, as my appointee to that group when I was Majority Leader, traveling frequently to Geneva, leading delegations of Senators to ensure that progress on the INF and START Treaties had the knowledge and support of the United States Senate. He traveled extensively to Russia, and in turn Russian legislative leaders traveled to the United States, to exchange views and develop cooperative solutions to problems, thereby increasing the level of confidence and understanding between these two superpowers. Lately he has developed additional initiatives, again with a leading Republican counterpart, Senator DOMENICI, to tackle the problem of terrorist actions against the United States. All in all, SAM NUNN, when he leaves this Chamber and walks out of this door for the last time as a Member of this body, can take immense pride in his long, intense and patient efforts in the superpower relations arena. Those hard-won initiatives have had a substantial impact on the measure of safety in our world. It is indeed no exaggeration to say that the world today is a safer place in part because of the monumental efforts of one man, the senior Senator from the State of Georgia—SAM NUNN.

These achievements and the quality of his dedication and work on defense, alliance and international issues, ranging from NATO to arms control and reduction, anti-terrorism, and joint U.S.-Russian threat reduction and communications measures have propelled his glorious reputation far beyond the Senate. He is known internationally and he is viewed universally as an expert in the defense field. He is well known in official circles around the globe and is widely sought for his wise counsel.

Is it not remarkable that in my time there would have been two chairmen of the Senate Armed Services Committee, two ''tall men, who lived above the fog in public duty and in private thinking''—Senator Richard Russell and Senator SAMUEL NUNN—both experts in the field of national defense. Both of whom sought for their wise counsel,—sought out on this floor,—sought out before the bar of the Senate, in the well, sought out in foreign capitals for their wise counsel.

It is not an overstatement to say SAM NUNN's reach and impact have been international and characterized by workable, sound proposals and brilliant judgment. The global scope of his work has set him apart from the vast majority of men who have served in this body and is a testimony to his dedication to the addressing of the burning issues of sanity and order in our world today.

While SAM NUNN will undoubtedly be remembered for his Senate service in the area of national defense, as if that were not enough, his energy and creativity have also been evident in many other areas. The range of his thinking and his talents as a legislator and policy maker encompass everything from health care, to student loans, to insurance industry reform. In his farewell address, announcing his retirement, in Georgia on October 9, 1995, he dwelled extensively on the need for America to put our youth first, to work on protecting our children from street violence and drugs. He spoke eloquently of the need to reverse the saturation of our TV airwaves with programs of sex and violence. He focused on the need to reinvigorate our educational system in order to reincorporate great numbers of American citizens back into the working culture of our nation. He has developed successful legislation to lay the groundwork for a nationwide ''civilian service corps'' by offering education benefits in exchange for public service. As the cochairman of the Strengthening of America Commission, a bipartisan group of business, educational, labor and academic leaders, he has proposed an impressive plan to make radical changes in the income tax code to refocus our economy on savings and investment and away from consumption.

Most importantly, and as my fellow Senators well know, SAM NUNN's success is in large part attributable to his hard rock integrity.

A religious man, he does not go around wearing his religion on his sleeve; he does not go around making a big whoop-de-do about his religion, but he is a religious man, a moral man. SAM NUNN is known as a man whose judgment can be trusted. How many times have I heard Senators come to the Senate floor to vote on a measure and ask: ''How is SAM voting on this one?'' He is a leader in this body, in spite of the fact that he has not especially sought to lead. He has not been elected to a leadership position, but he has grown into a leadership position. He is a natural leader. His is the best type of leadership, because it is a leadership that is born of strong character. Horace Greeley said: ''Fame is a vapor; popularity an accident; riches take wings. Those who cheer today, may curse tomorrow. Only one thing endures: character.''

SAM NUNN epitomizes that great trait, character. The Senate will feel the loss of SAM NUNN and feel it deeply. His legacy and achievements certainly will grow with time. I am personally deeply sorry that he has chosen to go. He will leave an empty place in the Senate.

Napoleon rejoiced that the ''bravest of the brave,'' Marshal Ney, had escaped and had returned across the Dnieper River, even though he had lost all of his cannons. Napoleon ordered that there be a salute to celebrate the escape and the return of Ney. And he said, ''I have more than 400 million francs in the cellar of the Tuileries in Paris, and I would have gladly given them all for the ransom of my old companion in arms.''

Had SAM NUNN been an officer in the Grand Army of France, Napoleon would have given everything he possessed for another SAM NUNN.

His great natural talents will continue to bring him to the forefront of the national policy discussion, and he will, I know, continue to achieve great things in a variety of new settings.

I have never really felt about a man in the Senate—other than Senator Richard Russell—as I have felt about SAM NUNN. I was the majority whip in the Senate when SAM NUNN came to the Senate, and I urged that he be placed on the Senate Armed Services Committee. As a member of the Steering Committee, I cast my vote to put SAM NUNN on that committee. That is where he wanted to serve. I watched him grow. I have had some differences, from time to time—minor, of course—with SAM on some issues. That is not the point. SAM has fulfilled my idea of what a Senator ought to be.

There were 74 delegates chosen to attend the Constitutional Convention.

The Convention met behind closed doors from May 25 to September 17, 1787. Fifty-five of those 74 delegates who were chosen participated, and 39 of the 74 signed the Constitution of the United States. I can see in my mind's eye a SAM NUNN in that gallery. I might well imagine that, as they met from day to day, if SAM NUNN had been a participant, they would have come, as they come here when Members of this body gather in the well, and asked, ''What does SAM NUNN think about this?'' I have no difficulty in imagining that. In such an august gathering as was that Convention, which sat in 1787, with George Washington, the Commander in Chief at Valley Forge and the soon-to-be first President of the United States, I can imagine that it would have been the same there. They would have said, ''What does SAM NUNN think? How is he going to vote?''

The First Congress was to have convened on March 4, 1789. And only 8 Senators—less than a quorum—of the 22 were there on March 4, 1789. Five States were represented—New Hampshire, Connecticut, Massachusetts, Pennsylvania, and Georgia. And the Senator from Georgia who attended that day was William Few.

It could very well have been SAM NUNN as a Member of that first Senate, serving with Oliver Ellsworth, Maclay and Morris, and others. And as they met to blaze the pioneer paths of this new legislative body, the U.S. Senate, I have no problem in imagining that, often, those men would have turned to SAM NUNN and said, ''How are you going to vote, SAM?'' ''How is SAM going to vote?''

I think every Member of this body shares with me that feeling about SAM NUNN. He could have been an outstanding U.S. Senator at any time in the history of this Republic—not this democracy. When the Convention completed its work, a lady approached Benjamin Franklin and said, ''Dr. Franklin, what have you given us?'' He didn't answer, ''A democracy, Madam.'' He said, ''A republic, Madam, if you can keep it.''

Now, what is there about SAM NUNN that makes him this kind of man? He is not the typical politician that one conjures up in his mind when thinking about Senators and other politicians. Senator NUNN is not glib. He doesn't jump to hasty conclusions.

He does not rush to be ahead of all of the other Senators so that he will get the first headline. He thinks about the problem, and he logically, methodically, and systematically arrives at a decision. Then he carefully prepares to put that decision into action.

I suppose that had he lived at the time of Socrates, who lived during the chaos of the great Peloponnesian wars, SAM would have been out there in the marketplace debating with Socrates, about whom Cicero said he ''brought down philosophy from Heaven to Earth.'' SAM would have been a hard man for Socrates to put down because he has that talent, that knack of thinking, an organized thinking, and the consideration of a matter logically, carefully, and thoroughly. He is truly a man for all seasons. His wisdom, his judgment, and his statesmanship have reflected well on the profession of public service at a time when fierce ''take-no-prisoners politics'' has embroiled the Nation to alarming degrees.

Napoleon did not elect to go into Spain, and Wellington was concerned that Napoleon himself might lead. Wellington later told Earl Stanhope that Napoleon was superior to all of his marshals and that his presence on the field was like 40,000 men in the balance. SAM NUNN, the 1,668th Senator to appear on this legislative field of battle, is like having a great number in array against or for your position.

I was looking just this morning over the names of those Senators who are leaving, and examining their votes on what is called pejoratively the Legislative Line-Item Veto Act of 1995. Of those Senators who are leaving, seven voted against that colossal monstrosity, for which many of those who voted will come to be sorry. If this President is reelected, he will have it within his power to make them sorry. He is just the man who might do it.

Among the departing Senators, SAM NUNN is one of those who opposed that bill. Senator HEFLIN, Senator JOHNSTON, Senator PELL, Senator PRYOR, Senator COHEN, Senator HATFIELD, and Senator NUNN voted, to their everlasting honor, against that miserable piece of junk.

Just wait until this President exercises that veto and see how they come to heel—h-e-e-l. They will rue the day. But SAM NUNN voted against it.

For the outstanding quality of his character as well as for the brilliance of his service, this Senate and the Nation are eternally in his debt. He will always command, in my heart and in my memory, a place with Senator Richard Russell.

God, give us men. A time like this demands
Strong minds, great hearts, true faith, and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagog
And damn his treacherous flatteries without winking.
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo. Freedom weeps,
Wrong rules the land and waiting justice sleeps.
God give us men.
Men who serve not for selfish booty,
But real men, courageous, who flinch not at duty.
Men of dependable character; men of sterling worth.
Then wrongs will be redressed and right will rule the earth.
God, give us men.

men like SAMUEL AUGUSTUS NUNN.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. 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. GRAHAM. Mr. President, if Senator NUNN would care to make any comments, I would be pleased to defer to him.

Mr. GRAMS. Will the Senator yield for a moment? I ask unanimous consent to follow the Senator's 30 minutes with 15 minutes.

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

Mr. NUNN. I am left speechless after listening to my friend ROBERT BYRD. So I will reserve my time. Thank you.

## CONFERENCE REPORT TO ACCOMPANY ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. GRAHAM. Mr. President, we will soon begin a debate on the conference report entitled ''Illegal Immigration Reform and Immigrant Responsibility Act of 1996.'' I am concerned that, when we commence that debate, we are not going to be in as advanced a position as we should be, for several reasons—two in particular.

One of those is that, when this legislation was considered in the House of Representatives, a provision was attached which would have given to individual States the prerogative of denying public education, elementary and secondary education, to the children of illegal immigrants. That provision became so inflammatory that it tended to focus total attention on this legislation on that single provision. That provision has now been eliminated. It has been withdrawn. Therefore, we are now focusing for the first time on the totality of this legislation.

A second reason why we are not in as advanced a position as we should be for legislation which is as significant as this, has to do with the process by which this conference committee prepared its report. First, it was an elongated process that took many weeks and months to reach the conclusion that is now before us. But it was also essentially a closed process. Not only were many of the members of the conference committee not given the opportunity to participate, at the conclusion of the conference they were not even allowed to offer amendments to try to modify provisions which were found to be objectionable. So we have a product today which has not had the kind of thoughtful dialog and debate which we associate with a conference report which is presented to the U.S. Senate for final consideration.

For this reason, I joined those who urge that objectionable provisions in

this act—and I will use the bulk of my time to attempt to outline what I consider some of those objectionable provisions—be excised, be eliminated, from this conference report, or, failing to do so, then that the conference report, regrettably, be rejected.

I speak to this position based on some principles of fundamental fairness to all of those who will be affected by this legislation entitled ''Illegal Immigration Reform and Immigrant Responsibility Act of 1996.'' I speak not only for the legal immigrants who will feel the full weight of this report, which is supposed to deal not with legal immigrants, but, by its title, with illegal immigration; but I also speak of the apparent, and not so apparent, adverse effects that this will have on the States and local communities in which most of the persons affected live.

This Congress has spent an enormous amount of time discussing immigration. I fully support the mandates which were passed to help assure that individuals do not enter this country illegally. The U.S. Government has a fundamental responsibility to enforce the laws which this Congress passes. Unfortunately, we have failed to do so as it relates to our immigration laws, and, thus, we have millions of illegal aliens within our society.

I am proud of the fact that this legislation includes steps such as strengthening our Border Patrol. These are the hard-working officers who are our first line of defense against illegal immigration. I do not contest, but, in fact, fully support, better enforcement and funding to prevent illegal immigration, including those steps that would demagnetize jobs as a reason why illegal aliens come to the United States.

Our Government has brought an unfair and strenuous burden to many States in the form of allowing thousands, in some cases millions, of illegal immigrants to enter within their borders. Florida has been particularly affected because of its unique geographic location, its diverse population, its temperate climate.

Our Government, for several decades, has made Florida the gateway to immigrants arriving from South America and the Caribbean basin. A large majority of those who seek to be called Americans are Floridians. These new arrivals, those who come legally, those who come playing by the rules, are, in large part, law-abiding citizens. They work hard, they pay taxes, they ask nothing of our Government other than the opportunity to eventually be called a citizen of the United States of America.

But on occasion, as may happen to native-born Americans, a circumstance arises where assistance is needed. In the past, our State and local communities have scraped by doing all that was possible to assist these newcomers. The Federal Government was frequently a partner of States and communities in providing assistance in unexpected emergency conditions.

Mr. President, we are now faced with the prospect of trying to continue our humanitarian efforts without that Federal partner and, thus, with even fewer resources available from the National Government a greater demand for those resources from the States and local communities which are affected.

In some ways, we have come to the conclusion that eliminating even minimal benefits to legal immigrants will somehow solve our illegal immigration problem. This is not true. In reality, it only hurts those who follow the rules, those who made every effort to enter the United States in a lawful, orderly, documented manner, and it hurts our communities, it hurts those cities and towns that provide services to legal immigrants and now will receive no assistance from the Federal Government.

This, Mr. President, is wrong. We speak so often of the Federal-State partnership. The Federal Government, in this case, is no longer a partner to our States and communities. This is unfair—and for many reasons, of which I will only discuss a few this evening.

It is within the purview and responsibility of Congress to act to end and to avoid further extension of this unfairness. My State of Florida brought suit in the Federal courts, brought suit on the basis that our State had been asked to shoulder hundreds of millions of dollars of responsibilities for legal and illegal immigrants, responsibility which should have been a national obligation.

As the 11th Circuit Court of Appeals explained in its 1995 decision, Chiles versus the United States:

> The overall statutory scheme established for immigration demonstrates that Congress intended whether the Attorney General is adequately guarding the borders of the United States to be ''committed to agency discretion by law'' and, thus, unreviewable. Florida must seek relief in Congress. We conclude that whether the level of illegal immigration is an ''invasion'' of Florida and whether this level violates the guarantee of a republican form of government presents nonjusticiable political questions.

Essentially, what the court was saying is, do not come to us for justice. You must seek justice in the political arm of the Federal Government, the Congress of the United States.

I state tonight, Mr. President, that the legislation which is before us is not just and does not treat our communities and our States fairly.

What are some of the bill of complaints against this legislation, that it is unfair to the States and communities of America? Let me list a few of those complaints.

This legislation extends a concept which has been in our immigration law and which was used extensively in the immigration changes made as part of the welfare reform bill passed earlier in this session of Congress, referred to as ''deeming.''

What is deeming? Deeming, essentially, is a concept that states that the income of the individual who sponsored a legal immigrant into the United States is deemed—d-e-e-m-e-d—deemed to be the income of the person who was sponsored. This concept of deeming is now applied to persons who came into the United States in the past, when the concept behind the law of sponsorship was different, where the sponsor's affidavit of sponsorship was not legally enforceable.

The rules have changed on these law-abiding citizens in the middle of the game. The sponsor who put his name behind a legal immigrant coming to the United States under the rules that existed up to 5 years ago is now being told retroactively, ''You have just taken on very significant new financial responsibilities.''

Under the welfare bill, these new deeming restrictions only apply to newly arrived immigrants. Under this conference report, deeming is applied retroactively to legal immigrants who came to the United States within the last 5 years. As a result, sponsored legal immigrants who came into the United States under the old rules stand to lose access to dozens of programs, including prenatal care, nonemergency Medicaid, Head Start and job training.

These provisions will require a further cost shift to the States who will now have to shoulder the burden of these Federal programs which will no longer be available.

Another item in that bill of particulars of unfairness is Medicaid. Even though the welfare bill contains no immigrant restrictions on the use of emergency Medicaid, the conference report provides that if a legally sponsored immigrant has an emergency and uses Medicaid, the sponsor becomes liable for the entire cost of care, without limitation.

What does this mean, Mr. President? This means that if a sponsor has brought in a legal immigrant and that legal immigrant is hit by a truck or contracts cancer or any of the other items that might result in a serious emergency circumstance, the sponsor would be legally responsible for all of those medical costs. Realistically, most sponsors would not be able to pay, and, therefore, what will happen? This will just become another uncompensated burden on the hospital or health care provider.

While I support the idea that sponsors should be required to provide housing, food, or even cash assistance to immigrants who have become unable to provide for themselves, even the most responsible sponsor may not always be able to finance health care, care for illness or serious disease or injury.

Mr. President, as I said, we are going to apply, retroactively, standards to those persons who have sponsored legal aliens, such as their parents or a child, into the United States and now, retroactively, are going to have to take on additional responsibilities which were unknown to them at the time that they entered into that sponsorship relationship.

Also, I will discuss some of the changes which have been made in Medicaid, the program that provides health care to indigent Americans, which today is available to legal—legal—aliens. I underscore that difference between those persons who are here because they follow the rules and those persons who are in the country because they broke the rules. We are talking now exclusively about people who are here legally.

One of the changes that has been made in the Medicaid Program states that a sponsor, including those who are being swept up in this retroactive provision, will now have to be financially responsible for the emergency medical services provided under Medicaid to those persons who they have sponsored into this country. If their mother that they sponsored contracts cancer, or a child is hit by a car and suffers a serious injury, those kinds of costs now will become the responsibility of the sponsor. Even more egregious, if the sponsor is unable to meet those expenses, it then becomes an obligation of the provider to accept those costs as unreimbursed medical expenses. In most cases, they are going to end up being the unreimbursed medical expenses of an emergency room in a public hospital.

One final part of this is that if the sponsor can't pay, and if the person who they sponsored can't pay, then that sponsored individual will be barred from becoming a naturalized citizen of the United States until the bill is paid, which means that this child, who may have suffered this injury in youth, is going to be permanently precluded from becoming a U.S. citizen, unless they are able to achieve a financial status to pay off this emergency medical bill.

A third problem with this legislation, Mr. President, relates to the treatment of communicable diseases. This conference report, I find, unbelievably, provides that under no circumstances will the Federal Government provide funding for the treatment of HIV and AIDS-infected patients who are legal immigrants. This, I thought initially, this must have been a misprint. But when you read the conference report on page 239, it states explicitly,

> The exception for treatment of communicable diseases is very narrow. The managers intend that it only apply where absolutely necessary to prevent the spread of such diseases. The managers do not intend that the exception for testing and treatment for communicable diseases should include treatment for the HIV virus or Acquired Immune Deficiency Syndrome.

I represent a State where we have many persons who come from areas of the world—many within this hemisphere—which have a high incidence of HIV and AIDS. What this bill says is if a person is in this country as assailees, refugees, parolees, or whatever status, is found to have HIV or AIDS, the Federal public health service cannot use its resources to treat those persons. Mr. President, I find this to be unbelievable. Are we just going to ignore this deadly disease and hope that, for humanitarian reasons, or public health concerns, the State or local agency will again shoulder this national obligation for persons who are in this country under national immigration laws?

The Medicaid provisions, the deeming provisions, and sponsor affidavits are currently nothing more than a means of shifting costs to States, local government agencies, and our Nation's hospital system. Simply, if people are sick and cannot afford to pay for coverage of a disabling condition, somebody will absorb those costs. The question is whether the Federal Government will help to pay a portion of that cost, or whether such cost will be shifted entirely to States, local governments, and health care providers.

This bill does not protect the health care providers, even though it is the Federal Government's health care policy which requires the health care provider to render such medical assistance.

The Federal Emergency Medical Treatment and Labor Act requires that all persons who come to a Medicare-participating hospital for emergency care be given a screening examination to determine if they are experiencing a medical emergency, and if they are found to be experiencing such a medical emergency, that they receive stabilizing treatment before being discharged or moved to another facility.

Federal law requires all hospitals that have emergency rooms, that receive Medicare participation, must provide those services, without regard to the ability of the person who has presented themselves for such care to pay. And now we are saying that the Federal Government is going to be a ''deadbeat dad'' by sticking those health care providers with the full cost, without a Federal sharing and participation.

Mr. President, the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities, has written on April 25 of this year, in anticipation of just exactly what is before us now, with the following statement:

> Without Medicaid eligibility, many legal immigrants will have no access to health care. Legal immigrants will be forced to turn to State indigent health care programs, public hospitals, and emergency rooms for assistance, or avoid treatment altogether. This will in turn endanger the public health and increase the cost of providing health care to everyone.

For the Medicaid caseworker as well as all other State and Federal programs he or she must now learn immigration law as well and the Medicaid system.

As a study by the National Conference of State Legislatures notes, this conference report would require an extensive citizenship verification made for all applicants to the Medicaid Program.

In addition to the costs to determine eligibility, States will also have infrastructure, training and ongoing implementation cost associated with the staff time needed to make a complicated deeming calculation. The result will be a tremendous, costly and bureaucratic unfunded mandate on State Medicaid Programs.

Mr. President, another item in the bill of particulars of unfairness of this immigration bill relates to parolees and their inability to work. I would put this in the specific context of an agreement which the United States had entered into with Cuba.

Under that agreement which was intended to avoid another repetition of the mass rafting explosion which we have experienced on several occasions since Fidel Castro came to power in Cuba, the United States now allows 15,000 Cuban immigrants per year to enter the United States. Approximately 10,000 of those who have arrived per year under this agreement have been under the category of parolees.

Under this bill, as parolees they will be prohibited from working in most jobs 1 year after they arrive here. How can that be? It can be because the conference report provides that after 1 year of entry into the United States, a person who is legally in this country, classified as a parolee for humanitarian reasons, would be ineligible to obtain or maintain the following:

They could not receive any State or Federal grants; any State or Federal loan; any State or Federal professional license; and, believe this, Mr. President: They could not receive a State driver's license or a commercial license.

Where are these legal immigrant parolees going to work without a driver's license, without a work permit, without a commercial license? Who will assume the burden of caring for these legal immigrant parolees who are in our country? Of course, the cost of their care will shift to the local community, even though it was through Federal Government action—and in the case of the United States-Cuban agreement, Federal Government foreign policy considerations, which brings them to this country in the first place, and then tells them that they cannot drive and that they cannot hold a job.

The conference report that is before us is a huge cost shift to State and local governments that will impose an administrative burden and huge unfunded mandate on State governments to verify eligibility for applicants.

Mr. President, one of the first priorities of this 104th Congress was S. 1, the Unfunded Mandate Reform Act of 1995. It was a top priority of the House of Representatives. It passed both bodies in the first 100 days of this session.

The purpose section of the Unfunded Mandate Act stated that the:

> Purposes of this act are to strengthen the partnership between the Federal Government and State, local, and tribal governments to end the imposition in the absence of full consideration by Congress of Federal mandates on State, local, and tribal governments without adequate Federal funding.

Mr. President, this conference report breaks every premise and breaks every basis of the unfunded mandate law because this conference report on immigration requires all Federal, State, and local means-tested programs, as well as programs such as State driver's licenses, State licensing departments, for State occupational licenses as well as any grant or funding to first determine whether the individual applying is an eligible immigrant.

The National Conference of State Legislatures just yesterday, September 26, 1996, indicated that the mandates of this conference report will:

impose new unfunded mandates on State and local governments regarding deeming requirements for determining immigrant eligibility for all Federal means-tested programs. These provisions create new unfunded Federal mandates, defying the intent of the S. 1, the Unfunded Mandates Reform Act.

This bill requires States to deem many immigrants currently residing in the United States who do not have enforceable affidavits of support. These requirements will place an excessive administrative burden on States by shifting massive costs to State budgets. As we have consistently stated on numerous issues, if the Federal Government expects States to administer Federal programs related to Federal responsibilities, full Federal funding must be provided.

What are some examples of this massive shift? Let me use the example of my own home State of Florida.

For professional and driver's licenses, the State of Florida estimates that it will cost approximately $31 million to verify and recertify 13.7 million driver and professional licenses. This figure does not include State administration and initiation costs, nor does the figure include the amount it will cost to verify new applications for these licenses. This is just the cost to verify those that are already outstanding.

Occupational licenses: To determine eligibility for occupational licenses based on immigration status, it is estimated that $16 million annually will be passed on to the small businesses of my State of Florida.

AIDS patients: Jackson Memorial Hospital in Miami alone cares for between 1,500 and 2,000 noncitizen AIDS patients annually. The estimated cost to treat noncitizen AIDS patients for this one hospital will be at least $4 million a year.

Mr. President, in summary, this conference report violates basic concepts of fairness and adds new and, in many cases, retroactive restrictions on legal immigrants. It imposes cost shifts to local and State governmental agencies in order to comply with its unfunded mandates. It violates the legislation which we passed and which we have taken great pride in: The Unfunded Mandate Reform Act of 1995.

If this is not an unfunded mandate, what could be an unfunded mandate?

As currently drafted, the conference report would have the following negative consequences: It shifts costs to States, local governments, and hospitals; it imposes an administrative unfunded mandate on State Medicaid programs; and it is not cost effective.

Mr. President, I ask unanimous consent to have printed in the RECORD immediately after my remarks a series of documents, including letters from the National Association of Counties, from the National Conference of State Legislatures, editorials which have appeared criticizing sections of this immigration conference report, and a letter from the Governor of Florida outlining the impact that this will have on our State.

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

(See Exhibit 1.)

Mr. GRAHAM. Mr. President, for the reasons stated, I urge that this Senate, before it takes up at this late hour important legislation which will have the kind of far-reaching effect that this immigration bill will have, that we consider carefully the impact that this is going to have on the States and communities that we represent.

I urge that we either delete those provisions from this conference report or that the conference report be rejected.

I thank the Chair.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

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

EXHIBIT 1

NACO NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, September 26, 1996.*

Hon. BOB GRAHAM,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRAHAM: I am writing to urge you to exclude from the conference agreement on immigration (H.R. 2202) provisions that mandate new federal requirements for certificates and drivers licenses, and adds new deeming requirements to determine immigrant eligibility for federal means tested programs. The National Association of Counties (NACo) considers these provisions to be unfunded mandates as a well as a preemption of local authority. While NACo shares the goal of solving the problems posed by illegal immigration, we urge you to oppose the bill if these provisions are not deleted from the conference report.

Although the birth certificate and drivers' license provisions have improved somewhat by extending the implementation date and making a general reference to federal grant funds, these changes are minimal. Extending the implementation date may avoid the Unfunded Mandates Reform Act threshold of $50 million a year, but it masks the fact that county and state governments will still have to bear the brunt of these expenses. Additionally, these are documents that fall clearly under the jurisdiction of state and local governments. Mandating federal standards on these documents preempts state and local authority and is a hardship on citizens and noncitizens alike.

The deeming requirements in the conference agreement go beyond the stringent requirements in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193). This law already made the affidavits of support enforceable and extended deeming to federal means tested programs for immigrants with new affidavits of support. The conference agreement, however, would also applying deeming to current legal residents who do not have enforceable affidavits of support. By making this retroactive change, the bill places additional administrative burdens on counties and shifts more costs from the federal programs to county general assistance programs.

NACo appreciates your consideration of these issues. We urge you again to removed these provisions from the conference agreement, or vote against the legislation if they continue to be included.

Sincerely,

LARRY NAAKE,
*Executive Director.*

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NATIONAL CONFERENCE OF STATE LEGISLATURES,
*Washington, DC, September 26, 1996.*

DEAR SENATOR GRAHAM: On behalf of the National Conference of State Legislatures, we again urge you to exclude from the conference agreement on immigration legislation, H.R. 2202, provisions that (1) federalize the current state and local driver's license and birth certificate issuance process and establish federal document content standards for both, and (2) impose new unfunded mandates on state and local governments regarding deeming requirements for determining immigrant eligibility for all federal ''means-tested'' programs. These provisions create new unfunded federal mandates, defying the intent of S. 1, the Unfunded Mandates Reform Act. They unnecessarily preempt traditional state auhtority. The provisions also create a ''one size fits all'' administrative process, contradicting the entire spirit of devolution. Furthermore, NCSL believes that these provisions will create an identification nightmare for citizens and legal immigrants. We share with you the goal of managing and resolving issues regarding illegal immigration. However, should these provisions remain in the conference report, NCSL urges you to to oppose the bill.

We have noted in previous communications that federalization of the driver's license and birth certificate processes is unnecessary, inappropriate and a misguided intrusion into a traditional state and local government responsibility. The conference agreement does improve on language from S. 1660, allowing states to be exempted from using Social Security Numbers on driver's licenses if they satisfy certain federal requirements, moving the implementation date to the year 2000, and alluding to some federal grant funds that may be available to help states pay for the new mandates. However, these are minimal changes at best. We see no compelling public policy reason for the federal government to strip states of their authority regarding driver's licenses and birth certificates nor to endorse an identification mechanism fraught with potential for fraud and abuse. The bill still places enormous unfunded federal mandates on state and local governments.

The deeming requirements in the immigration reform legislation go well beyond those in the recently enacted welfare reform legislation. The welfare reform law already makes new affidavits of support legally enforceable and extends deeming requirements to all federal means-tested programs for sponsored immigrants with the new affidavits. This bill requires states to deem many immigrants currently residing in the U.S. who do not have enforceable affidavits of support. These requirements will place an excessive administrative burden on states and shift massive costs to state budgets. As we have consistently stated on numerous issues, if the federal government expects states to administer federal programs related to federal responsibilities, full federal funding must be provided.

We appreciate your consideration of our positions. We urge you again to exclude the

aforementioned provisions from any conference report or oppose the report should they be included.

Sincerely,

WILLIAM T. POUND,
*Executive Director.*

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THE GOVERNOR OF
THE STATE OF FLORIDA,
*September 23, 1996.*

Hon. BILL MCCOLLUM,
*House of Representatives,*
*Washington, DC.*

DEAR BILL: I'm pleased to hear that you and Clay Shaw are conferees on the comprehensive immigration bill (H.R. 2202) as immigration policy certainly continues to be of major importance to Floridians.

We've previously discussed my opposition to provisions which deny critical assistance to legal tax paying residents of this country who have come here through the legal process and have been law abiding members of our society. As you're well aware, I have been particularly concerned about these provisions and their impact on our Cuban community and am still hopeful that Cuban/Haitian entrants will continue to be given access to all programs as they were under Fascell/Stone. The fiscal impact of the new restrictions on our State and local governments is still being assessed but will obviously be an additional burden.

However, I want to comment on what I see as major conflicts and discrepancies in this conference version language. It appears that the language of H.R. 2202 prohibiting any public benefit to certain legal immigrants is even more restrictive than the new welfare law which as a significant impact on Florida and other states with large immigrant populations.

It has been over month since the President signed the welfare bill into law. In those weeks, Florida has moved aggressively forward in preparing its state plan and has submitted it to HHS in order to begin implementation by October 1. We have made every effort to provide for a reasonable transition to allow affected families to explore their options and make other arrangements for future needs. Further sweeping restrictions for legal immigrants will require more alterations in administrative processes and will certainly complicate and frustrate an orderly implementation of the law and create disruption in medical care, children's services and other programs in our State.

I certainly understand and appreciate some of the enforcement provisions of the bill which are directed at controlling immigration. As you know, Florida has recently entered into a unique partnership with the federal government to combat illegal immigration—the Florida Immigration Initiative—and continues to strive to assist where the State has a role in controlling our borders.

It is my hope that you and the other conferees will focus on these enforcement tools and delete the provisions restricting assistance to legal immigrants in light of the welfare reform restrictions which are already being interpreted and acted upon in many instances.

I appreciate your continued attention to our concerns in Florida. Please call on me if I can be of any assistance to your efforts.

With best regards, I am

Sincerely,

LAWTON CHILES.

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## STOP THE IMMIGRATION BILL

(By The Miami-Herald)

Republicans in Congress eliminated one of the more onerous provisions of the immigration bill yesterday. Resisting pressure from presidential hopeful Bob Dole, they struck out language that would have kept the children of illegal immigrants out of public schools.

It was a wise and humane move, but not nearly wise nor humane enough: The deletion simply turned a terrible, mean-spirited bill into a very bad one.

It is every country's duty to control its borders and to insist on orderly immigration, but this bill oversteps duty. Its most xeonophobic provisions subvert cherished American traditions, including the offer of asylum to the persecuted and the guarantee of equal rights to all.

The bill would summarily—without meaningful access to counsel—exclude asylum seekers who arrive in the United States undocumented. This is heartless. It also violates our international obligations, established by treaty, regarding refugees.

Men and women fleeing oppression are often forced to seize the moment. They don't have the leisure to gather visas and passports. They arrive fearful and scared; often they are unable to speak English well enough to make their plight understood. The United States takes in a tiny share of the men and women who ask for asylum across the world. Last year, it amounted to less than 1 percent of asylum seekers. We can afford to help them, and we should be glad to do it.

The reunification of families divided by legal immigration would also be encumbered by the bill, which requires sponsors—to have incomes significantly higher than present law demands.

In addition, the bill goes well beyond the recently enacted welfare reform legislation in limiting the access that legal immigrants have to government programs. For example:

Legal immigrants would be deported if they receive certain types of government assistance—child care and housing among them—for more than 12 months during their first seven years in the United States.

After a year in the United States, people who have been paroled and who are not yet legal residents—would become ineligible for means-tested assistance, as well as for grants, professional or commercial licenses, even driver's licenses.

These provisions make the immigration bill unacceptable. It deserves a veto. President Clinton should not try to wash his hands of responsibility, as he did with the most Draconian elements of last summer's welfare reform. That bill was not perfect, he essentially said then, but it was the best we could.

The immigration reform is certainly not the best we can do, and we should not settle for it.

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## IMMIGRATION POLITICS

In an effort to salvage the illegal immigration reform bill, congressional Republicans finally backed off their plan to penalize the school children of illegal immigrants—and bucked Bob Dole, their presidential candidate, in the process. Unfortunately, the bill they struggled to save is still a severely flawed piece of work.

Though the proposal to allow states to deny public education to illegal immigrants was a cornerstone of the House-passed version, it faced a Senate filibuster and a presidential veto. Anxious to save both face and the remainder of the bill, Republicans agreed to uncouple the education proposal from the rest of the bill and vote separately on each.

Dole belatedly endorsed the move in a letter to conferees. But earlier this month, he tried to strong-arm his former colleagues into retaining the controversial amendment in an attempt to torpedo the immigration reform bill—one he had supported when he was in the Senate—to keep Clinton from scoring political points. That's not just hard-ball. That's irresponsible. Congressional Republicans deserve some credit for defying Dole, even if they acted out of political self-interest. The Republicans want to take an immigration bill, even a watered-down one, back home to their constituents before election time.

Though improved, the bill has other problems which still merit that presidential veto. The conference report gives virtually unchecked authority to the Immigration and Naturalization Service to turn away immigrants, with false papers or none, who seek asylum from genocide, political death squads or other forms of persecution. Though the conferees softened this summary exclusion procedure by inserting a meager administrative review, that is still not sufficient. Also included are restrictions on benefits to legal immigrants more onerous than those contained in the new welfare bill. These defects overshadow the bill's constructive provisions, such as a doubling of the number of Border Patrol officers.

The Clinton administration has voiced tepid concern and has so far withheld its promise of support. But undoubtedly eager to claim victory himself, Clinton cannot be counted on to veto the bill even with these glaring problems. On illegal immigration reform, like welfare, he might not be that far behind Dole on the pander meter.

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## IMMIGRANT BASHING

Congress is waging its usual election-year war on immigrants. Although we suspect, in this case, the real target of the new immigration ''reform'' bill making its way through Congress is Bill Clinton.

Yes, Republicans have stripped from the bill—in the face of a Clinton veto threat—a provision that would allow states to throw the children of illegal immigrants out of school, presumably to run wild and ignorant in the streets.

But the measure that remains is still far too punitive in its treatment of both legal and illegal immigrants, too lenient on U.S. employers who hire illegals and too willing to grant the U.S. Immigration and Naturalization Service chilling new authority.

This week, legal immigrants around the nation were being told that they are no longer eligible for food stamps, thanks to the recently enacted welfare reform bill. The anti-immigrant measure would continue that trend of denying legal immigrants public assistance when they are in trouble. These are people who have permission to be here, who hold down jobs when they can get them and who pay taxes and otherwise support the economy.

One particularly mean-spirited provision, for instance, would even deny legal immigrants Medicaid assistance for the treatment of AIDS or HIV-related illnesses. Let them suffer, chortle the bashers in Congress.

And what about unscrupulous employers who hire illegal immigrants for slave wages, thus encouraging still more undocumented aliens to flock to this country? Congress couldn't be bothered to crack down too hard on such practices. Tougher penalties for such practices were deleted from the bill.

One of the most ominous provisions of the bill would grant an unprecedented degree of autonomy to the INS. Under the measure, no court, other than the U.S. Supreme Court, would be authorized to grant injunctions against that police agency when it acts in a legally questionable manner. That's an immunity not afforded the IRS, the FBI, the Drug Enforcement Agency or any other federal police force. Giving it to the INS would constitute a frightening precedent.

The bill isn't all bad. It authorizes a much-needed increase in the size of the U.S. Border Patrol. It would establish new, more efficient procedures for verifying the status of legal immigrants. It would provide tougher penalties for document fraud and for those who smuggle aliens into the country.

But there are so many harsh, immigrant-bashing provisions in the bill that, on balance, it deserves a veto. This is an issue that cries out for resolution after the election—when lawmakers are less inclined to use the immigration issue as a political football.

If President Clinton vetoes the measure, Republicans are sure to paint him as ''soft'' on illegal immigrants. Indeed, Bob Dole is already hitting on that very theme because of the president's unwillingness to purge the classrooms of the children of illegal aliens.

But as a matter of principle, Clinton should stand up to the Republicans this time and refuse to participate in their immigrant-bashing.

This is another case where politics makes for bad public policy.

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A DANGEROUS IMMIGRATION BILL

(New York Times, Editorial)

As the White House and members of Congress make final decisions this week about a severely flawed immigration bill, they seem more concerned with protecting their political interests than the national interest. The bill should be killed.

Debate over the bill has concentrated on whether it should contain a punitive amendment that would close school doors to illegal-immigrant children. But even without that provision, it is filled with measures that would harm American workers and legal immigrants, and deny basic legal protections to all kinds of immigrants. At the same time, the bill contains no serious steps to prevent illegal immigrants from taking American jobs.

Its most dangerous provisions would block Federal courts from reviewing many Immigration and Naturalization Service actions. This would remove the only meaningful check on the I.N.S., an agency with a history of abuse. Under the bill, every court short of the Supreme Court would be effectively stripped of the power to issue injunctions against the I.N.S. when its decisions may violate the law or the Constitution.

Injunctions have proven the only way to correct system-wide illegalities. A court injunction, for instance, forced the I.N.S. to drop its discriminatory policy of denying Haitian refugees the chance to seek political asylum.

On an individual level, legal immigrants convicted of minor crimes would be deported with no judicial review. If they apply for naturalization, they would be deported with no judicial review. If they apply for naturalization, they would be deported for such crimes committed in the past. The I.N.S. would gain the power to pick up people it believes are illegal aliens anywhere, and deport them without a court review if they have been here for less than two years.

The bill would also diminish America's tradition of providing asylum to the persecuted. Illegal immigrants entering the country, who may not speak English or be familiar with American law, would be summarily deported if they do not immediately request asylum or express fear of persecution. Those who do would have to prove that their fear was credible—a tougher standard than is internationally accepted—to an I.N.S. official on the spot, with no right to an interpreter or attorney.

Scam artists with concocted stories would be more likely to pass the test than the genuinely persecuted, who are often afraid of authority and so traumatized they cannot recount their experiences. Applicants would have a week to appeal to a Justice Department administrative judge but no access to real courts before deportation.

The bill would also go further than the recently adopted welfare law in attacking legal immigrants. Under the immigration bill they could be deported for using almost any form of public assistance for a year, including English classes. It would make family reunification more difficult by requiring high incomes for sponsors of new immigrants. The bill would also require workers who claim job discrimination to prove that an employer intended to discriminate, which is nearly impossible.

A bill that grants so many unrestricted powers to the Government should alarm Republicans as well as Democrats. This is not an immigration bill but an immigrant-bashing bill. It deserves a quick demise.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

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## WATER RESOURCES DEVELOPMENT ACT OF 1996—CONFERENCE REPORT

Mr. LOTT. Mr. President, we do have a very important piece of legislation that has been in the making for quite some time. I know Senators on both sides of the aisle are very interested in it and have been working on it in committee and in conference. This is the water resources conference report.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 640.

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

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1996.)

Mr. CHAFEE. Mr. President, today the Senate will consider the conference report to accompany S. 640, the Water Resources Development Act of 1996. This measure, similar to water resources legislation enacted in 1986, 1988, 1990, and 1992, is comprised of water resources project and study authorizations, as well as important policy initiatives, for the U.S. Army Corps of Engineers Civil Works Program.

S. 640 was introduced on March 28, 1995, and was reported by the Environment and Public Works Committee to the full Senate on November 9, 1995. The measure was adopted unanimously by the Senate on July 11, 1996. On July 30 of this year, the House of Representatives adopted its version of the legislation.

Since that time, we have worked together with our colleagues from the House of Representatives and the administration to reach bipartisan agreement on a sensible compromise measure. Because of the numerous differences between the Senate- and House-passed bills, completion of this conference report has required countless hours of negotiation.

To ensure that the items contained in this legislation are responsive to the Nation's most pressing water infrastructure and environmental needs, we have adhered to a set of criteria established in previous water resources law. Mr. President, let me take a few moments here to discuss these criteria—that is—the criteria used by the conference committee to determine the merit of proposed projects, project studies, and policy directives.

On November 17, 1986, almost 10 years ago, under President Reagan, we enacted the Water Resources Development Act of 1986. Importantly, the 1986 act marked an end to the 16-year deadlock between Congress and the executive branch regarding authorization of the Army Corps Civil Works Program.

In addition to authorizing numerous projects, the 1986 act resolved long-standing disputes relating to cost-sharing between the Army Corps and non-Federal sponsors, waterway user fees, environmental requirements and, importantly, the types of projects in which Federal involvement is appropriate and warranted.

The criteria used to develop the legislation before us are consistent with the reforms and procedures established in the landmark Water Resources Development Act of 1986.

Is a project for flood control, navigation, environmental restoration, or some other purpose cost-shared in a manner consistent with the 1986 act?

Have all of the requisite reports and studies on economic, engineering, and environmental feasibility been completed for major projects?

Are the projects and policy initiatives consistent with the traditional and appropriate mission of the Army Corps?

Should the Federal Government be involved?

These, Mr. President, are the fundamental questions that we have applied to the provisions contained in the pending conference report.

As I noted at the outset, water resources legislation has been enacted on a biennial basis since 1986, with the exception of 1994. As such, we have a 4-year backlog of projects reviewed by the Army Corps and submitted to Congress for authorization.

The measure before us authorizes 33 flood control, environmental restoration, inland navigation, and harbor projects which have received a favorable report by the Chief of Engineers.

Fourteen other water resources projects are included for authorization, contingent upon the Congress receiving a favorable Chief's report by December 31 of this year. The estimated Federal cost of this bill is $3.8 billion.

I would like to note that almost one-fourth of the cost of this bill, or an estimated $890 million, is specifically dedicated to environmental restoration and protection. In terms of projects, programs and policies, this is far and away the most environmentally significant Water Resources Development Act to have been assembled by the Congress.

What are some of the important new policy and program initiatives included in the bill? First, we have included a provision proposed by the administration to clarify the cost-sharing for dredged material disposal associated with the operation and maintenance of harbors.

Currently, Federal and non-Federal responsibilities for construction of dredged material disposal facilities vary from project to project, depending on when the project was authorized, and the method or site selected for disposal.

For some projects, the costs of providing dredged material disposal facilities are all Federal. For others, the non-Federal sponsor bears the entire cost of constructing disposal facilities. This arrangement is inequitable for numerous ports.

In addition, the failure to identify economically and environmentally acceptable disposal options has reduced operations and increased cargo costs in many port cities. Regrettably, this is the case for the Port of Providence in Rhode Island.

Under this bill, the costs of constructing dredged material disposal facilities will be shared in accordance with the cost-sharing formulas established for general navigation features by section 101(a) of the 1986 Water Resources Development Act. This would apply to all methods of dredged material disposal including open water, upland and confined. This provision will allow ports like the one in Providence to compete on an equal footing.

We have also expanded section 1135 of the 1986 act in this bill. Currently, section 1135 authorizes the Secretary of the Army to review the structure and operation of existing projects for possible modifications—at the project itself—which will improve the quality of the environment. The 1986 act authorizes a $5 million Federal cost-sharing cap for each such project and a $25 million annual cap for the entire program.

The revision included here does not increase the existing dollar limits. Instead, it authorizes the Secretary to implement small fish and wildlife habitat restoration projects in cooperation with non-Federal interests in those situations where mitigation is required off of project lands.

Third, we have included a provision to shift certain dam safety responsibilities from the Army Corps to the Federal Emergency Management Agency [FEMA]. This change, proposed by Senator BOND and supported by the two agencies, authorizes a total of $22 million over 5 years for FEMA to conduct dam safety inspections and to provide technical assistance to the States.

Next, a provision has been included to address the administration's proposal to discontinue Army Corps involvement in shore protection projects. The provision directs continued beach and shoreline protection, restoration and renourishment activities which are economically justified. I want to credit Senators MACK and BRADLEY, in particular, for their efforts on this matter.

Mr. President, this legislation includes landmark Everglades restoration provisions. On June 11 of this year, the administration submitted its plan to restore and protect the Everglades.

The conferees have worked closely with the Florida delegation to modify and improve the administration's proposal to reverse damage done to this critical natural resource.

The provision we have agreed to would: expedite the Corps study process for future restoration activities; formally establish the South Florida Ecosystem Restoration Task Force; authorize $75 million for the implementation of critical projects through fiscal year 1999; and authorize important modifications to the existing Canal–51 and Canal–111 projects.

Mr. President, I would like to highlight an important cost-sharing reform made necessary by current budget circumstances. The non-Federal share for flood control projects has been increased from the current 25 percent to 35 percent. The fact of the matter is that Corps of Engineers's construction dollars are increasingly scarce.

In order to meet the very real flood control needs across the nation, we are forced to require greater participation by non-Federal project sponsors. Importantly, the bill also includes prudent, yet meaningful ability-to-pay eligibility reforms for poor areas.

Also provided here is a pilot program to demonstrate the benefits of privatizing the management of wastewater treatment plants through long-term lease arrangements. Over the past 25 years, Congress has made a considerable investment in protecting water quality by working with States and cities to ensure the proper treatment and disinfection of domestic sewage. Federal appropriations exceeding $65 billion under the Clean Water Act and $10 billion through the Department of Agriculture have supported grants and loans for the construction of sewage treatment plants.

But in recent years, the flow of funds from the Federal level has slowed while needs at the local level have increased. The most recent survey by EPA indicates that the cost to build and maintain needed sewage collection and treatment facilities across the country exceeds $130 billion. We can't close that gap with Federal tax dollars and local governments are hard-pressed to keep up.

One source of funds that remains virtually untapped is private financing and operation of these facilities. Although many cities are receiving their drinking water from privately owned utilities, this is a much rarer occurrence for the ownership and operation of sewage treatment plants.

To encourage privatization, as it is sometimes called, President Bush issued an Executive order establishing a Federal policy for the sale of sewage plants now owned by cities to entities in the private sector. A policy change is necessary, because the law now requires that any Federal assistance received to build the plant must be repaid from the proceeds of the sale. The Executive order requires that only the undepreciated value of the grant be repaid.

However, sales are not the only means to encourage private investment in these facilities. Another option is a long-term lease. This approach may be more advantageous than a sale because sewage plants that remain in the ownership of municipal government agencies are subject to less stringent pollution control regulations than those that are owned by private entities.

There has only been one outright sale under the Executive order, but several communities including Wilmington, DE, and Cranston, RI, are looking at long-term lease arrangements.

To encourage this approach, the conference report provides that the requirement to repay grants that applies under the Clean Water Act and the Executive order in the case of a sale would not apply to leases if two conditions are met. First, the municipal agency must retain ownership of the facility.

And second, EPA must determine that the lease furthers the purposes and objectives of the Clean Water Act. Our principal aim here is to assure that privatization does not lead to disinvestment. When the Federal Government provided the grant to build the plant, we required the city to collect rates sufficient to maintain the plant and keep it in good working order.

The law and the Executive order also require that the consumer charges supporting maintenance and reinvestment be imposed in a fair and reasonable way. The administrator is to look to these and other requirements of the Clean Water Act to ensure that privatization does not undermine the purposes for which the grant and loan programs to finance the construction of sewage treatment plants were first enacted.

Mr. President, nothing in this legislation directs EPA to approve any particular lease arrangement. As I have said, the city of Cranston in my home State has developed what I believe to be an excellent proposal. Mayor Traficante is to be commended on the innovative approach that he is taking

to hold down the costs of municipal government for the people of his city.

Cranston has worked closely with EPA to develop the details of its lease and we very much appreciate the assistance that EPA has provided. There has been a question on whether Cranston would be required to repay part of its grant in the event the lease is completed. This legislation would answer that question, but only if EPA determines that lease arrangement serves the purposes and objectives of the Clean Water Act.

Again, Mr. President, in the area of environmental protection, one of the most difficult water quality problems is the discharge of untreated sewage into rivers, lakes, and estuaries from combined sanitary and stormwater sewers. Sewage treatment plants are designed to handle all of the wastewater generated by a community during dry weather periods.

But for the 1,200 communities that have systems with connections between the stormwater and domestic sewage pipes, large storm events can overwhelm the capacity of the treatment works and lead to discharges of untreated wastewater. This problem is one of the most significant unresolved issues in water quality today.

We have this problem in Rhode Island. The intermittent discharges from our combined sewer overflows have led to closures of swimming beaches and shellfishing beds. Rhode Island is well on the way to correcting the problem, but it will be an expensive undertaking.

In fact, the solution—a planned underground tunnel to hold stormwater runoff until it can be treated—is the biggest public construction project ever planned for the State, with expected costs exceeding $450 million. The bill includes an authorization of modest Federal assistance to Rhode Island to solve this problem and to pay for the water quality mandate imposed by the Federal Clean Water Act.

Mr. President, this legislation is vitally important for countless States and communities across the country.

For economic and life-safety reasons, we must maintain our harbors, ports and inland waterways, flood control levees, shorelines, and the environment.

Despite the fact that this package represents a 4-year backlog of project authorizations, it is consistent with the overall funding levels authorized in previous water resources measures. I urge my colleagues to support the conference report.

Before I yield the floor, Mr. President, I would like to pay tribute to just a handful of the many individuals responsible for this important legislation. First, I would like to thank Senators WARNER, SMITH, BAUCUS, and MOYNIHAN for their hard work as conferees.

Likewise, we could not have reached agreement this year without the efforts of House Transportation and Infrastructure Committee Chairman BUD SHUSTER, his ranking minority member, JIM OBERSTAR, Representative SHERWOOD BOEHLERT, and their excellent staff.

We have worked closely with the administration, Mr. President, and I want to recognize the valuable input of Assistant Secretary Martin Lancaster. Secretary Lancaster and his team, including Deputy Assistant Secretary Mike Davis, Jim Rausch, Gary Campbell, Milton Reider, Bill Schmidtz, John Anderson, Susan Bond, and others have aided us immeasurably.

Finally, I want to thank the Senate staff who have worked so hard on this bill. On Senator BAUCUS's staff, I extend my appreciation to Jo-Ellen Darcy and Tom Sliter. On the Republican side, I want to thank staff members Ann Loomis, Chris Russell, Steve Shimberg, Linda Jordan, Stephanie Brewster, Dan Delich and Senate legislative counsel, Janine Johnson.

I again urge the adoption of the conference report and yield the floor.

Mr. BAUCUS. Mr. President, the Senate now has before it the conference report to accompany S. 640, the Water Resources Development Act of 1996. I would like to compliment the conferees on the fine work they have done in bringing this conference report to the Senate for resolution before the 104th Congress adjourns.

A great deal of work has been done by the House and Senate committees, working together, to reach this point. Everyone involved has been diligent in applying sound criteria for determining the worthiness of individual projects.

I particularly want to commend the conferees for deleting the House provision that would have increased the navigation season on the Missouri River. The operation of the Missouri River is a controversial issue in my State. The Corps of Engineers is currently in the middle of a comprehensive review to determine the best way to manage the river for all interests, including recreation, navigation, irrigation, hydropower and water supply.

For Congress to intervene at this stage of the reevaluation, to predetermine its outcome, would have been counterproductive to a fair and equitable resolution of this issue. I thank the House conferees for receding to the Senate on this issue.

There are some laudable provisions in this conference report, most notably the changes in flood control policy. With tighter Federal budgets, there is a growing need for local interests to become even more committed to their projects. The conference report changes the current Federal cost share for flood control projects from 75 percent to 65 percent.

It also reforms the so-called ability-to-pay provisions of current law to make them more meaningful. It requires floodplain management plans and the consideration of nonstructural alternatives to traditional flood control facilities. Finally, the conference report requires the corps, for the first time, to provide levee owners with a manual describing what they must do in order to maintain a levee to corps specifications.

Another important provision of the bill directs the Secretary to provide increased emphasis on recreation opportunities at corps facilities. And it recognizes the problem of funding disposal facilities for dredged materials and allows that cost to be considered when calculating the overall cost of a navigation project.

Mr. President, while all of these provisions are important improvements to current law and corps policy, I have one overriding concern with this conference report and that is its cost. This bill authorizes $3.8 billion in new Federal spending.

When the Senate considered this bill earlier this year, I voiced concern that the cost of the bill at that time—$3.3 billion—was at odds with our efforts to balance the budget. Since that time, the cost of the bill has grown. I have long supported investments in our infrastructure, including our water infrastructure. They are necessary if America is to retain its competitive advantage and keep a sound base of manufacturing jobs.

But we need to make choices about these investments, hard choices. And while the majority of the projects in this bill are worthy ones, the truth is that we simply cannot afford them all at this time.

Mr. BOND. Mr. President, we are at the end of a very long road in the process of enacting the 1996 Water Resources Development Act authorizing various water resources projects to enhance flood protection, navigation, environmental protection, and related Corps of Engineers projects. Special thanks and congratulations are in order for the Chairman of the full committee, Senator CHAFEE and his ranking member, Senator BAUCUS and the Subcommittee Chairman, Senator WARNER. They and their excellent staff have carried the difficult burden of sorting through in a bipartisan manner these very complex and sensitive issues—issues that are of vital concern to many in this country but particulary for my State of Missouri.

For States like Missouri, who rely greatly on water resources, this legislation is crucial to provide safety, economic development opportunities, and cost-effective navigation on our inland waterway system. Since 1928, for every dollar the corps has spent on flood control, 8 dollars' worth of damages have been avoided. This 8 to 1 benefit to cost ratio does not account for the economic development and job creation benefits that flood protection provides. Recent flooding has highlighted the need to maintain this commitment and keep the Corps of Engineers engaged in partnering with Missouri citizens in this regard. This is a safety, jobs, and international competitiveness issues pure and simple.

Again, I applaud the efforts of the chairman and urge strongly support for this bipartisan legislation.

THE EPA LONG ISLAND SOUND OFFICE

Mr. LIEBERMAN. Mr. President, I rise today to note the critical importance of this legislation, the Water Resources Development Act, to the future of Connecticut's most valuable natural resource, Long Island Sound.

Included in the bill is a provision reauthorizing the EPA's Long Island Sound Office [LISO], which was established by legislation I was proud to sponsor 6 years ago, and which is now responsible for coordinating the massive clean-up effort ongoing in the Sound. Quite simply, the LISO is the glue holding this project together, and I want to express my deep appreciation to the chairman and ranking member of the Environment and Public Works Committee—Senators CHAFEE and BAUCUS—for their help in making sure this office stays open for business.

Mr. President, the Long Island Sound Office has been given a daunting task—orchestrating a multibillion dollar, decade-long initiative that requires the cooperation of nearly 150 different Federal, State and municipal agents and offices. Despite the odds, and the limited resources it has had to work with, the LISO is succeeding. Over the last few years, the EPA office has developed strong working relationships with the State environmental protection agencies in Connecticut and New York, local government officials along the Sound coastline and a number of proactive citizen groups. Together, these many partners have made tremendous progress toward meeting the six key goals we identified in the Sound's long-term conservation and management plan.

The plan's top priority is fighting hypoxia, which is caused by the release of nutrients into the Sound's 1,300 square miles of water. Thanks in part to the LISO's efforts, nitrogen loads have dropped 5,000 pounds per day from the baseline levels of 1990, exceeding all expectations. In addition, all sewage treatment plants in Connecticut and in New York's Westchester, Suffolk, and Nassau counties are now in compliance with the no net increase agreement brokered by the LISO, while the four New York City plants that discharge into the East River are expected to be in compliance by the end of this year. And the LISO is coordinating 15 different projects to retrofit treatment plants with new equipment that will help them reduce the amount of nitrogen reaching the Sound.

The LISO and its many partners have made great strides in other areas, such as cracking down on the pathogens, toxic substances, and litter that have been finding their way into the Sound watershed and onto area beaches. A major source of toxic substances are industrial plants, and over the last few years the LISO has helped arrange more than 30 pollution prevention assessments at manufacturing facilities in Connecticut that enable companies to reduce emissions and cut their costs. Also, New York City has recently reduced the amount of floatable debris it produces by 70 percent, thanks to the use of booms on many tributaries and efforts to improve the capture of combined sewer overflows.

With Congress' help, the LISO will soon be able to build on that progress and significantly broaden its efforts to bring the Sound back to life. This week the House and Senate approved an appropriation of the $700,000 for the Long Island Sound Office, doubling our commitment from the current fiscal year. These additional funds will be used in part to launch an ambitious habitat restoration project. The States of New York and Connecticut have been working with the LISO and the U.S. Fish and Wildlife Service to develop a long-term strategy in this area, and they have already identified 150 key sites. The next step is to provide grants to local partnerships with local towns and private groups such as the National Fish and Wildlife Foundation and The Nature Conservancy, which would focus on restoring tidal and freshwater wetlands, submerged aquatic vegetation, and areas supporting anadromous fish populations.

The funding will also be used for site-specific surveys to identify and correct local sources of non-point source pollution. This effort will focus on malfunctioning septic systems, stormwater management, and illegal stormwater connections, improper vessel waste disposal, and riparian protection. All of these sources contribute in some way to the release of pathogens and toxic compounds into the Sound, a problem that is restricting the use of area beaches and shellfish beds and hurting our regional economy.

Finally, the LISO will continue to build on the successful public education and outreach campaign it initiated last year. In New York, the LISO has already been in contact with public leaders in 50 local communities, held follow-up meetings with officials in 15 key areas, and scheduled on-the-water workshops for this fall. The LISO is planning to conduct a similar effort to reach out to Connecticut communities in 1997.

All of this could have been put in jeopardy, however, if we had not acted to extend the LISO's authorization, which is set to expire next week. The clean-up project is a team effort, with many important contributors, but it would be extremely difficult for those many partners to work in concert and keep moving forward without the leadership and coordination that the LISO has supplied. So I want to thank my colleagues, especially my friends from Rhode Island and from Montana, for passing this provision before the LISO's authorization lapsed.

The people of Connecticut care deeply about the fate of the Sound, not only because of its environmental importance but also because of its importance as one of our region's most valuable economic assets. With the steps we've taken this week, we have reassured them that we remained committed to preserving this great natural resource, and that we are not about to sell Long Island Sound short.

## EVERGLADES RESTORATION PROVISION

Mr. MACK. Mr. President, I rise today in strong support of the conference report on the Water Resources Development Act and, in particular, the provision in the bill relating to the restoration of Florida's Everglades. I want to especially thank the distinguished chairman of the committee, Mr. CHAFEE. The Senator from Rhode Island clearly understands the unique nature of the Everglades problem and, on behalf of all Floridians, I extend my appreciation for his efforts on behalf of this legislation.

It is no secret, Mr. President, that the Everglades are a resource unique and precious to all Americans. This ''river of grass''—extending from the Kissimmee chain of lakes through to Florida Bay and the Florida Keys—is the primary source of south Florida's drinking water, critical to our cultural heritage and essential to our continued economic well-being. As the Everglades go, Mr. President, so goes south Florida. How best to craft a balance between the urban, agricultural, and environmental interests presents one of the greatest challenges facing this generation of Floridians.

This Congress has already demonstrated its unwavering commitment to this resource by appropriating $200 million in direct funding for Everglades restoration during consideration of the farm bill earlier this year. This move represents the single-largest funding commitment to the Everglades in history and is indicative of the interest this Congress has in ensuring that this important resource is passed on to future generations.

It has not always been so. In an effort to provide flood control for the rapidly-growing region, Congress in 1948 authorized the massive central and southern Florida project. The goal of this effort was to drain the swamp through a series of canals extending from Lake Okeechobee to the sea. The result was thousands of acres opened to agriculture and development and an unprecedented economic expansion in the region.

This was not, however, without a significant cost. The reallocation of water resulting from the project disrupted the natural hydroperiod of the Everglades. Wildlife populations plummeted and fresh water flows were diminished. Critical resources like Florida Bay—a once-vibrant body of water that sustained both a healthy environment and a strong coastal economy—began to wither on the vine. As Florida's coastal communities felt the effect of this harm, an effort began to rethink the

project and how it relates to the new realities in south Florida.

In 1992, Mr. President, Congress directed the Army Corps of Engineers to perform a Comprehensive Review Study—restudy—of the C&SF project with an eye toward capturing the millions of acre-feet of fresh water currently being lost to tide every year and reallocating this resource within the south Florida ecosystem. This restudy presents the opportunity to integrate scientifically sound environmental restoration into the mix of priorities in south Florida in a balanced, equitable, and responsible manner.

Due to the complexity of this task and the difficulty coming to consensus on solutions, it began to appear that this restudy would last at least several years into the next century. This, Mr. President, was simply unacceptable. The citizens and water users in south Florida have a legitimate interest in knowing the specifics of the restoration effort sooner rather than later. The Congress has a legitimate interest in knowing how much all of this is going to cost the Federal Government. And the State of Florida—which has committed to become a 50/50 partner with the Federal Government in this effort—has a legitimate interest in knowing the size and duration of its commitment to Everglades restoration.

In fact, the State of Florida recognized the need for balance and consensus several years ago. The Governor's Commission for a Sustainable South Florida—an ad-hoc coalition of 46 interest groups and governmental entities across the spectrum in south Florida—was created to seek out restoration goals and projects which everyone agreed would accelerate the restoration without harming the various water users. The commission recently unanimously approved a remarkable document which details 40 specific projects. This blueprint will increase the pace of restoration while taking into account the water-related needs of all parties in the region. The corps has indicated that if it were able to work from this consensus document, it could come to closure on the restudy within 3 years.

Thus began, Mr. President, our efforts this year. After much negotiation and effort, my colleague from Florida, Senator GRAHAM and I were able to arrive at the package we are considering today.

Specifically, Mr. President, the legislation before us requires the corps to submit a comprehensive plan for restoration of the Everglades by July 1, 1999. This plan will include a list of specific projects for authorization by Congress and will include the necessary engineering and design. Clearly, this will require a monumental effort by the corps as it works to complete its work by this deadline. We have been repeatedly assured by the corps that it can be done without shortcutting necessary engineering and planning.

The legislation further contains $75 million in authority for the Corps of Engineers to construct projects deemed critical to the restoration effort. The report language accompanying this bill indicates five projects which ought to be top priority for the corps as it exercises this authority. These projects are universally accepted in south Florida as projects which can be carried out within the next 3 years and which will significantly accelerate the restoration effort.

Lastly, Mr. President, this bill establishes in law the South Florida Ecosystem Restoration Task Force. This is an intergovernmental body which includes representatives from the Federal Government, State and local entities and the two Indian tribes present in the Everglades. The task force is based largely on the successful arrangement currently operating in south Florida and will provide a forum for exchanging information, taking public comment and input, and coordinating the overall restoration effort.

Mr. President, we believe this package represents a significant step forward in the continuing effort to restore the Everglades and provide a sustainable economy for all the residents of south Florida. I again express my sincere appreciation to Senator CHAFEE and Senator BAUCUS—and the Environment Committee staff—for their outstanding support and leadership on this effort. I urge my colleagues to support the conference report.

Thank you, Mr. President.

Mr. CONRAD. Mr. President, I rise today in support of S. 640, the Water Resources Development Act of 1996 [WRDA]. Congress last passed a WRDA bill in 1992, and I am pleased that we are able to pass this legislation that authorizes spending for many important water projects.

A provision in this bill authorizes the Secretary of the Army to acquire, from willing sellers, permanent flowage and saturation easements for lands within or contiguous to the boundaries of the Buford Trenton Irrigation District, ND. These flowage easements are to compensate landowners for land that has been affected by rising ground water and the risk of surface flooding due to the operation of the Garrison Dam on the Missouri River. The corps began operation of this Dam in 1955.

In acquiring these easements, this provision specifies the Secretary shall pay an amount based on the unaffected fee value of the lands, meaning the value of the lands as if unaffected by rising ground water and the risk of surface flooding. The intent of Congress is for the Secretary to acquire these easements based on the current fair market value of the land, and not the value of land before Garrison Dam was operational. I would like to submit a copy of a letter I sent to the corps requesting a clarification of their intent in implementing this provision, and a copy of the corps' response stating the Secretary shall appraise these easements at their current fair market value, as if the lands are not affected by rising ground water and the risk of surface flooding.

I applaud this provision that justly compensates these landowners for damage to their land from rising ground water and the risk of surface flooding due to the operation of the Garrison Dam.

Mr. President, I would also like to express my position to a provision in this bill that raises the non-Federal cost-share requirement for Corps of Engineers flood control projects from 25 percent to 35 percent. it is my understanding that this provision does not apply to flood control projects that have previously been authorized, or are authorized in this bill.

I am concerned that this provision will have a detrimental impact on smaller communities in North Dakota that are in need of flood control projects. I understand the motivation to save the Federal Government money by requiring local partners to contribute more to these flood control projects. However, this provision will place a significant financial burden on communities in North Dakota that are in dire need of flood control projects but do not possess the resources or the tax-base to raise this additional cost share.

Also, some communities in my State, such as Grand Forks, are currently cost-sharing feasibility studies for flood control projects with the corps. These communities have committed significant funds based on the fact any flood control project that resulted from the study would be cost-shared at a 75-to-25 Federal/non-Federal ratio. This provision places a financial burden on communities like Grand Forks that are currently financing feasibility studies and budgeting for a cost share of 25 percent on flood control projects. It is my hope the Congress would recognize the negative impact this provision has on communities like Grand Forks and allow flood control projects to be constructed under the current 25 percent non-Federal cost-share, should the community demonstrate an inability to meet the 35 percent cost-share requirement.

Mr. President, I would like to thank the chairman of the Senate Committee on Environment and Public Works, Senator CHAFEE, and the ranking member of the committee, Senator BAUCUS, for their efforts in completing this important legislation during the 104th Congress.

Mr. President, I ask unanimous consent that two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, September 26, 1996.*

H. MARTIN LANCASTER,
*Assistant Secretary for Civil Works, Department of the Army, Washington, DC.*

DEAR ASSISTANT SECRETARY LANCASTER: I am writing in regard to the Water Resources

Development Act of 1996 (WRDA). I would like to know the intent of the U.S. Army Corps of Engineers in implementing Section 336 of this bill.

As you know, Section 336 of the conference version of the WRDA bill authorizes the Secretary of the Army to acquire, from willing sellers, permanent flowage and saturation easements for lands within or contiguous to the boundaries of the Buford Trenton Irrigation District in North Dakota. These flowage easements are to compensate landowners for land that has been affected by rising ground water and the risk of surface flooding due to the operation of the Garrison Dam on the Missouri River.

In acquiring these easements, this provision specifies the Secretary shall pay an amount based on the unaffected fee value of the lands, meaning the value of the lands as if unaffected by rising ground water and the risk of surface flooding. The intent of Congress is for the Secretary to acquire these easements based on the current fair market value of the land, as if unaffected by rising ground water and the risk of surface flooding. Implementing this provision as Congress intends will justly compensate these landowners for damage to their land due to the operation of the Garrison Dam.

I am requesting an assurance from the Corps that, for the purpose of acquiring these flowage easements, this land will be appraised at the current fair market value, as if unaffected by the operation of Garrison Dam.

Thank you for your consideration and I look forward to hearing from you.

Sincerely,

KENT CONRAD,
*U.S. Senate.*

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DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS, 108 ARMY PENTAGON,
*Washington, DC, September 27, 1996.*

Hon. KENT CONRAD,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CONRAD: This letter is written in response to your letter dated September 26, 1996, regarding the Army Corps of Engineers intent in implementing Section 336 of the conference version of the proposed Water Resources Development Act of 1996.

In implementing section 336 and the acquisition of flowage easements from willing sellers, the Corps shall appraise such easements at their current fair market value as if the lands are not affected by rising ground water and the risk of surface flooding.

I hope this letter addresses your concerns.

Sincerely,

JOHN H. ZIRSCHKY,
*Principal Deputy Assistant Secretary of the Army (Civil Works).*

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the Water Resources and Development Act of 1996. This legislation authorizes funding for a number of critical flood control projects in Pennsylvania, whose need was once again demonstrated by the devastating flooding that occurred in January 1996. It will provide essential protection to existing commercial and residential developments, reducing losses attributable to floods, lowering flood insurance, and creating opportunities for economic growth.

I have worked closely with Senator SANTORUM, as well as Chairman CHAFEE, Chairman WARNER, and Senator BAUCUS, to ensure that this legislation reauthorizes the Saw Mill Run project in Pittsburgh, authorizes Army Corps of Engineers funding for upgrades to the storm water pumping station at the Wyoming Valley levee raising project in Luzerne County, and authorizes a flood control project for the Plot and Green Ridge neighborhoods in Scranton.

The flood protection project at Saw Mill Run will alleviate flood damage in the West End section of Pittsburgh, bringing relief to residents who have been hard hit by overbank flooding and creating opportunities for economic development in the Saw Mill Run corridor. During my visit to the project site with the mayor of Pittsburgh, Tom Murphy, on November 21, 1995, he and I discussed the city's commitment to protecting its vulnerable riverside communities and to providing the city's share of the development funds. I am pleased that this project can go forward and that we were able to secure $500,000 for construction-related costs in the fiscal year 1997 energy and water appropriations legislation.

The Wyoming Valley levee raising project is necessary to the completion of the flood control project of 1986, so that the families and businesses of Wyoming Valley will not have to withstand the devastation of flooding as they did in 1972 from Tropical Storm Agnes. This January's flooding forced more than 100,000 people to evacuate their homes and businesses and resulted in President Clinton's declaring it a disaster area. Such a flood control project is vitally important to the affected communities along the Lackawanna River and is deserving of significant attention from the Congress. This February, the corps approved the General Design Memorandum and has begun to develop the mitigation measures for the downstream communities. This legislation incorporates an amendment offered on my behalf in the Senate managers' amendments which directs the corps to take responsibility for funding the upgrades to the storm water pumping stations.

Finally, I have worked closely with Senator SANTORUM, Congressman JOSEPH MCDADE, Chairman CHAFEE, and Scranton Mayor Jim Connors on legislation authorizing the modification of the ongoing project for flood control along the Lackawanna River in Scranton to include the Diamond Plot and Green Ridge neighborhoods. These neighborhoods have been consistently damaged by flooding, including in 1985, 1986, 1993, and 1996. On March 11, 1996, I convened a meeting in the city council chambers so Federal, State, and local officials, the Army Corps, and residents could discuss the potential for a Federal flood control project. I came away from that meeting even more impressed with the need for the Federal Government to respond with a substantial flood control effort to protect the lives and property of the residents.

The conference report authorizes the flood control project in the Plot and Green Ridge areas, with the cost-sharing element to be worked out between the Army Corps of Engineers and the city of Scranton. This is a creative solution to a difficult problem and I am hopeful that the city and the Commonwealth will work together to develop a strategy for providing the non-Federal share of the project costs. It is worth noting that the fiscal year 1997 energy and water appropriations bill contains $600,000 for initial planning and design work of the Plot/Green Ridge projects, which means that additional time will not be lost on protecting the residents of those areas.

Mr. President, thousands of families and businesses in Pennsylvania were adversely affected by in this January's floods, and one of my priorities has been that Congress respond with sufficient funding for justified Army Corps projects. I remain concerned with the time it takes to make progress on various corps projects in Pennsylvania and will continue to explore ways to streamline the construction process. In the meantime, this legislation allows much-needed flood control projects to go forward and thus deserves our support.

Mr. KEMPTHORNE. Mr. President, I am pleased today to support the Water Resources Development Act of 1996 and I would like to congratulate the conferees of the Environment and Public Works Committee for their fine work supporting the Senate's position on this bill.

I also want to thank the conferees for supporting my amendments to that bill. Specifically, the committee supported research and development programs to improve salmon survival and supporting the continuing presence of the dredge fleet in the Columbia River.

By now everyone in the country knows the immense challenges we in the Northwest face concerning salmon survival in the Columbia and Snake Rivers. The puzzle of salmon survival is a complex one which has its roots in not only the water projects on the Columbia and Snake Rivers but also on the coasts and in the open ocean. Although a great deal of money has been spent on salmon survival, I was surprised in hearings before the Drinking Water, Fisheries and Wildlife Subcommittee that sometimes basic research into salmon survival is either not done or waits until adaptive management techniques are implemented.

The intent of my amendment was to ensure that basic research into marine mammal predation, spawning and rearing areas, estuary and near ocean survival, salmon passage, light and sound guidance of salmon, surface collection, transportation, dissolved gas monitoring, and other innovative techniques to improve fish survival does not have to wait until an adaptive management experiment is initiated.

Adaptive management should be a response to sound science not a substitute for it. A $10 million authorization is provided for this research.

The amendment would also ensure a continuing authorization for advanced turbine development. One of the most overlooked sources of renewable energy in the Nation's energy arsenal is hydroelectric power. New research into turbine design has been for the most part overlooked. With the environmentally and fish friendly turbine design research authorized by this bill we can ensure that innovative, efficient, and environmentally safe hydropower turbines will be providing us with the next generation of power into the 21st century. A $12 million authorization is provided for this research.

Finally, the Water Resources Development Act includes language which ensures the continued presence of Army Corps of Engineers hopper dredges in the Pacific Northwest. I thank the conferees and Chairman CHAFEE for including language in the bill which directs the Secretary to not reduce the availability or utilization of Federal hopper dredge vessels on the Pacific coast below 1996 levels. I appreciate the conferees working closely with me to develop language that would ensure that the necessary resources remain available to keep the Columbia River channel open to commerce of up river cities, including Idaho's inland port of Lewiston.

I wholeheartedly support this legislation and I thank the conferees for their consideration of my concerns.

WHITE RIVER BASIN LAKES, ARKANSAS AND MISSOURI

Mr. BOND. Mr. President, section 304 of this legislation includes ''recreation and fish and wildlife mitigation'' as purposes of the White River Basin Lakes project approved June 28, 1938 (52 Stat. 1218.). There are some in my State who have voiced strong concern that this provision may impact adversely the currently authorized project purposes of flood control, power generation, and other purposes. They fear that the outcome may be loss in generation capacity or energy production which would increase the costs to ratepayers and adversely affect the region's citizens.

The Senate language, however, explicitly authorizes these new purposes ''to the extent that the purposes do not adversely impact flood control, power generation, or other authorized purposes of the project.'' Is it the intent of the Senators from Arkansas, who sponsored this provision, that this provision forbids any adverse impacts on currently authorized projects?

Mr. BUMPERS. The Senator from Missouri is correct. We drafted this language to explicitly preclude adverse impacts to flood control, power generation, and the other project purposes. It is the clear intent of this legislation to recognize the contribution of tourism and recreation to the economies of our respective States and to take such actions as may be proper to protect that contribution. It is equally clear that such action can occur only as long as the primary project purposes, previously established by law and practical application of that law, are fully protected.

It should be remembered that prudent use of our Nation's water resources is not limited to a few specific purposes that are mutually exclusive of one another. In addition, we must also recognize that, at times, the establishment and protection of priorities are also proper elements of public policy. Such is the case here. It is true that the tourism and recreation industries have grown beyond the expectations of anyone associated with the original construction of flood control and power generation facilities along the White River. However, this does not mean that our continuing support for flood control and efficient power generation has diminished in any degree.

I have long been one of the strongest supporters in the U.S. Senate of hydroelectric power generation. It is one of the most efficient and environmentally based sources available to our ever-growing demand for energy. Reasonable electric rates are critical to economic development and a comfortable standard of living for our people. I understand the concerns of those involved with power generation along the White River that the inclusion of recreation as a project purpose may somehow impair their access to an efficient and affordable energy source. Let me clearly state that these concerns are totally unnecessary.

The provision before us plainly prohibits any adverse impact to power generation. We clearly recognize the customary practices employed by the Corps of Engineers and power generators along the White River which have achieved proper resource conservation, energy output, and ratepayer equity. In no way should those practices be impaired or restricted by this provision. Instead, we have made certain that power generation, along with flood control and other prior purposes and practices, will remain intact.

Mr. PRYOR. Mr. President, I join my colleague from Arkansas to express thanks to the Committee on Environment and Public Works for including the language in section 304 of the Water Resources Development Act relating to the project purposes of the White River Basin Lakes in Missouri and Arkansas. This is a significant development for the tourism and recreation industries in our States.

In Arkansas, tourism has become the second leading industry, directly behind agriculture, in terms of its impact on State and local economies. Nowhere is it felt more strongly than in the White River Basin. And it is not just the local economies that feel the impact. The tax revenues generated return to the Federal treasury an amount far exceeding the Federal investment.

The White River Basin Lakes were authorized during an era when our Nation's needs and economies were quite different from today. While the Congresses of the 1940's were visionary and accomplished many positive things for our Nation in terms of flood control, and later power generation, it would have been impossible for them to imagine the development of tourist industries, such as Branson, MO, that would be affected by these lakes. It would have been impossible to know that millions of visitors each year would spend untold millions of dollars on recreation related goods and services.

I am aware of the concerns of power suppliers in both States who worry that this language will somehow subordinate power generation at these dams to recreation interests. Mr. President, as we read this language, it is absolutely clear that flood control and power generation will not be adversely affected by any actions that this legislation authorizes the Army Corps of Engineers to undertake. This language simply grants a place at the table to recreation, tourism and fish and wildlife interests. It allows the Corps of Engineers to consider impacts on these interests when making decisions about the management and operation of these lakes. This is long overdue.

Mr. INHOFE. I too am concerned that this language not adversely impact flood control, power generation capacity, energy production, Federal revenues or other authorized purposes. Has the Senator from Arkansas been in contact with the Corps of Engineers to this regard?

Mr. BUMPERS. My office has contacted representatives of the Corps of Engineers and they share our interpretation that this provision, as drafted, cannot adversely impact ratepayers. As stated by my colleague from Arkansas, we have no intention that this provision will raise rates, affect energy production or federal revenues or any other project purposes currently authorized. Conversely, it is our strong view that there are measures that can be taken to assist the tourism and fish and wildlife interests that do not impact adversely the existing project purposes. It is not our intention to have this provision result in loss of generation capacity or increase exposure to ratepayers. It was for this reason that we drafted the language in such an explicit manner.

Mr. BOND. Mr. President, is it the interpretation of the distinguished chairman of the Committee that the clear priority project purposes remain flood control, power generation capacity, energy production, Federal revenues, and those other purposes authorized subject to the 1938 law and that the additional authorization included in this legislation shall be secondary should there be any conflict between them, and the current operation of the projects for the purposes of flood control and power shall remain project priorities?

Mr. CHAFEE. The Senator from Missouri is correct. The project priorities are clear.

Mr. BOND. Mr. President, I appreciate the consideration of the Senators from Arkansas, Senator INHOFE from Oklahoma and the chairman of the Committee. Hydropower is critical to the citizens and economies of our states. I understand that power producers have been working already with fish and wildlife specialists to accommodate their interests. As this project proceeds, I will watch with great interest to see that fish and wildlife interests can be served additionally without undermining the clear and explicit intent of this provision.

Mr. CONRAD. I notice that the chairman of the Senate Committee on Environment and Public Works is on the floor. I would like to engage him in a short colloquy.

As you know, section 336 of the Water Resources Development Act of 1996 authorizes $34 million for the Secretary of the Army to acquire, from willing sellers, permanent flowage and saturation easements for lands within and contiguous to the boundaries of the Buford Trenton Irrigation District, North Dakota. These flowage easements are to compensate landowners for land that has been affected by rising ground water and the risk of surface flooding due to the operation of the Garrison Dam on the Missouri River. The corps began operation of this dam in 1955.

In acquiring these easements, this provision specifies the Secretary shall pay an amount based on the unaffected fee value of the lands, meaning the value of the lands as if unaffected by rising ground water and the risk of surface flooding. Would the chairman agree that it is the intent of Congress that the unaffected fee value of the land be based on the current fair market value of the land as if unaffected by rising ground water and the risk of surface flooding, and not the value of the land before the Garrison Dam was operational?

Mr. CHAFEE. I would agree with the Senator that the intent of Congress is to compensate these landowners, as necessary, for damages due to the operation of the Garrison Dam using the current fair market fee value of the land. The Secretary shall value the land using current fair market rates as if the land has not been affected by rising ground water and the risk of surface flooding, and would compensate the landowners based on this price assessment. The Secretary should not value this land at the pre-project rate.

Mr. CONRAD. I thank the chairman for clarifying the intent of Congress regarding the purchase of flowage easements for lands in and adjacent to the Buford Trenton Irrigation District. I also want to thank the chairman for his efforts in passing this important legislation during the 104th Congress.

Mrs. BOXER. Will Senator CHAFEE, the distinguished chairman of the Environment and Public Works Committee, yield for a question?

Mr. CHAFEE. I will be happy to yield to the Senator from California.

Mrs. BOXER. I first want to thank the chairman as well as Senator BAUCUS, the ranking Democrat, and Senator JOHN WARNER, the chairman of the Transportation and Infrastructure Subcommittee, for their determination to bring the Water Resources Development Act to conference. They have crafted a bill and a conference report that will mean for my State of California strong economic progress by opening our ports to more international trade, protecting our people from natural disasters while providing opportunities to preserve and enhance the environment.

I would like to focus on one provision of the bill involving the American river watershed. Mr. President, subparagraph D of this provision states:

> The non-Federal sponsor shall be responsible for . . . 25 percent of the costs incurred for the variable flood control operation of the Folsom Dam and Reservoir.

Therefore, I interpret this to say that the local, non-Federal share of the costs of the variable flood control operation of Folsom Dam is not to exceed 25 percent.

It is also my understanding that it is the intent of the conferees that the remaining 75 percent of the costs associated with the variable flood control operation of Folsom Dam and Reservoir be the responsibility of the United States and that such costs shall be considered a nonreimbursable expense. In other words, these costs should not be passed on to the water and power ratepayers of California. May I ask the chairman if my understanding of the language is correct?

Mr. CHAFEE. Yes, the intent here is to ensure that the costs associated with the variable flood control operation of Folsom Dam and Reservoir be shared between the non-Federal project sponsor and the Federal Government. The cost of the provision of interim flood protection to the citizens of Sacramento is to be shared.

Mrs. BOXER. I thank the Senator from Rhode Island for this clarification, and ask if he would yield for a question on another provision.

Mr. CHAFEE. I will be happy to yield.

Mrs. BOXER. The Water Resources Development Act authorizes construction of the San Lorenzo River flood control project. The authorization includes critical habitat restoration, which is to done in conjunction with the flood control portion.

It is my understanding that the Army Corps of Engineers has completed the prerequisite studies for this restoration under the section 1135 environmental restoration program. In addition, the fiscal year 1995 and 1997 energy and water appropriations bills direct funding for this project through the section 1135 program. Further, it is my understanding that the intent of the conferees that the authorization of this project will allow the use of section 1135 studies as well as funding so that there is no further delay in the engineering, design, and construction of this project. Is my interpretation correct?

Mr. CHAFEE. Yes, the intent here is to include the habitat restoration work as part of the authorized project. Studies which have been completed by the Secretary for the habitat restoration should be put to use. Similarly, appropriations approved by Congress for the project should be made available to avoid unnecessary delay.

Mrs. BOXER. I thank the chairman for his responses and for his continued leadership in water resource development and environmental protection.

THE LA FARGE DAM

Mr. FEINGOLD. Mr. President, I want to express my strong support for the conference language in the 1996 Water Resources Development Act reauthorization [WRDA] that deauthorizes the La Farge Dam and Lake project. I wish to commend the hard work of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BAUCUS], the Senator from Virginia [Mr. WARNER], and their staff in completing the conference on this measure in a timely fashion prior to the adjournment of the 104th Congress. I have also been very pleased with the collegial work that has taken place among the Members of the Wisconsin delegation—Representative GUNDERSON, Senator KOHL, and myself—in steadfastly pursuing this deauthorization this year.

As I stated when this measure passed the Senate in July 1996, I am pleased that the Congress is finally acting to end this controversial project and to seek a new beginning for the Kickapoo Valley. We are finally able to say to the people of the Kickapoo Valley that the Federal Government can act to improve their lives and correct a situation that has long been the symbol, to many in the area, of a broken promise. This legislation will allow the property to be managed jointly by a local government panel comprised of local, State and tribal representation. It will be the first time in our State's history that these three different levels of government will work together to manage a property to preserve its ecological integrity while allowing the public access to the outstanding recreational opportunities.

I wanted to briefly review the details of the conference agreement with respect to this project. Under this legislation, the 8,569 acres of land purchased by the Federal Government for the construction of the La Farge Dam and Lake project will be transferred to two owners: The State of Wisconsin and the Ho Chunk Nation, a federally recognized tribe in my State. The Ho Chunk Nation will receive no more than 1,200 acres in the transfer of culturally and religiously significant sites, and the State will receive the rest.

This transfer will occur once the State and the tribe enter into a memorandum of understanding [MOU]. That MOU must ensure that the property is developed only to enhance outdoor recreational or educational purposes, described how the lands will be jointly managed, protect the confidentiality of sites of cultural and religious significance to the Ho Chunk as appropriate, and establish the terms by which the agreement will be revisited in the future.

I am particularly pleased that the conference committee was able to include a $17 million authorization for improvement projects at this site, an authorization which was supported by the Wisconsin delegation and the local community. These improvements include: Reconstruction of the three roads; remediation of old underground storage tanks and wells on the abandoned farms; and the stabilization of the old dam site.

Next month, members of a gubernatorially appointed negotiating panel will meet with representatives of the Ho Chunk Nation to begin the MOU negotiating process. Bolstered by the passage of this legislation, I know they will try to work as swiftly as possible to complete their task.

In conclusion, Mr. President, I again want to express my gratitude to the members of the conference committee for their assistance in working with the delegation on this matter. I believe that this legislation will result in a truly landmark arrangement for the management of a public recreational area. I look forward to the final establishment of the Kickapoo Valley reserve, and the protection of this truly outstanding resource.

I first introduced legislation, S. 2186, to achieve this goal on June 14, 1994, and reintroduced that measure as S. 40 on January 4, 1995. It is a great pleasure to see this measure finally enacted.

Mr. LOTT. Mr. President, I ask unanimous consent that the conference report be considered adopted, the motion to reconsider be laid upon the table, and that statements relating to the report be placed at this point in the RECORD.

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

The conference report was agreed to.

## UNANIMOUS-CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 3539

Mr. LOTT. Mr. President, I ask unanimous-consent that the Senate turn to the consideration of the conference report to accompany H.R. 3539, the FAA reauthorization bill, and the reading of the conference report be waived.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object.

The PRESIDING OFFICER. The acting leader.

Mr. FORD. Mr. President, I know there will be an objection after I make my statement, and I regret that. We have worked long and hard to bring this FAA reauthorization bill to the floor. I have worked years on it, along with the occupant of the Chair. We have security in there. We have funding for airports. We have the money to cover letters of intent. All of this is extremely important. And one item in this bill is going to bring it down.

I wish it was not in there. I wish we did not have it, but it is there. And I hope that those that object to that portion of it would just give us an up-and-down vote. The House did that. And why we could not have an up-and-down vote—based on the content of the bill, if you are opposed to all of this, all the funding for the airports, all the security, and opposed to all the money going to your airports, opposed to essential air service, all these things, then you have to vote no on the whole bill for this one item.

Mr. LOTT. Mr. President, if I could just make a comment before there is objection, if there is in fact going to be objection, to be heard further in support of my unanimous-consent request. I want to thank the Senator from Kentucky for his good work on this legislation. It has been a long time coming. He and Senator MCCAIN and Senator STEVENS and others have worked very hard.

You have an outstanding bill here. In less than 72 hours the Federal Government's authority to provide critical funding to airports across the country and our national air transportation system will expire unless we pass this FAA reauthorization bill. I am talking about over $9 billion annually for the national needs, such as air traffic control, repair, maintenance and modernization of our air traffic control equipment, repair and construction of runways, taxiways, and other vital aviation infrastructure, the purchase of critical firefighting equipment at our Nation's airports. And the list goes on. I mean, this is also very much a question of safety.

Mr. FORD. No question about it.

Mr. LOTT. Mr. President, the recent tragic aircraft accidents, and continuing reports of power outages and equipment failures in our air traffic control centers, have raised questions about the safety of our Nation's air transportation system and the effectiveness of the Federal Government in safeguarding the traveling public.

We must do our part to reassure the traveling public that we have the world's safest air transportation system. This comprehensive legislation will go a long way in reassuring the public that the system is safe, and ensure the FAA will have a stable, predictable, and sufficient funding stream for the long term. Again, the FAA bill will:

Ensure that the FAA and our Nation's airports will be adequately funded by reauthorizing key FAA programs, including the Airport Improvement Program, for fiscal year 1997;

Ensure that the FAA has the resources it needs to improve airport and airline security in the near term;

Direct the National Transportation Safety Board to establish a program to provide for adequate notification of and advocacy services for the families of victims of aircraft accidents;

Enhance airline and air travelers' safety by requiring airlines to share employment and performance records before hiring new pilots;

Strengthen existing laws prohibiting airport revenue diversion, and provide the FAA with the tools they need to enforce Federal law prohibiting revenue diversion;

Most important, provide for thorough reform, including long-term funding reform, of the FAA to secure the resources to ensure we continue to have the safest, most efficient air transportation system in the world.

To assure air travelers and other users of our air transportation system that safety is paramount, the bill:

Requires the FAA to study and report to Congress on whether certain air carrier security responsibilities should be transferred to or shared with airports or the federal government;

Requires the National Transportation Safety Board [NTSB] to take action to help families of victims following commercial aircraft accidents;

Requires NTSB and the FAA to work together to develop a system to classify aircraft accident and safety data maintained by the NTSB, and report to Congress on the effects of publishing such data;

Ensures that the FAA gives high priority to implement a fully enhanced safety performance analysis system, including automated surveillance;

Bolsters weapons and explosive detection technology through research and development;

Improves standards for airport security passenger, baggage, and property screeners, including requiring criminal history records checks;

Requires the FAA to facilitate quick deployment of commercially available explosive detection equipment;

Contains a sense of the Senate on the development of effective passenger profiling programs;

Authorizes airports to use project grant money and passenger facility charges [PFC] for airport security programs;

Establishes aviation security liaisons at key Federal agencies;

Requires the FAA and FBI to carry out joint threat and vulnerability assessments every 3 years;

Requires all air carriers and airports to conduct periodic vulnerability assessments of security systems; and

Facilitates the transfer of pilot employment records between employing airlines so that passenger safety is not compromised.

The bill also expands the prohibition on revenue diversion to cover more instances of diversion and establishes

clear penalties and stronger mechanisms to enforce Federal laws prohibiting airport revenues from leaving the airport. ''It is fundamental that we reverse the disturbing trend of illegal diversion of airport revenues to ensure that airport revenues are used only for airport purposes,'' said McCain.

''We must do our part to reassure the traveling public that we have the world's safest air transportation system,'' concluded McCain. ''This comprehensive legislation will go a long way in reassuring the public that the system is safe, and ensure the FAA will have a stable, predictable, and sufficient funding stream to be the long term.''

Each of these elements of H.R. 3538 is essential to fulfill Congress' responsibility to improving our country's air transportation system.

Clearly, Congress, the White House, DOT, the FAA, and others throughout the aviation industry have been under close scrutiny regarding the state of the U.S. air transportation system.

The traveling public has told us they are worried about the safety and security of U.S. airports and airlines, and the ability of the Government to alleviate these concerns. Recent tragic events suggest that this apprehension is justified, and we have been strongly encouraged to correct the problems in our air transportation system. The FAA bill will go a long way toward making the system safer and better in every way.

The American people demand we get this done, and they deserve no less.

It really alarms me that we have cut it this close. It looks like there may be objection. In fact, the recent tragic aircraft accidents and the continuing reports of power outages and equipment failures in our air traffic control centers have raised all kinds of questions that we are trying to address with this bill.

So I think we need to move it forward. There are so many good parts of this bill. It is so essential. It does have so many safety ramifications that I hope that we could move it forward in a unanimous way.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Reserving the right to object for a moment, let me just say that I am intrigued by the conversation and am concerned about the airline safety issues, the funding. I am very concerned about those issues. I want this bill to pass too.

So why in the world, yesterday, just yesterday, under the guise of a technical correction to the Railway Labor Act, was an unacceptable and very controversial special interest provision added to this bill? It was not because of airline safety. It was not because of funding for the airports. And it was not a technical correction.

The provision makes a significant change in Federal law to give Federal Express an edge in its current attempt to stop some of its employees from joining a union. That is what is so all-fired important here and had to be put in yesterday in a bill that we are being told has to pass because of airline safety. That is the issue. Let us just get this out of there. That is what that provision is about. It has nothing to do with airline safety.

Mr. President, because of what really has happened here, I object.

The PRESIDING OFFICER. Objection is noted.

## PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. LOTT. Mr. President, I also want to comment, if I could, on the objections that we heard earlier today to the omnibus parks bill, commonly referred to as the Presidio bill. I might say to the Senator from Kentucky, this is not a unanimous- 6Ysent request. I just want to make a brief statement.

Mr. FORD. That is fine.

Mr. LOTT. I would be glad to yield further.

Mr. FORD. Go ahead.

Mr. LOTT. On the Presidio bill there has been objection now from our Democratic colleagues to turning to that omnibus bill. We had tried to dispense with the reading and recommit the conference report back to the conference in order to take care of a provision in there that had raised concern, the tax provision. And I thought at one point, I guess 24 hours ago now, that we were going to be able to get agreement on both sides of the aisle to recommit that conference report and take care of the problem and then move this very important parks bill forward that affects 41 States, contains 126 separate provisions relating to parks and public lands.

This is the most important parks bill we have had in probably 4 years. It does have a lot of very important areas involved that need to be preserved, from battlefield sites to the Sterling Forest site that affects the New Jersey and New York area, the tall grass project out in Kansas, as well as the Presidio, and some very important projects in the State of Alaska. I know the distinguished Presiding Officer certainly cares an awful lot about that and the chairman of the committee.

So I do not understand what is going on here. I understand from the administration that they have a list of their preferred projects, that they say, ''Oh, well, we'll take these and no more.'' Well, probably those projects that they say they cannot be included, they are good projects, most of them, they are projects from Democrats and Republicans.

There has been a continuing effort to work out something on this. I am astounded we are going to leave and not get this done. But we are not going to be able to put this whole bill in the continuing resolution. If we do not move it separately as an omnibus bill, then we will have no parks bill this year.

There was an effort maybe just to include one or two projects. I understand that has been objected to from the administration. I do not know where we go from here on this very important legislation but time is certainly running out.

I think it is once again going to be a tragedy, like the FAA reauthorization. In an effort to force an effect, a unionization of a company, they are going to bring down the whole FAA infrastructure. I do not understand that. And now in order to block two or three minor projects, we are going to have the whole parks bill go down?

Here is another thing about that. It is the continuing process of how when we meet objections the goalposts move. We were told on the illegal immigration, the Gallegly section is the problem. ''We'll veto it over that.'' Well, we took it out. They said, ''Wait a minute. We have some other problems.'' Same thing on this bill. We were told there were certain projects, three or four that were major problems. The chairman took them out. Then they said, ''Oh, well. No. We have 50 other projects that we have problems with.''

Mr. President, we have to have, in these final hours of the session, good faith, and we have to be prepared to stick with what we say we have to have when that is done, and not keep saying then you have to have something else. It is a very disappointing way to wind up this session.

I yield to the Senator from Alaska.

Mr. MURKOWSKI. Relative to reviewing the list of 126, it affects Senators from Oregon, Utah, Virginia, California, Alaska, Louisiana, Mississippi, Maine, Vermont, Idaho, Washington, Missouri, to name a few, and in some cases, parks in every State. These are States affected by the administration's announcement last night they wanted 46 more out. These are the States that are affected. This is after an extended hearing process. We reported these out, and we have withdrawn those the administration initially listed as objections that they would veto.

I have personally met with my conferees by telephone relative to trying to clear this, and as the leader has pointed out, a technical correction in the House has been taken care of. We can pass this. We can move it right now if there is no objection. Otherwise, we will have to wait for another session, the 105th Congress, to start this process that we spent over 2 years on, which benefits virtually every State in the Union with very meaningful projects, including the Presidio and cleaning up the San Francisco Bay area.

I urge the leader to continue to work in every manner, because time is running out on the biggest and most important parks public land package in two decades. We are ready to move forward and pass this legislation. If we cannot proceed, it would truly be a shame, because on both sides, Democrats and Republicans will not see—

Mr. LOTT. Will the Senator yield?

Mr. MURKOWSKI. I am happy to yield to the Senator.

Mr. LOTT. I thought there was going to be a meeting last night between key players on both sides of the aisle to meet with the administration and see if some compromise could be worked out. I am told that meeting never occurred.

Mr. MURKOWSKI. The majority leader is correct. We were ready to have the meeting, and we were advised by the White House representative that they had no authority and were not familiar with the specifics of the bill and they wanted us to submit a bill, items which we would agree to take out.

As chairman of that committee I feel a responsibility, bipartisan, both Democrats and Republicans, to try to represent them in a conference mode as opposed to arbitrarily taking out their sections to accommodate the administration.

We have, for Senator HEFLIN, who is retiring, Selma to Montgomery Historic Trail designation, the historic black college funding; for Senator SIMON and Senator MOSELEY-BRAUN, the Illinois and Michigan canal, Calumet Ecological Park study; for Senator JOHNSTON and Senator BREAUX, Civil War Center, Louisiana University, the Laura Hudson Visitor Center; Senators KENNEDY and KERREY, and retiring Congressman STUDDS, Boston Harbor Islands park establishment, Blackstone heritage area, New Bedford establishment.

I cannot understand why, after all this work, there is still objection. I encourage the majority leader to continue to work on, and I stand ready to try to meet the objections of my colleagues. I understand there is a hold now from the administration, and I think it is fair to say we have an obligation, certainly, relative to a process here, and as an authorizer, if the White House is going to line-item veto everything, we might as well go out of business.

I encourage the majority leader to continue the effort because we are not very far away, and I stand ready to be here all night if necessary, come in and meet with any group, to try to address this.

I thank my colleague.

Mr. LOTT. I yield to the Senator from Oklahoma.

Mr. NICKLES. One, on the parks bill, I want to commend Chairman MURKOWSKI and other members on the Energy Committee who worked hard to make this happen. This is a large bill, and unfortunately now it has a lot of items throughout the year that many of us have been working on for a long, long time.

The Senator from Alaska has been generous enough to withdraw one of the bills he felt very strongly about, that was important to his State, so we could get it signed. I asked him to do that. I appreciate his willingness to do it.

The Senator from Minnesota dropped an item. Again, we heard it being in there meant it would be vetoed, so we dropped two or three of the most contentious items. We dropped a project in Utah that, again, other people talked about would bring a certain veto.

Now, all of a sudden—we thought we had really taken away the veto objective so we could pass this bill. I committed to the Senator from California that I would try to help pass the Presidio bill this year. I want to maintain that commitment. I would like to pass this bill.

I urge my colleagues to work together. This bill has been put together in a bipartisan fashion. I have not counted up the number of Democrat and the number of Republican bills, but there are a lot on both sides of the aisle that impact parks all across the country and most of the States across the country. It would really be a shame to have that much work and that much time invested in that bill not to see it passed this year.

I compliment my colleague from Alaska and also the majority leader. I hope we will find a way to be able to work out the differences and pass this bill and get it signed into law before we adjourn the 104th Congress.

Let me make an announcement on behalf of the majority leader. I announce there will be no further rollcall votes tonight. The Senate obviously will be working tonight, in various conferences, trying to work out differences both on the continuing resolution and on the immigration and the parks bill. There will be work done tonight but there will be no further rollcall votes tonight.

I announce on behalf of the majority leader the Senate will reconvene at 10 a.m. tomorrow morning and we will try to give as much advance notice to all Senators prior to any recorded rollcall votes. As of now, there has not been one ordered, but Senators should stand on notice there may well be a recorded rollcall vote in the event we are able to come to an agreement on the continuing resolution, the parks bill or the immigration bill.

I thank my colleague from Kentucky.

Mr. MURKOWSKI. I wonder if I may be recognized for 1 minute relative to advising my colleagues of the status of the parks omnibus package.

It is my understanding that the appropriations subcommittee chairman has indicated it will not include specific items taken from the park omnibus bill and put on the appropriation CR. Now, that is a matter outside the control of the Senator from Alaska as chairman of the Energy and Natural Resource Committee. I think that has been clearly stated, and it has been reinforced by the Speaker of the House.

What I am encouraging, obviously, is that we proceed with this package. I agree, if it is in the interests of my colleagues to put the package on the appropriations as an entire package, I have no objection to that. Otherwise, the alternative is to proceed as we have, try to address the objections from the other side, and get on with it.

For those who think we will cherry pick it out and put specific portions on the appropriations CR and pass it there, that is not going to be an available alternative. We will simply lose for this year and have to start again. I hope that will not happen.

Mr. FORD. Mr. President, we are getting into a position where everybody seems to think we have to get out. Our salary still goes on. We still get paid whether we are here or not. I think we might as well stay here and earn our keep. We do not have to get out tomorrow. We do not have to get out Monday. We do not have to get out next Friday. We can go ahead and pass a continuing resolution and we could stay here and pass some bills or we can give a short-term continuing resolution for 3 or 4 days and we can work things out.

But we appear to be pushed up against a wall: you have to get out, got to do this, or it is dead. There is no such thing, unless the majority leader wants to take us out, and then things are dead.

I feel like we are being pushed awfully hard here just because tomorrow night we want to get out or Monday we want to get out. I understand everybody wants to go home and campaign. Let them go home and campaign, and the rest of us can stay here and work. That suits me fine.

## FAA REAUTHORIZATION CONFERENCE REPORT

Mr. FORD. Mr. President, I want to make one comment about the express carrier we got the objection on to the FAA. I have been advised by legal counsel—not representing either side in this controversy—that every fact of law has sustained the express portion of the ICC bill. It was to be in there because nothing should be narrower or wider. Nobody should get anything when they pass the ICC legislation.

So I understand where we are coming from, and I understand whose fight it is in. I hate to be in the catch-22. We can stay a while if that's what they want to do, offer a cloture petition, and we will have 30 hours, and we can drive right on. I don't mind staying here. I don't want to any more than anybody else. But if that's the way the game is going to be played, I understand how to play it. If we get 60 votes, then we will have to vote on it. If we have to vote on it and we pass it, then it goes to the President. That is the end of it.

If you want to stay around a while, keep objecting to this one, file a cloture petition, we will get cloture and get our 30 hours and do our thing around here, Mr. President.

## THE BOUNDARY WATERS CANOE AREA WILDERNESS

Mr. GRAMS. Mr. President, I rise today to speak on behalf of the people

of northern Minnesota about an issue that symbolizes for us the difference between what the role of government should be and what it has become. I am speaking, of course, about the current struggle to restore the rights of the citizens to have reasonable access to the cherished Boundary Waters Canoe Area Wilderness [BWCAW].

My colleague from northern Minnesota, Congressman JIM OBERSTAR, and I have unfortunately spent our days fighting a campaign of distortions and misinformation by a national coalition of special interest groups that want this national treasure for themselves: their private research territory not to be touched by what they view as the unclean, ignorant citizens of northern Minnesota. I believe a brief history of this controversy is needed if we hope to carry on an honest and reasonable debate on how best to resolve it.

In 1978, 1 million acres in northern Minnesota were designated by Congress as our Nation's only lakeland-based Federal wilderness area. By establishing the BWCAW, Congress rightfully acknowledged the need to protect the tremendous ecological and recreational resources within the area, with the understanding that it was to be a multiple-use wilderness area, as first envisioned by Senator Hubert Humphrey in 1964.

When Senator Humphrey included the Boundary Waters as part of the National Wilderness System, he made a promise to the people of Minnesota, saying ''The wilderness bill will not ban motorboats.'' It is safe to say that without that commitment to the people of northern Minnesota, this region would not be a wilderness area today.

In 1978, additional legislation was passed making further enhancements to the protection of the Boundary Waters, such as a justified ban on commercial activities like logging and mining. The 1978 law also limited recreational uses. For instance, motorboat users could only use 18 of the 1,078 lakes within the region.

Under the 1978 law, however, motorboat users were given the right to access some of these motorized lakes through three portage trails. Trucks and other mechanized means could be used to transport boats, canoes and people across the three portages from one lake to another. While many northern Minnesotans believed the 1978 law unduly restricted their boating privileges, they were comforted that these three mechanized portages would continue to allow reasonable access for everyone—from the young and the old to the strong and the weak—into many of these motorized lakes.

The intent of Congress was altered in 1993 when environmental extremists succeeded in a lawsuit to close these portages to mechanized transport. As a result of this court order, visitors can only transport their boats now by carrying them on their backs or with pieces of equipment which are pulled like a wagon. That is great fun for the young and strong, but wrenching work for those who are elderly, disabled, or traveling with children.

To illustrate the importance of allowing mechanized transport of boats over these portages, I wanted to show these pictures taken at Trout portage, one of the portages in question.

As you can see, the physical requirements of dragging boats across these portages have placed an obvious roadblock to the open access guaranteed to the public by law.

What is worse is that this court order came as the result of legalistic trickery by the radical environmentalists who filed the lawsuit—a deception they readily admit to and describe in great detail in a book they wrote entitled ''Troubled Waters.''

According to their book, the compromise worked out between the attorneys representing the radical environmentalists and the people of northern Minnesota, which was adopted in the 1978 law, allowed portages to use mechanized transport if the U.S. Forest Service determined that a feasible nonmotorized alternative could not be established.

In 1989, the Forest Service, after careful study, did in fact make that determination, thereby keeping the portages accessible to all.

But unbeknownst to the people of northern Minnesota, and apparently the U.S. Congress, the term ''feasible'' did not have the same meaning in environmental law as it does in everyday English.

According to ''Troubled Waters,'' a ''feasible'' alternative could, under law, permit something that was possible only from an engineering standpoint, regardless of whether it would take longer, be less convenient, or even be, and I quote the preservationists' own words, ''downright tortuous.''

The extreme environmentalists go on in their book to describe how their attorney did not even bother to tell the attorney representing the interests of northern Minnesota about their sleight-of-hand gamesmanship.

In other words, they purposely salted the deal with words they knew they would later challenge in court.

It was under this narrow interpretation of the word ''feasible'' that a federal appeals panel ordered the portages closed, after reversing a lower court decision which determined that a group of healthy, able-bodied people could not always transport these boats using muscle power and portage wheels. And so for four years, these portages have been effectively restricted from use by the elderly and disabled.

By the way, the word ''feasible'' means that the Ely football team or dog sleds can maybe help do this, but in other words it restricts an average person's ability to be able to get access to the park.

Since the court decision, the number of motorboats transported across these portages has significantly decreased.

Even more telling are the letters I have received from Minnesotans who have been shut out of the land they once called home.

John Novak, a veteran from Ely, MN, wrote me about his frustration with the closing of the portages, saying:

> I was good enough to go into the armed services for our country for 3 years back in the forties. Now that I am disabled, I am not good enough to get in the Boundary Waters Canoe Area Wilderness.

I received another letter from a young man from Virginia, MN, named Joe Madden who wrote ''I went to visit the Boundary Waters with my grandfather. We wanted to go fishing in Trout Lake, but we could not get there because we could not get my grandpa's boat over the portage.
open it up so Grandpa and I could go fishing?

These are just two of the many letters and requests sent to me by average, hard-working Minnesotans who have seen the promises made to them long ago by the Federal Government broken and forgotten over the years—people who rightfully believed that the Government was meant to work for them, but found out just the opposite.

It is these people—the men, women, and children of northern Minnesota—whose crusade Jim Oberstar and I have carried to the Halls of Congress in trying to reopen the three portages in the Boundary Waters.

In the 104th Congress alone, there have been a number of developments bringing us to the point at which we find ourselves today.

Eight Minnesota State legislators—all Democrats—asked me to request a field hearing on this issue.

The Senate Energy and Natural Resources Committee then held a field hearing in International Falls, MN, on issues surrounding the Boundary Waters and Minnesota's Voyageurs National Park.

A second field hearing was held in St. Paul at the request of my colleagues from Minnesota, Senator WELLSTONE and Congressman BRUCE VENTO.

This year, Congress has held three committee hearings in Washington on bills introduced by Congressman OBERSTAR and me to reopen the portages, and provide the public greater input into how the Boundary Waters and Voyageurs National Park are managed in the future.

At each of these hearings, a major display of opposition was organized by the extreme environmental special interests groups and their allies in Congress against our bills.

As a result, Senators with little knowledge or legitimate interests in the Boundary Waters were scripted to pronounce the bills dead on arrival and to make unbiased charges that we introduced our legislation for political reasons—criticisms which ignored the clear bipartisan nature of our work.

This organized campaign of disinformation and propaganda placed a significant obstacle against our hopes to move these bills through the committee process, leaving us and the taxpayers of Minnesota, who we represent,

with few legislative options to resolve the problems facing the people of northern Minnesota.

While many contentious issues surround the management of these two national treasures, no issue more perfectly symbolizes the failure of the Federal Government to live up to its proper role of serving the people than that of the three portages.

The same radical environmental individuals engaged in Senator WELLSTONE's mediation effort have claimed that any portage changes are ''non-negotiable.'' And yes, the same environmental lawyer who came up with the word ''feasible'' is part of this mediation effort. Congressman OBERSTAR and I persuaded the managers of the conference committee considering the omnibus parks bill to include a compromise provision which would reopen the Trout, Prairie, and Four-Mile portages to the elderly, disabled, and everyone who did not have a washboard stomach.

We hoped that at long last, the people of northern Minnesota would finally have their voices heard in Congress.

But once again, those same special interest groups—who had fooled the people of northern Minnesota in 1978, closed the portages in 1993, and used their influence to block our bills from the committee process this year—struck again, soliciting letters of opposition from Senators outside of Minnesota and even a veto threat from the White House.

The compromise was pulled out of the conference report late Tuesday night—and the people of northern Minnesota were shut out once again.

I am disappointed by this turn of events—not so much for myself and Congressman OBERSTAR, though we have put much time and effort to get the portages reopened—but rather for John Novak, Joe Madden, and the thousands of northern Minnesotans who were counting on this Congress to begin righting the wrongs of the last two decades.

You see, we in Minnesota still honestly believe in the words of President Lincoln that this is a ''government of the people, by the people, and for the people.''

These words and the principles of democracy they embody have been passed down from generation to generation—the uniquely American idea that Government should work in the interests of the people, not against them.

But somewhere down the line, that idea was forgotten by those Federal officials and bureaucrats who have been serving the radical environmental cabal, rather than for those hard-working taxpayers in northern Minnesota who ask for so little.

It is not surprising that the people of northern Minnesota are questioning just whom the Federal Government really serves.

It was President Clinton—yes, the same President Clinton whose White House threatened to veto the portages compromise—who said ''There is nothing wrong with America that cannot be fixed by what is right with America.'' In taking up the cause of the people of northern Minnesota, I embrace those words and only slightly modify them to say ''There is nothing wrong with the federal government that cannot be fixed by what is right with the American people.'' And it is what is right about our fellow Americans that keeps me hopeful that we will indeed resolve this issue in a way that best suits those Minnesotans who I am proud to represent in the Senate.

We may not have the money that the radical environmentalists do, or have at our disposal the highly-paid lobbyists and lawyers who are working against us—but we do have something more important than all of that. We have the truth on our side. And we are working for the same thing every American wants from our government: accountability to the people.

Accountability means balancing the protection of our pristine wilderness with the rights of the people to enjoy our natural resources. It means restoring the promises made in the past and establishing a partnership with the people to ensure those promises will be honored in the future. And it means keeping the Federal Government in check to guarantee that it works for the best interests of the people.

We who love the Boundary Waters Canoe Area Wilderness are working toward—and will continue to work toward—those goals. I am pleased to have a commitment from the distinguished chairman of the Senate Energy and Natural Resources Committee for an early markup of this common-sense reform effort in the next Congress. We will not stop our efforts until the principles of democracy are embodied in the future management of this beautiful national treasure. The people of northern Minnesota will have their voices heard in Congress, past injustices will be remedied, and the promises made so long ago by Senator Humphrey will be kept.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes according to the previous order.

## NOMINATION OF NAVY CAPT. JEFFREY A. COOK

Mr. GRASSLEY. Mr. President, I want to discuss an issue I have with the Armed Services Committee.

On May 15, 1995, I wrote a letter to the chairman of the Committee, my friend from South Carolina, Senator THURMOND.

This was a very important letter.

It concerned the nomination for promotion of Navy Capt. Jeffrey A. Cook.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

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

CHARLES E. GRASSLEY,
U.S. SENATE,
*Washington, DC, May 15, 1995.*

Hon. STROM THURMOND,
*Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR STROM: I am writing to raise questions about the pending promotion of Navy Captain Jeffrey A. Cook to the rank of rear admiral (lower half).

My questions about Captain Cook's fitness for promotion pertain to his service as the A–12 class desk officer during the period 1987 to 1990. In that capacity, he was the chief engineer for the A–12 stealth bomber program and the principal adviser for engineering matters to the A–12 program manager, Captain Lawrence G. Elberfeld.

A–12 CRIMINAL INVESTIGATION

The main source of my concern about Captain Cook's qualification for promotion are the results of a criminal investigation. The investigation was conducted by the Chicago Field Office of the Defense Criminal Investigation Service, Department of Defense Inspector General (IG). The report on the investigation is dated April 20, 1994, and carries the designation 9011045M–20–SEP–90–40SL–E5A/D.

The purpose of the criminal investigation was to examine allegations that ''U.S. Navy and DOD [Department of Defense] officials may have concealed or conspired to conceal, or otherwise thwart, the dissemination of adverse A–12 program information to the DOD and to Congress.''

The investigation found several specific instances in which former Secretary of the Navy H. Lawrence Garrett and other Navy A–12 program officials ''withheld, concealed, and/or suppressed adverse A–12 program information'' from cognizant DOD and Navy oversight personnel and from Congress. Both Mr. Garrett and Captain Elberfeld are accused of withholding relevant documents and material during an official inquiry and subsequent congressional oversight hearings. Worse still, the report suggests that Mr. Garrett may have in fact destroyed important evidence during the criminal phase of the investigation.

Based on the results of the investigation, the Inspector General concluded there were reasonable grounds to believe that Federal criminal law had been violated. Therefore, all the detailed information related to the actions of Secretary Garrett were referred to the Department of Justice for possible prosecution. Similarly, the case against Captain Elberfeld was referred to the Office of the Judge Advocate General of the Navy for possible court-martial. Captain Elberfeld was suspected of violating various articles of the Uniform Code of Military Justice, including article 907—pertaining to false official statements. In both cases, a decision was made not to prosecute.

CAPTAIN COOK'S POSSIBLE ROLE IN A–12 COVER-UP

Now, this is the issue that must be addressed on the pending nomination: Did Captain Cook allow himself to be drawn into the web of deceit spun out by former Secretary Garrett and Captain Elberfeld? Was Captain Cook a willing or unwilling participant in

the scheme to withhold and conceal adverse information on the A–12 program?

On the surface, Captain Cook's performance appears to have been exceptional. He is the only Navy official I know of who was critical of the program, and the investigators say he is the only person who was ''open and cooperative'' during the probe. His criticism came in the form of several briefings in which he ''identified severe technical problems with the A–12 program.'' These briefings are discussed in the IG's investigative report. His criticism was very much to his credit.

While his critical technical assessments were commendable, I fear they may have been nothing more than a clever bureaucratic ''cover-your-fanny'' operation. This is the scenario I visualize. Captain Cook would present a briefing identifying ''severe technical problems,'' but in the face of opposition and pressure from Captain Elberfeld and more senior officers, Cook would quickly back down. Without further protest, Captain Cook would then join Captain Elberfeld in pumping out false and misleading status reports on the A–12. In the end, I think, Captain Cook acquiesced in the scheme to conceal adverse information on the program.

The incidents described on pages C29 to C31 of the investigative report seem to lend credence to idea that Captain Cook went along with the coverup.

On April 16, 1990, Captain Cook provided one of his briefings to a group of senior officers, including Vice Admiral Richard C. Gentz, Commander of the Naval Air Systems Command. In the briefing, he identified ''severe technical problems'' that could ''slip'' the program for at least one year. After hearing that piece of bad news, Admiral Gentz told Captain Elberfeld to ''re-assess'' the A–12 program and report back to him with solutions within 24 hours. As I understand it, Captain Cook helped Captain Elberfeld prepare a ''revised'' technical update briefing for Admiral Gentz. This is where Captain Cook seems to have taken a 180 degree turn in his thinking. He did an about-face and worked with Elberfeld late into the night, twisting and distorting the facts, turning his own assessment upside down, helping Elberfeld put a favorable spin on the status of the program. After their night of handy work, Admiral Gentz felt the one-year ''slip'' was unnecessary, leaving the money spigot wide open. That particular piece of work came at a very critical point in the program. (Refer to page C–31)

Captain Cook also participated in the confiscation and suppression of a devastating report on the A–12 program. This incident occurred in February 1990 and is described on pages C–29 to C–30 of the investigative report.

The highly critical evaluation was prepared by Mr. Ed Carroll, a civilian production analyst assigned to the Office of the Secretary of Defense. His report predicted a one-year ''slip'' in the program. The Carroll report was ''confiscated''—allegedly for a security violation—and ''relinquished'' to Captain Cook. He subsequently turned it over to one of his subordinates, Mr. John J. Dicks. When investigators discovered the Carroll report buried in A–12 program office files, attached to it was a handwritten note by Dicks. The note stated in part: ''Keep this package quiet and close controlled.'' As a result of Cook's actions, the highly critical Carroll report never saw the light of day. The handling of the Carroll report suggests to me that Captain Cook could have played a role in concealing adverse information on the A–12 stealth bomber.

HOLDING CAPTAIN COOK TO A HIGHER STANDARD

Strom, as I said, compared to other A–12 program officials, Captain Cook's performance was exceptional. It makes him look like a hero. But in making that comparison, we are holding him to a negative standard. A candidate for promotion to rear admiral must be held to a much higher standard—a standard of excellence. When that is done, I don't think Captain Cook measures up.

There is a fundamental principle of leadership: ''Seek Responsibility and Take Responsibility for your Actions.''

At the time, the A–12 was a top priority Navy program. As chief engineer on the project, he had identified a major technical problem that posed a very real threat to the viability of the whole program. It was a ''show stopper''—a problem that had to be fixed. He was responsible for developing a sound and timely solution to the problem. He had a responsibility to follow through. He was fully accountable for that problem. A man in his position should not wait for his superiors to tell him what to do. He needed to take the initiative and solve it—with the approval, of course, of his superiors. However, when those over him balked at his solutions but at the same time refused to even address ''show stopper'' problems, then he had a responsibility to confront them and push it up the chain of command. For example, he would have sent a written report up the chain of command to the top DOD acquisition ''czar''—if necessary, laying out his view of the problem.

Unfortunately, Captain Cook's protests ended where they began—in his briefings. Had he pushed them further up the chain of command, he would have run the risk of ruining his career. Doing the right thing almost always involves risks and even danger. Doing what must be done takes courage, commitment and integrity. Had Captain Cook pursued the more risky solution, he would have set an example of excellence. No aspect of leadership is more powerful that setting a good example. Had he done it, Cook would have been a role model for all to respect. Strom, we must judge Captain Cook against such a standard of excellence.

A candidate for promotion to rear admiral should demonstrate certain outstanding leadership qualities including courage, competence, candor, commitment, and integrity. In my mind, Captain Cook failed to demonstrate those skills as chief engineer on the A–12 project. His superior officers told him to do the wrong thing, and he did it. He failed to stick to his beliefs. He failed to act on the information he had. He failed to demonstrate a solid commitment to solving the engineering problems that he had identified and for which he was accountable.

OVERALL IMPACT OF A–12 MISMANAGEMENT

The failure of former Secretary Garrett, Captain Elberfeld, Captain Cook and others to confront major technical problems on the A–12 in an open, honest, and timely way has had a profound, long-term negative impact on the Navy.

The A–12 was supposed to begin replacing the Navy's aging fleet the A–6 bombers in 1994. That was last year. Well, there are no A–12 bombers in the fleet and never will be. All the money spent on the A–12—nearly $3.0 billion—was wasted. We have absolutely nothing to show for it.

The A–12 program was terminated for default in January 1991. Former Secretary of Defense Cheney killed the program because it was way over cost and way behind schedule, and no one could tell him how much money it would take to finish it. To make matters worse, the two A–12 contractors—McDonnell Douglas and General Dynamics—are suing the Government for billions. And the Government's case is weak. It's very difficult to blame the contractors for what happened when top Navy officials like Garrett, Elberfeld, and Cook all knew the program was in deep trouble but did nothing about it. They just kept shoveling more money at the contractors in the form of fraudulent progress payments—payments made for work that was not performed. In all probability, we are going to end up spending even more money on a dead horse—mainly because people like Garrett, Elberfeld and Cook didn't do their jobs. Had any one of them done the right thing, the A–12 might be in the fleet today.

Strom, I only ask that you review the IG's investigative report and determine what role, if any, Captain Cook played in the scheme to withhold and conceal adverse information on the A–12 program.

I also ask that Captain Cook's performance not be evaluated against the performance of the other A–12 program officers. I respectfully request that he be judged against a much higher standard of excellence. Please let me know what you decide.

Your consideration in this matter is greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senator.*

Mr. GRASSLEY. Mr. President, this letter raised several very serious questions about Captain Cook's fitness for promotion to the rank of admiral.

Specifically, my questions about Captain Cook pertained to his service as chief engineer on the A–12 stealth bomber project that was terminated for default in January 1991.

The A–12 project collapsed because of an unresolved engineering problem—uncontrolled increases in the weight of the airplane.

It was a ''show stopper,'' and Captain Cook was up to his ears in the whole mess.

As the weight of the airplane grew, the schedule kept sliding, and the price kept going up.

Eventually, this top priority Navy program was buried in a massive cost overrun.

This kind of mismanagement was bad enough by itself.

But A–12 mismanagement became a criminal enterprise when senior Navy officials attempted to conceal and cover up the cost overrun with lies.

They attempted to hide the problem from the Secretary of Defense and the Congress.

This behavior triggered a criminal investigation by the Inspector General [IG] of the Department of Defense.

The IG concluded that Federal criminal laws were violated, and the case was referred to the Justice Department for prosecution.

The investigation found several specific instances in which the Secretary of the Navy at the time, H. Lawrence Garrett, and A–12 program officials

''withheld, concealed, and/or suppressed adverse A–12 program information'' from the Secretary of Defense and the Congress.

That is a quote from the IG's criminal report.

I also believe the IG report shows that Captain Cook may have participated in the scheme to conceal and suppress adverse information about the program.

These are very serious allegations.

They need to be addressed and resolved.

Maybe the Committee conducted an investigation and cleared him, but I do not know that. The Committee has never bothered to tell me about it.

So I was very surprised and very disappointed to find Captain Cook's name on a July 1996 list of ''United States Navy Flag Officers.''

He has been confirmed and ''frocked.''

That means he wears an admiral's insignia but is still paid as a captain.

Once an admiral's billet opens up, he will assume the full duties and responsibilities of an admiral.

Mr. President, I think the Committee owes me an explanation.

Mr. President, on September 27, I wrote a second time—1½ years later—to Senator THURMOND, asking for a response.

I ask unanimous consent to have this second letter printed in the RECORD.

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

UNITED STATES SENATE,
*Washington, DC, September 27, 1996.*

Hon. STROM THURMOND,
*Chairman, Committee on Armed Services,*
*U.S. Senate, Washington, DC.*

DEAR STROM, I am writing to follow up on my letter of May 15, 1995, regarding the nomination for promotion of Navy Captain Jeffrey A. Cook.

In my letter to you of May 15, 1995, I raised several very serious questions bearing on Captain Cook's fitness for promotion to the rank of admiral. My questions were based on a criminal investigation conducted by the Inspector General of the Department of Defense. These questions pertained to his service as chief engineer on the A–12 stealth bomber project that was terminated for default in January 1991. These questions suggest that Captain Cook may have participated in a scheme to conceal adverse information on the A–12 from both the Secretary of Defense and Congress.

In view of these allegations and since I never received a response from you, I was very surprised and disappointed to find Captain Cook's name on July 1996 list of ''United States Navy Flag Officers.'' This list indicates that he has been confirmed and ''frocked.'' Once an admiral's billet becomes available, he will assume the full duties and responsibilities of the rank.

Would you be kind enough to explain how your Committee resolved the questions raised in my letter of May 15, 1995. Had I known that your Committee was prepared to proceed with this nomination, I would have liked to have had an opportunity to raise my objections on the floor. Strom, we in the Senate have a Constitutional responsibility to nurture topnotch leadership in the Armed Forces. Officers who meet those high standards should be praised and promoted. Those who fail to meet the high standards should be weeded out.

I would appreciate a response to my letter.

Sincerely,

CHARLES E. GRASSLEY,
*U.S. Senate.*

Mr. GRASSLEY. Had I known the committee was prepared to confirm Captain Cook, I would have asked for an opportunity to raise my objections on the floor.

Mr. President, we in the Senate have a constitutional responsibility to nurture topnotch leadership in the Armed Forces.

Officers who meet those standards should be praised and promoted.

Those who fail to meet those high standards should be weeded out.

Based on what I know right now today, I do not think Captain Cook meets the highest standards nor should have been promoted to admiral.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 2150 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MURKOWSKI. I thank the Chair. Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that the Senator from South Carolina have whatever time he may consume for a tribute—about 4 minutes; that following his remarks, Senator WYDEN and I speak as in morning business for a period not to exceed a total of 20 minutes.

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

The Senator from South Carolina.

## RETIREMENT OF SENATOR ALAN SIMPSON

Mr. THURMOND. Mr. President, I rise to pay tribute to one of the finest men I have had the privilege to serve with in the U.S. Senate. I refer to my very good friend, the senior Senator from Wyoming, ALAN SIMPSON, who is retiring from the Senate. AL SIMPSON comes from a family with a rich Wyoming heritage.

Mr. President, from territorial days to the present, the Simpsons have made Wyoming justifiably proud of their distinguished public service. His father, Milward, served as Governor and then came to the Senate in 1962. Like his father, AL has a wonderful sense of humor, even if it is sometimes a bit ribald. He calls a sense of human ''the universal solvent against the abrasive elements of life.'' I know of no one who lives up to that motto like my friend, AL SIMPSON.

AL has other sterling qualities that have made him one of the best-liked members of the Senate on either side of the aisle. His personal warmth, his integrity, his loyalty, his sense of fairness, and his willingness to listen to the concerns of his colleagues were attributes that allowed him to do a superb job as assistant Republican leader for 10 years.

Bob Dole could not have had a more loyal ''deputy'' than AL. President George Bush never had a more loyal friend than AL. AL spent countless hours on the floor of the Senate and in the media as an advocate and defender of his friend, President Bush.

I have served many years in the military and in combat as well and I can attest that AL is the kind of loyal friend who you would want by your side in battle. That includes legislative battles, too. For 18 years—at my initial urging—he served with me on the Senate Judiciary Committee. We have been through a great deal of controversial legislation and nominations together. We have worked together side by side with never a cross word and always the highest level of mutual respect and friendship.

When he leaves the Senate, he will leave behind a legacy of great legislative achievements, particularly in the area of immigration. Early on, AL was willing to take on the tough job of being the Republican's subcommittee leader on immigration. While serving as chairman of the Judiciary Committee, I appointed AL as chairman of the Immigration Subcommittee. No one appreciates his work more than I. Immigration issues are often emotionally charged. It takes a very talented legislative leader to shepherd significant immigration legislation through Congress. AL has done it with great effectiveness throughout his career, and in this last week of the 104th Congress he once again is about to lead us in the passage of an illegal immigration reform bill of which he can be very proud. He authored the Senate bill, and his influence on the final conference report is without peer.

He is tough, but fair, and his word is his bond. Accordingly, he is justly recognized by his colleagues on both sides of the aisle as an incredibly skillful legislator.

He is married to one of the most gracious, attractive ladies I have known. As AL tells it, Ann Simpson got more votes for him than he did for himself. She is much more than an effective campaigner. She has made wonderful contributions to her State and the Nation through her work on mental health issues, through her efforts on behalf of Ford's Theater, and in her work for the University of Wyoming, particularly the art museum there.

I know that cowboy AL SIMPSON is not going to ''ride off into the sunset.'' He will maintain an active, stimulating life. His first venture will be a professorship at Harvard University. I am sure his students will be treated to some unforgettable AL SIMPSON stories which will evoke both laughter and warmth.

I will deeply miss that daily dosage of AL's humor and warmth. However, I am confident that we will continue to see each other and the real friendship which we have will endure.

God bless both AL and Ann Simpson in all their endeavors.

Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I certainly join with the distinguished chairman of the Senate Armed Services Committee in that tribute to Senator SIMPSON. I think we will all miss his daily dose of wit. And I certainly share those sentiments.

Mr. THURMOND. I wish to thank the able Senator.

## THE GAG RULE AMENDMENT

Mr. KYL. Senator WYDEN and I want to take a few minutes right now to try to brief our colleagues, as well as our constituents and others, who have been interested in the issue on the status of the so-called gag rule amendment. That is not perhaps a very glamorous name for what we are talking about, so let me describe that briefly. Then we will try to provide a report, as I said, about the status of the negotiations and how we might try to conclude this matter.

People have heard the distinguished majority leader speak on several occasions about the effort to resolve this question. I think we are very close to it and want to report that to our colleagues. First of all, what we are talking about is an assurance for physicians that they are able to communicate freely with their patients about their patients' health and about the medical care or treatment options that might be important for their patients' health.

When these physicians are a part of a plan, like an HMO, for example, they are constrained in certain ways with respect to what the plan provides in the way of coverage and, therefore, in the way of treatment. So this issue has evolved.

To what extent can the HMO limit the physicians in their communications with patients? Well, virtually no one wants to create that kind of a conflict, at least intentionally, because clearly the physician has an obligation to his patient, and we all want the patients to have the maximum degree of care. So we want to ensure that this communication is not inhibited. What we have been involved in over the last several days is trying to craft legislation that is not overly broad but still ensures that degree of protection.

We have also tried to ensure that this is done to the maximum extent possible at the State level. We are not interested in some kind of a new Federal mandate or new Federal program here. But, of course, we do at least need to get the process started here so that the States who have not yet adopted statutes—and many have—but for those who have not done so yet, that there would be an incentive for them to provide the kind of protection for the kind of communication which we are talking about.

We also want to ensure that there is a conscience clause provision here that enables physicians who, for moral or religious beliefs, do not want to get into certain discussions, that they would not have to do so, and, likewise, that a provider, an HMO or other kind of insurer that may have based its benefits on its beliefs, including religious beliefs, be protected as well.

So these are not necessarily easy issues, but I think in terms of a general concept, there has not been a great deal of disagreement. But nevertheless, trying to put this all together at this time of the year has not been real easy.

I want to thank several people for their involvement in this, in particular the majority leader, who has been most patient in waiting for us to try to get this resolved; the assistant majority leader, who has been personally involved in discussions on this to try to craft it in the right way; Senator DAN COATS, who has been involved; and several others who have expressed an interest and given their input.

Senator WYDEN and I have developed a series of drafts. Our most recent draft, we think, is a very good product which achieves this goal but with the minimum of difficulty. As we speak, even this draft is being revised to some extent to try to reflect the views of other Senators.

I urge that anyone who has an interest in this issue and would like to give us their views, or who has heard about a particular version of this and would like to know what the actual most current version of it is, that they please communicate with us because we would be most pleased to share our ideas with them and to get their ideas as well.

The majority leader would very much like to get this wrapped up. We would, too. Therefore, again, I thank those who have been involved. We stand ready to try to wrap it up if people will give us their views. But I think we have come to a point now where there are not very many issues that prevent us from doing this. I really urge any Senators who have an interest to help us bring this to conclusion.

Under the previous agreement, at this time I yield the floor to Senator WYDEN.

Mr. WYDEN. I want to thank the Senator from Arizona for not just his very thoughtful statement, but for all of the effort over these last few weeks. He and I got to know each other in the House and enjoyed working together, and it has been a pleasure to work with my friend from Arizona on it. I share Senator KYL's view that we have had a number of Senators—I see Senator NICKLES is here and Senator COATS on the Republican side; Senator KENNEDY, for example, on the Democratic side—that have been working some very long hours and working in good faith to try to deal with this. I believe we are now very close in terms of dealing with the issue.

I just want to spend a minute and try to outline the problem and then talk a bit more about some of the remedies that Senator KYL has talked about.

The reason this issue is so important is that managed care is the fastest growing part of American medicine. Now, health care, we know, is a multibillion dollar industry. The fastest growing part of it is managed care. I want to make it clear that there is a lot of good managed care in our country. I come from a part of our Nation, the State of Oregon, that has been a pioneer in the managed care field. We have seen good managed care. If you want to see 21st century medicine, you can come to my State and see a lot of it in action every day.

But, unfortunately, too often we have seen that financial concerns, concerns about expensive treatments or referrals, have replaced what is the important essence of American health care, which is free and unfettered communication between doctors and patients.

These limitations are what is known as gag clauses. A health maintenance organization may say to the doctors, ''We're watching you in terms of those expensive treatments.'' Or the health maintenance organization will say to the doctors, ''We're keeping track of the referrals that you're making,'' with an idea that perhaps a doctor who tells about an additional provider outside the network is doing something detrimental to the plan.

We can have differences of opinion—and Senator KYL and I have talked about this before—on a lot of health care issues. Reasonable people surely differ with respect to the role of the Federal Government, the role of the private sector. There are lots of issues in American health care that there can be legitimate differences of opinion on.

I offer up the judgment that what should never be in dispute is the importance of patients and families to get all the facts, to get the truth, to get all the information about the various issues relating to their medical condition and the treatments that are available. In fact, I think 21st century health care is about getting information over the Internet. The kind of legislation we are talking about today is going to be built around empowering patients to get the information so as they look at the various options that they might consider for their treatment, they can do it on the basis of having all the facts.

Now, Senator KYL has outlined briefly a few of the issues that we have focused on in some depth. Let me just add to them very briefly. The first is on the matter of the regulatory framework and the role of the Federal Government and the States. What Senator KYL and I have done, in very blunt, straightforward terms, is make it clear

the States will take the lead with respect to carrying out this statute. Congress has done this before in a number of areas, done it in the Medigap area, done it in the maternity stay legislation. The legislation that we offer up and is based on our discussion, basically makes it clear when a State acts in a way that is rationally connected to the purposes of this statute, the State is going to be in a position to take the lead.

Second, we know there are many who are concerned with respect to an issue that comes up in this body quite often, and that is reproductive health issues, in the matter of abortion specifically. We have sought to make sure that each individual practitioner or doctor can exercise what amounts to a ''conscience clause'' and be able to express that for religious or moral reasons, there are certain matters—abortion—that they would not be comfortable discussing. We also thought to make it clear that plans would have certain rights, particularly to make it clear to their individual practitioners, doctors, and others, that the plan did not offer abortion services.

There are other ideas that may be worth exploring, built principally on the concept of disclosure. Plans ought to know they are not going to be subject to unexpected legal consequences, and the consumer ought to be in a position to get full disclosure of exactly what their plan offers. I believe we have made considerable headway in that regard.

We believe, with a bit more work and the kind of good faith we have seen over these last few weeks—and it is important to note that the same spirit exists in the House. Dr. GANSKE of Iowa and Congressman MARKEY, like Senator KYL and I, have been working on a bipartisan basis, with the idea that these gag clauses have no place in 21st century American health care.

Mr. President, 21st century American health care ought to be built around the idea that when patients and families sit down with their physician, their physician would give them all the facts, all the information they need, to make these choices.

I want to thank Senator KYL. He knows when I offered this the first time we got a majority of votes in the U.S. Senate, but the point is to get something that is going to bring the entire Senate together, to bring all the Members together around a proposition of full consumer disclosure and consumer empowerment. I think we can do that.

We are putting the States in the lead. This is not an example of Federal micromanagement or Federal Government run wild. We are going to make sure that plans and practitioners, who, for religious or moral reasons, have concerns about discussing abortion, and others, would be protected. I think we do it in a way that is sensitive to legitimate concerns of many in the field for managed care plans. For example, we have important provisions on utilization review. Those managed care plans ask for those. That is part of our compromise.

Let me at this time yield, because I know there are a number of Senators who have been working in good faith and want to participate in this. Therefore, I yield back to Senator KYL and our other colleagues who have been putting some long hours on this. I am looking forward to staying with this until we get these protections for consumers and doctors, and do it in a fair way.

Mr. KYL. Mr. President, before the distinguished acting majority leader speaks to this, I thank Senator WYDEN for his bipartisan cooperation and make the point with all of the things we have to do here at the end of the session to finish the Nation's business, the assistant majority leader, the Senator from Oklahoma, is right in the middle of all of that, yet he has taken the time to personally be involved to improve this legislation.

If we are able to craft an agreement here, it will be in no small part due to the ideas that he brought into the debate to ensure, for example, that the State control was preeminent and that some of the other protections that we have in here are here.

Again, I want to thank him, as well as Senator COATS, for all of their contributions to this effort, too. It has gotten us much closer to the goal line than we otherwise would have been.

Mr. NICKLES. Mr. President, to the Senator from Arizona and the Senator from Oregon, flattery will get you everywhere, and may well end up getting an amendment.

Let me state, Mr. President, my thoughts. Originally, I will tell my friends and colleagues that I thought this was not the right way or the right time to legislate such an important matter. I am very dubious at the outset when I see legislative actions taking play the last day or two of the session, when measures have not had time to have hearings and have the benefit of congressional thought, hearings, markup, input from people on all sides.

This is important legislation. I will tell my colleague from Oregon who originally introduced this and had the assistance of the Senator from Arizona, the thrust of it I would concur. I also want to compliment the Senators from Oregon and Arizona for their willingness to be flexible, to understand that some of us did have serious concerns, concerns about making sure we protect the rights of States. They have shown a willingness to do that. Some States have acted. We want to compliment those States. We do not want to preempt their actions.

Also, dealing with religious institutions, I think, we still have a little way to go there. I know we will confer more tonight, and maybe tomorrow we can bring that to a conclusion. I, for one, want to make sure we would not be mandating to, for example, a religious institution, a Catholic hospital, or something that might have a clause that physicians that would work within this institution would not provide assistance to suicide, for example. I do not want to pass legislation in the wee hours that might outlaw or ban that particular clause or section of their contract.

I want to be careful. I know we are probably on about the ninth draft. I think the legislation has been improved significantly.

Again, I thank my colleagues who have worked so hard, including Senator COATS, as well as Senator WYDEN and Senator KYL, for their input on this legislation, and just state to my colleagues that we will continue working in good faith, and if we are able to resolve some of the few remaining differences, it may well be that we can have some legislation that would be acceptable, and maybe as an amendment to the continuing resolution or as independent legislation. So I compliment my colleagues for their willingness and their patience to work with some of us, and we will continue working.

I see an effort by many to legislate a whole agenda in the last two days of Congress. I urge people to be maybe a little more patient and wait for next year. The continuing resolution is growing, and that, to me, is not really the best way to legislate. So I urge our colleagues to realize that they don't have to do everything on this one bill. I also urge my colleagues to speak out on the public lands bill that Senator MURKOWSKI has been working so hard on. There is no reason for us not to be able to pass this package, which I believe will probably have an overwhelming vote of support by both Houses of Congress.

I think the administration is, unfortunately, moving the goal posts. We removed the major veto threats in that legislation in the last 24 to 48 hours. Yet, now they are finding more objections. I even say that maybe that is not in good faith, and that bothers me. There has been a lot of work by Members on both sides of the aisle. That bill was a bipartisan bill, and it should pass. I know the Senator from Minnesota reluctantly dropped an amendment that was very important to him. The Senator from Alaska dropped an amendment that was very important to him, and others were able to make concessions so we could pass an omnibus bill that is important to most of the Members in this body. It would be unfortunate indeed if we didn't pass this bill before we adjourn this Congress.

Finally, I want to say something on the immigration bill. The administration sent signals that they would sign that if we dropped the Gallegly amendment. We did drop the Gallegly amendment. Now there have been additional requests for additional modifications. I find that, too, moving the goal posts. I hope we will take up the immigration bill and pass it, as amended, without the Gallegly amendment. I think we

will have an overwhelming vote in both Houses—well, the House already passed it by an overwhelming vote. I think in the Senate we will, as well. I urge colleagues to be patient and not try to pass everything on their legislative agenda in the next two days.

Let us work together and finish the unfinished appropriations bills, the continuing resolution, do it responsibly. Again, I thank my colleague from Oregon and my colleague from Arizona for their willingness to be at least flexible enough for some of us who had concerns about their amendments. Perhaps we can get that resolved.

I yield the floor.

Mr. WYDEN. Mr. President, I ask unanimous consent to address the Senate for 5 additional minutes.

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

Mr. WYDEN. I want to tell the Senator from Oklahoma that we very much appreciate his involvement in this. I only asked for 5 additional minutes because I want to go back to negotiating with him and his staff on it. As you know, Senator KENNEDY has done yeoman work on this and has been very involved in this as well. I think we are going to have good input and involvement on both sides of the aisle if we try to finish it up.

I think it is important that the Senate and the country understand that what we are talking about is ensuring that straightforward, honest conversation could take place between doctors, nurses, chiropractors, therapists, and their patients. That is all we are talking about here—information, and those honest, straightforward discussions. Right now, because of these gag clauses, that kind of communication so often can't take place. That is not right. That is what we are going to try to change.

Mr. President, I thank the Senate for the additional time. I yield the floor.

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

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

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 26, the debt stood at $5,198,325,061,997.28.

One year ago, September 26, 1995, the Federal debt stood at $4,953,251,000,000.

Five years ago, September 26, 1991, the Federal debt stood at $3,638,501,000,000.

Ten years ago, September 26, 1986, the Federal debt stood at $2,109,293,000,000. This reflects an increase of more than $3 trillion ($3,089,032,061,997.28) during the 10 years from 1986 to 1996.

## TRIBUTE TO HOWARD GREENE

Mr. BIDEN. Mr. President, last week the Senate took a few moments to pass a resolution honoring the service of Sergeant-at-Arms Howard Greene, who is leaving after a 28 year career with this body. I was away from the Senate floor during the discussion of that resolution, but I did not want this Congress to adjourn without having had the opportunity to share my appreciation for Howard Greene's service to the Senate, and for his personal friendship during my tenure here.

Mr. President, much of the important work which we do here in the Senate could not be accomplished without the dedication of the professional staff members who serve the Senate, and Howard Greene has been the consummate professional. His love for the Senate; his keen understanding of its workings and its constitutional role; his discretion and his tact, have gone hand-in-hand with Howard Greene's fundamental decency and sense of public service to make him one of the Senate's greatest assets for many, many years. I doubt that there is a single Member of this body who has not benefited from Howard's counsel, his industry, his knowledge of the Senate, or his friendship. I know that I have gained a great deal from each.

I am especially proud that Howard is a fellow Delawarean, and have always believed that his sense of public service embodies the bipartisan tradition that is the hallmark of our State. As Sergeant-at-Arms, or Secretary to the majority, or in any of the roles he has undertaken during his long career here, Howard has been a source of wisdom and assistance, counsel and comfort to all Senators, Republican and Democrat alike. He has been a fundamental believer in the idea that once the election is over, we are all public servants, and he has worked tirelessly to enable us to fulfill the trust that the people of our States have placed in us.

Mr. President, the halls of Congress are filled with idealistic young people who have come to Washington hoping for a career in public service. They are the lifeblood of this institution, and are the democratic system's hope for the future. For any of those young people searching for a model of integrity, commitment, and public spiritedness upon which to base their career, I would suggest that they look to the long and distinguished career of Howard Greene.

We will miss him a great deal. And I will always be proud to call him my friend.

## RETIRING SENATORS

Mr. FORD. Mr. President, these last few days mark the last that we will have the pleasure of working with some of the most talented and dedicated Senators to have served in the U.S. Senate. That's because 13 of our finest Members will be retiring this year.

Recently, former Senator Warren Rudman wrote that ''As a Senator I had enjoyed sitting down with colleagues like George Mitchell, SAM NUNN, BILL BRADLEY, JOE BIDEN, and TED KENNEDY and saying, 'We have a problem here—let's find a way to solve it.' They were Democrats, to the left of me politically, but just because we saw things differently I didn't question their morality or their patriotism. I didn't come to Washington to cram things down people's throats or to have people cram anything down my throat. I thought the essence of good government was reconciling divergent views with compromises that served the country's interests.''

All of the Senators retiring at the end of this Congress have set their moral compasses in the direction of compromises to best serve the country's interests. In doing so, they have served their constituents, the U.S. Senate and the Nation well.

They understood that the arbitrary labels many are so insistent to place on each other, in the end, fall short and are inadequate to describe an individual's commitment to country. That in fact, to weigh a life, a community's future or a country's needs, a different type of scale is required.

In a pluralistic society such as ours, there are many ways to confront a problem and arrive at a solution. These fine Senators recognized that their job was to reach a principled position amidst all of these often conflicting choices. Henry Kissinger put it another way saying, ''The public life of every political figure is a continual struggle to rescue an element of choice from the pressure of circumstance.''

They saw that the preoccupation with these labels is what grips us in gridlock. And that paralysis can cripple a nation's ability to solve its problems and move forward. With their fine guidance we have been able to move beyond gridlock on issues of great importance to the everyday lives of all Americans from health care reforms to important budget and spending questions, energy, immigration, the elderly, and judicial matters.

When judging the choices they've made, I believe history will look back on their service with great respect and admiration. Over and over again, when confronted with conflict or when called upon for leadership, they insisted that their decisions answer the larger questions: Will it stand the test of time for our country? Will our country gain strength from this decision? Time and again, their guidance has resulted in policies that have come to define our country and the common vision we hold as a nation.

In closing, Mr. President, I want to extend my personal thanks to Senators SAM NUNN, NANCY KASSEBAUM, HOWELL HEFLIN, DAVID PRYOR, CLAIBORNE PELL,

JIM EXON, HANK BROWN, ALAN SIMPSON, PAUL SIMON, BILL BRADLEY, MARK HATFIELD, BENNETT JOHNSTON, and BILL COHEN for a job well done and my wishes for continued success in the future.

## SECTION 405 OF THE HIGHER EDUCATION ACT OF 1965

Mr. MACK. Mr. President, I rise today to address a situation resulting from the Department of Education's interpretation of section 435 of the Higher Education Act of 1965 [HEA] which has adversely impacted many schools in Florida and across the country. In 1990, Congress amended the act to prohibit institutions from continuing their participation in the Federal Family Education Loan [FFEL] Program if their cohort default rate is equal to or above the threshold percentage for the 3 consecutive years ''for which data is available.'' Along similar lines, this year Congress passed additional legislation which required that any school terminated from the FFEL program will no longer be eligible to receive Pell Grants for its students.

However, the Department of Education has taken the position that this law will be enforced using default rate data for years 1991, 1992, and 1993. Schools have already received their prepublished 1994 rates, many which are below the current threshold requirement, and some are even half of what they were in years prior. Despite this achievement, the Department has terminated or is currently terminating schools based on their 1991, 1992, and 1993 rate—not on their 1994 rate—because the Department does not consider the 1994 rate to be ''available'' until it is published. Based upon their technicality, the Department is essentially punishing schools which have implemented costly default management programs and achieved the desired result of the law—reducing their cohort default rate.

Mr. President, the intent of this law was for schools to educate their students about the importance of repaying their loans, and established a 3-year period within which a school must take proper measures to reduce its cohort default rate. It is perfectly acceptable for Congress to enact legislation to protect taxpayers from the costs associated with high default rates, and current law does so by requiring those involved in the Federal student loan process to educate students about the importance of repayment. However, I do not believe that Congress intended for schools which have reduced their default rate to be terminated from these programs.

Given this late hour, it is unlikely that legislation addressing this situation will be enacted prior to the close of the 104th Congress. Therefore, I ask the Department to do everything in its power to use the most recent data when evaluating the eligibility status of these institutions. I thank the Chair and I yield the floor.

## MESSAGES FROM THE PRESIDENT

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

### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

## REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 172

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

*To the Congress of the United States:*

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1995, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12 (1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

## REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 173

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

*To the Congress of the United States:*

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Seventeenth Annual Report of the Federal Labor Relations Authority for Fiscal Year 1995.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

## REPORT OF PROPOSED LEGISLATION ENTITLED ''THE FAMILY-FRIENDLY WORKPLACE ACT OF 1996''—MESSAGE FROM THE PRESIDENT—PM 174

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

*To the Congress of the United States:*

I am pleased to transmit today for consideration and passage the ''Family-Friendly Workplace Act of 1996.'' Also transmitted is a section-by-section analysis. This legislative proposal is vital to American workers, offering them a meaningful and flexible opportunity to balance successfully their work and family responsibilities.

The legislation would offer workers more choice and flexibility in finding ways to earn the wages they need to support their families while also spending valuable time with their families. In particular, the legislation would allow eligible employees who work overtime to receive compensatory time off—with a limit of up to 80 hours per year—in lieu of monetary compensation. In addition, the legislation contains explicit protections against coercion by employers and abuses by unstable or unscrupulous businesses.

The legislation also would amend the Family and Medical Leave Act of 1993. This statute currently allows eligible workers at businesses with 50 or more employees to take up to 12 weeks of unpaid, job-protected leave to care for a newborn child, attend to their own serious health needs, or care for a seriously ill parent, child, or spouse. Although enactment of this statute was a major step forward in helping families balance work and family obligations, the law does not address many situations that working families typically confront. The enclosed legislation would cover more of these situations, thereby enhancing workers' ability to balance their need to care for their children and elderly relatives without sacrificing their employment obligations. Under the expanded law, workers could take up to 24 hours of unpaid leave each year to fulfill additional, specified family obligations, which would include participating in school activities that relate directly to the academic advancement of their children, accompanying children or elderly relatives to routine medical appointments, and attending to other health or care needs of elderly relatives.

I urge the Congress to give this legislation favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 27, 1996.*

## MESSAGES FROM THE HOUSE

At 9:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 221. Concurrent resolution correcting the enrollment of H.R. 3159.

The message also announced that the House agrees to the amendment of the Senate bill (H.R. 3159) to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998,

and 1999 for the National Transportation Safety Board, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3535. An act to redesignate a Federal building in Suitland, Maryland, as the ''W. Edwards Deming Federal Building.''

H.R. 4138. An act to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

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At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 1577. An act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001.

S. 2085. An act to authorize the Capital Guide Service to accept voluntary services.

S. 2100. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

S. Con. Res. 34. Concurrent resolution to authorize the printing of ''Vice Presidents of the United States, 1789–1993.''

S. Con. Res. 67. Concurrent resolution to authorize printing of the report of the Commission on Protecting and Reducing Government Secrecy.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4011. An act to amend title 5, United States Code, to provide that if a Member of Congress is convicted of a delony, such member shall not be eligible for retirement benefits based on that individual's service as a member, and for other purposes.

H.J. Res. 195. Joint resolution recognizing the end of slavery in the United States, and a true day of independence for African-Americans.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3546) entitled ''An Act to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina.''

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3378) to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 145. Concurrent resolution concerning the removal of Russian Armed Forces from Moldava.

H. Con. Res. 189. Concurrent resolution expressing the sense of the Congress regarding the importance of United States membership and participation in the regional South Pacific organizations.

H. Con. Res. 216. Concurrent resolution providing for relocation of the Portrait Monument.

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At 3:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4194. An act to reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

The message further announced that the House has agreed to the resolution (H. Res. 545) that the bill of the Senate (S. 1311) to establish a National Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports, and for other purposes; to the Committee on Commerce, Science, and Transportation. in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

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At 4:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 39. An act to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills.

H.R. 2508. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

H.R. 2594. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under the Act, and for other purposes.

H.R. 2660. An act to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, and for other purposes.

H.R. 3068. An act to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act.

The enrolled bills were signed subsequently by the President pro tempore [Mr. BYRD].

At 6:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1031. An act for the relief of Oscar Salas-Velazquez.

H.R. 1087. An act for the relief of Nguyen Quy An.

H.R. 4000. An act to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before amendments made by the National Defense Authorization Act for Fiscal Year 1997.

H.R. 4041. An act to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school.

H.R. 4139. An act to reauthorize and amend the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act.

The message also announced that the House has passed the following bill, without amendment:

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and Hazardous liquids, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1972. An act to amend the Older Americans Act of 1965 to improve the provisions relating to Indians, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker, has signed the following enrolled bills:

S. 1675. An act to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1802. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

S. 1970. An act to amend the national Museum of the American Indian Act to make improvements in the Act, and for other purposes.

S. 2085. An act to authorize the Capital Guide Service to accept voluntary services.

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

## MEASURES REFERRED

The following bill, previously received from the House of Representatives for the concurrent of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 3391. An act to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such Act; to the Committee on Environment and Public Works.

## MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3452. An act to make certain laws applicable to the Executive Office of the President, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4181. A communication from Assistant Attorney General, transmitting, a draft of proposed legislation to amend the Violent Crime Control and Law Enforcement Act of 1994; to the Committee on the Judiciary.

EC–4182. A communication from Assistant Attorney General, transmitting, a draft of proposed legislation entitled ''The Compact on the Exchange of Criminal-History Records for Noncriminal-Justice Purposes''; to the Committee on the Judiciary.

EC–4183. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, regulations under the Export Apple and Pear Act (FV-96-33-1), received on September 26, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4184. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, regulations pertaining to tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (FV-93-930-3), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4185. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding Irish potatoes grown in Colorado (FV-96-948-2), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4186. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding apricots and cheries (FV-96-922-2), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4187. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding domestic dates grown in Georgia (FV-96-955-1), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4188. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding Vidalia onions grown in Georgia (FV-96-955-1), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4189. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding almonds grown in California (FV-96-981-2), received on September 24, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4190. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding nectarines and fresh peaches grown in California (FV-96-916-1), received on September 23, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4191. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding oranges and grapefruit (FV-96-906-1), received on September 23, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4192. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a regulation regarding kiwi fruit (FV-96-920-1), received on September 23, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4193. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, twelve rules including one entitled ''HOME Investment Partnerships Program Final Rule'' (FR-3962, 3814, 4080, 4108, 3472, 3929, 4110, 3857, 3813, 2958, 4114) received on September 26, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–4194. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, a rule entitled ''Terms and Conditions For Advances'' (received on September 23, 1996); to the Committee on Banking, Housing, and Urban Affairs.

EC–4195. A communication from the Chairman of the Securities and Exchange Commission and the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report regarding markets for small business; to the Committee on Banking, Housing, and Urban Affairs.

EC–4196. A communication from the Board of Governors of the Fedral Reserve System, the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, and the Acting Director of the Office of Thrift Supervision, transmitting, pursuant to law, a report regarding streamlining of regulatory requirements; to the Committee on Banking, Housing, and Urban Affairs.

EC–4198. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule regarding standard instrument approach procedures (RIN 2120-AA65) received on September 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–4199. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a rule regarding hazardous materials regulation (RIN 2137-AC93) received on September 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–4200. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a rule regarding international traffic in arms regulations, recieved on September 23, 1996; to the Committee on Foreign Relations.

EC–4201. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO (for himself, Mr. ABRAHAM, Mr. BENNETT, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. FRAHM, Mr. FRIST, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. LEVIN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, and Mr. WYDEN):

S. 2136. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG:

S. 2137. A bill to amend title 18, United States Code, to make misuse of information received from the National Crime Information Center a criminal offense; to the Committee on the Judiciary.

S. 2138. A bill to clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; to the Committee on the Judiciary.

By Mrs. MURRAY:

S. 2139. A bill to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN (for himself, Mrs. FEINSTEIN, Mr. EXON, and Mr. D'AMATO):

S. 2140. A bill to limit the use of the exclusionary rule in school disciplinary proceedings; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 2141. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 2142. A bill to provide for the inclusion of certain counties in North Carolina in certain metropolitan statistical areas, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WARNER (for himself, Mr. GRAHAM, Mr. INHOFE, Mr. COATS, Mr. LUGAR, Mr. GRAMM, Mrs. HUTCHISON, Mr. ROBB, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. MCCONNELL, Mr. FORD, and Mr. NICKLES):

S. 2143. A bill to authorize funds for construction of highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO (for himself, Mr. KERRY, Mr. FAIRCLOTH, Mr. PRESSLER, and Mr. DODD):

S. 2144. A bill to enhance the supervision by Federal and State banking agencies of foreign banks operating in the United States, to limit participation in insured financial institutions by persons convicted of certain crimes, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN:

S. 2145. A bill to amend the Family and Medical Leave Act of 1993 to allow employees

to take parental involvement leave to participate in or attend the educational activities of their children; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 2146. A bill to direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL (for himself and Mr. HATFIELD):

S. 2147. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself and Mrs. MURRAY):

S. 2148. A bill to amend the Internal Revenue Code of 1986 to expand the child and dependent care credit, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2149. A bill to establish a program to provide health insurance for workers changing jobs; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. HATCH, Mr. BENNETT, Mr. CAMPBELL, Mr. BURNS, Mr. NICKLES, and Mr. STEVENS):

S. 2150. A bill to prohibit extension or establishment of any national monument on public land without full compliance with the National Environmental Policy Act and the Endangered Species Act, and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMPSON (by request):

S. 2151. A bill to provide a temporary authority for the use of voluntary separation incentives by Department of Veterans Affairs offices that are reducing employment levels, and for other purposes; to the Committee on Veterans' Affairs.

S. 2152. A bill to amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida, and for other purposes; to the Committee on Veterans' Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SHELBY (for himself, Mr. BOND, Mr. GRAMS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. KYL, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. THURMOND, Mr. HELMS, and Mr. BENNETT):

S. Con. Res. 72. A concurrent resolution expressing the sense of the Congress that the President should categorically disavow any intention of issuing a pardon to James or Susan McDougal or to Jim Guy Tucker; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. Con. Res. 73. A concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself, Mr. ABRAHAM, Mr. BENNETT, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. FRAHM, Mr. FRIST, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. LEVIN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, AND Mr. WYDEN):

S. 2136. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson; to the Committee on Banking, Housing, and Urban Affairs.

THE JACKIE ROBINSON COMMEMORATIVE COIN ACT

● Mr. D'AMATO. Mr. President, on behalf of myself and 64 colleagues, I rise today to introduce the Jackie Robinson Commemorative Coin Act. It is appropriate and important that the Congress honor Jackie Robinson, a true American hero who rose above prejudice and segregation to become a pillar of our national pastime—and a leader in the fight for racial equality. The bill would authorize the U.S. Mint to commemorate the 50th anniversary of Jackie Robinson's historic and heroic act of breaking baseball's color barrier.

Mr. President, the life story of this great American citizen is so uplifting. It is a story of a pioneer, a man of many many, ''firsts.''

As a young boy growing up in New York, I was consumed by baseball like so many others. I have a personal connection to Jackie Robinson and the legendary Brooklyn Dodgers. Those were certainly the banner days for baseball, in New York and elsewhere. Jackie Robinson, one of the all stars with the legendary Brooklyn Dodgers, stood as tall as one of New York's skyscrapers themselves.

Jackie Robinson's courage, quiet determination and competitive spirit were evident throughout his life. At UCLA, Jackie Robinson was the first four-letter man excelling at football, basketball, track, and baseball.

Although he was far along the path to a promising future in sports, Jackie Robinson had to leave college after 3 years to support his mother. He realized that coming to his mother's aid in a time of need was a more compelling priority. Jackie Robinson was a giving, unselfish man, and devoted son.

In 1942, Jackie Robinson faced another noble calling. He joined the Army to serve his country during World War II. In his 3 years of service, Jackie rose to the rank of 2d lieutenant and attended Officers Candidate School. The atmosphere of segregation in the Army inspired him to forge ahead and begin a quiet but lifelong determined effort to fight discrimination.

After the Army, Jackie Robinson returned to his true dream—playing baseball. Despite the color barrier, Jackie Robinson persisted. Jackie Robinson experienced the ugly face of bigotry firsthand playing for the Negro Baseball League in 1945. It was commonplace to have hotel and restaurant doors shut in his face. He withstood vicious taunts and threats from fans. Even some of his own teammates would not acknowledge him.

But those affronts and experiences did not diminish Jackie Robinson's spirit. Eventually, his excellence and determination prevailed. In 1946 he joined the Montreal Royals minor-league team in the Dodgers organization. That same year, he was recognized as the MVP of the league, the first of many baseball honors.

In 1947, Jackie Robinson became prominent in the history of our Nation and its great pastime. He penetrated the color barrier in baseball when he was brought up to play for the Brooklyn Dodgers. This breakthrough reverberated throughout all professional sports and is acknowledged today as a watershed event in the continuing struggle for racial equality.

Mr. President, in late 1947, Jackie Robinson was named Rookie of the Year, actually the first so-named in the major leagues. Then in 1949 he was named MVP of the National League. Throughout his 11-year career with the Dodgers, Jackie Robinson won batting titles, set fielding records, and was feared as a base stealer.

Another first occurred in 1962 when Jackie Robinson became the first African-American to be inducted into the Baseball Hall of Fame located in Cooperstown, NY.

Mr. President, for many of us, especially, those of my generation, Jackie Robinson is synonymous with baseball. He dazzled and electrified crowds with his energetic performances on the field. Time and time again, he brought fans to their feet. At the same time, he united a whole city with his personal enthusiasm, and baseball excellence. But, Jackie Robinson, the man transformed his greatness on the baseball diamond to greatness in his community, hitting homeruns for his fellow man. In many ways, Jackie Robinson united our Nation through all of his achievements.

After retiring from professional baseball, he entered a life of service to his

community. He donned the many hats of businessman, community leader, and civil rights activist. His dedication to bringing down social barriers thrived. He provided affordable housing to low-income families through the Jackie Robinson Development Corp. He helped spur economic development in Harlem by founding the Freedom National Bank, now a prosperous financial institution. As vice president for personnel at a well-known fast-food chain, he championed the cause of increasing benefits for workers and their families.

Mr. President, Jackie Robinson remains an inspiration to this Nation and a commemorative coin will serve as a fitting tribute to this great man. In the spirit of honoring our greatest American heroes, I am introducing this bill which would authorize silver dollar commemorative coins to be minted in 1997 celebrating the 50th anniversary of breaking the color barrier in American baseball by Jackie Robinson. Once the Mint has recovered its costs, profits would go to the Jackie Robinson Foundation, a public, not-for-profit organization.

The focus of the Jackie Robinson Foundation is to make educational and leadership development opportunities available to minority youths of limited financial resources. Full 4-year college scholarships are awarded to those youths who meet the selection criteria of the foundation. These criteria are based on academic achievement, community service, leadership potential, and financial need.

The successes of the foundation's primary goal are undeniable. Since its inception, over 400 young adults from all parts of this Nation have benefited from participation with most students obtaining degrees in engineering, science and related fields. And furthermore, the graduation rate of the foundation participants is 92 percent, one of the best in our country.

The Jackie Robinson Foundation was established by Mrs. Rachel Robinson a year following Jackie Robinson's untimely death. She has worked tirelessly to keep his inspiration alive through her gentle strength and relentless determination. Jackie Robinson once said of his wife of 26 years—''strong, loving, gentle, and brave, never afraid to either criticize or comfort.'' Rachel Robinson is truly an incredible woman. I can attest to that.

Mr. President, I want to thank my colleague from New York, FLOYD FLAKE for his leadership and dedication in this matter. I would also like to extend a deep appreciation to all cosponsors for their incredible support in realizing this effort. I owe a special debt of gratitude to the Honorable Robert Rubin, Secretary of the Treasury and Philip Diehl, Director of the U.S. Mint for their support.

Mr. President, I ask for unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2136

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Jackie Robinson Commemorative Coin Act''.

**SEC. 2. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—In commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson and the legacy that Jackie Robinson left to society, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 3. SOURCES OF BULLION.**

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of Jackie Robinson and his contributions to major league baseball and to society.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''1997''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Jackie Robinson Foundation (hereafter in this Act referred to as the ''Foundation'') and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on April 15, 1997, and ending on April 15, 1998.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

**SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.**

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

**SEC. 8. DISTRIBUTION OF SURCHARGES.**

(a) IN GENERAL.—Subject to section 10(a), all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Foundation for the purposes of—

(1) enhancing the programs of the Foundation in the fields of education and youth leadership skills development; and

(2) increasing the availability of scholarships for economically disadvantaged youths.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Foundation as may be related to the expenditures of amounts paid under subsection (a).

**SEC. 9. FINANCIAL ASSURANCES.**

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

**SEC. 10. CONDITIONS ON PAYMENT OF SURCHARGES.**

(a) PAYMENT OF SURCHARGES.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act shall be paid to the Foundation unless—

(1) all numismatic operation and program costs allocable to the program under which such coins are produced and sold have been recovered; and

(2) the Foundation submits an audited financial statement which demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the Foundation has raised funds from private sources for such projects and purposes in an amount which is equal to or greater than the maximum amount the Foundation may receive from the proceeds of such surcharge.

(b) ANNUAL AUDITS.—

(1) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—The Foundation shall provide, as a condition for receiving any amount derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act, for

an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the Foundation, of all such payments to the Foundation beginning in the first fiscal year of the Foundation in which any such amount is received and continuing until all such amounts received by the Foundation with respect to such surcharges are fully expended or placed in trust.

(2) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of the Foundation pursuant to paragraph (1) shall report—

(A) the amount of payments received by the Foundation during the fiscal year of the Foundation for which the audit is conducted which are derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act;

(B) the amount expended by the Foundation from the proceeds of such surcharges during the fiscal year of the Foundation for which the audit is conducted; and

(C) whether all expenditures by the Foundation from the proceeds of such surcharges during the fiscal year of the Foundation for which the audit is conducted were for authorized purposes.

(3) RESPONSIBILITY OF FOUNDATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—The Foundation shall take appropriate steps, as a condition for receiving any payment of any amount derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the Foundation in each fiscal year of the Foundation can be accounted for separately from all other revenues and expenditures of the Foundation.

(4) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of the Foundation for which an audit is required under paragraph (1), the Foundation shall—

(A) submit a copy of the report to the Secretary of the Treasury; and

(B) make a copy of the report available to the public.

(5) USE OF SURCHARGES FOR AUDITS.—The Foundation may use any amount received from payments derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act to pay the cost of an audit required under paragraph (1).

(6) WAIVER OF SUBSECTION.—The Secretary of the Treasury may waive the application of any paragraph of this subsection to the Foundation for any fiscal year after taking into account the amount of surcharges which such Foundation received or expended during such year.

(7) AVAILABILITY OF BOOKS AND RECORDS.—The Foundation shall provide, as a condition for receiving any payment derived from the proceeds of any surcharge imposed on the sale of coins issued under this Act, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and workpapers belonging to or used by the Foundation, or by any independent public accountant who audited the Foundation in accordance with paragraph (1), which may relate to the receipt or expenditure of any such amount by the Foundation.

(c) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment to the Foundation from amounts derived from the proceeds of surcharges imposed on the sale of coins issued under this Act may be used, directly or indirectly, by the Foundation to compensate any agent or attorney for services rendered to support or influence in any way legislative action of the Congress relating to the coins minted and issued under this Act.●

Mr. MURKOWSKI. I wonder if my friend from New York will make sure I am added as a cosponsor.

Mr. D'AMATO. I am delighted. I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor.

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

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By Mr. GREGG:

S. 2137. A bill to amend title 18, United States Code, to make misuse of information received from the National Crime Information Center a criminal offense; to the Committee on the Judiciary.

THE NATIONAL CRIME INFORMATION CENTER DATABASE PROTECTION ACT OF 1996

● Mr. GREGG. Mr. President, I introduce the National Crime Information Center [NCIC] Database Protection Act of 1996. This legislation will make it a Federal offense to purposely misuse the NCIC data base.

The NCIC was originally established in order to centralize information about outstanding warrants and criminal history of citizens of the United States. This data-base allows law enforcement agencies across the United States to have access to any information regarding suspected criminals within their jurisdictions. It is an indisputable fact that the NCIC has helped apprehend thousands of criminals over the years, including Timothy McVeigh, who allegedly bombed the Oklahoma City Federal building. By providing instantaneous and accurate information about individuals with criminal pasts, NCIC has helped reduce recidivism and identify those people who are dangerous to society.

It also is an indisputable fact that those individuals whose names are included on the data-base have a right to privacy. They have a right to feel secure that their information will be available only to law enforcement and that the information will be accessed only when it is necessary for law enforcement to perform their prescribed duties.

Over the past several years, there have been instances when the NCIC has been used by individuals other than law enforcement officers to check the backgrounds of individuals who are not having a routine background check or under suspicion of a crime. In some cases, law enforcement officers themselves have used the data-base improperly. For instance, NCIC was used by a drug gang in Pennsylvania to identify narcotics agents. The gang got the NCIC information through a corrupt police officer.

NCIC was used by an Arizona law enforcement official to locate his ex-girlfriend and kill her. The data-base has also been used by private detectives doing background investigations on political candidates.

Unfortunately, these chilling tales are becoming far too common and there is no ready mechanism under which the perpetrators of these crimes can be prosecuted for misusing the NCIC data-base.

There is an obvious need for a law that states in no uncertain terms that the NCIC should not be readily available to any non-law enforcement officers or for any unofficial purposes. We need to send a message that those who are caught violating the privacy of others through NCIC will be prosecuted to the full extent of the law.

I urge my fellow Senators to support this legislation and join in my outrage at the ease with which NCIC information is available to criminals. Our Nation's private citizens are not safe from those who would exploit their personal information.

I ask unanimous consent that the provisions in the bill be included in the RECORD.

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

S. 2137

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MISUSE OF INFORMATION RECEIVED FROM THE NATIONAL CRIME INFORMATION CENTER.**

(a) IN GENERAL.—Chapter 101 of title 18, United States Code, is amended by adding at the end the following:

**''§ 2077. Misuse of information received from the National Crime Information Center.**

''Whoever obtains information from the National Crime Information Center without authorization under law or uses information lawfully received for purposes not authorized by law shall be fined under this title or imprisoned not more than 3 years, or both.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 101 of title 18, United States Code, is amended by adding at the end the following:

''2077. Misuse of information received from the National Crime Information Center.''.●

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By Mr. GREGG:

S. 2138. A bill to clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; to the Committee on the Judiciary.

THE JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION AMENDMENTS OF 1996

● Mr. GREGG. Mr. President, I introduce the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Amendments of 1996.

The current Jacob Wetterling Act is an effective and responsible way to keep track of sexually violent predators, especially those who prey on our children. This act requires States to implement a program through which these types of offenders, once on parole, must register their places of residence with State and local law enforcement agencies. I have always supported the premise behind this provision in the 1994 crime bill, as I believe it provides law enforcement with the information necessary to locate prior offenders, should they strike again.

I was particularly pleased to support this provision because New Hampshire has had an exemplary sex offender registration program for several years. In fact, the Department of Justice has complimented the Granite State's program as one of the best in the Nation.

Despite my support of the Jacob Wetterling Act, I call on the Senate to amend this legislation because it has come to my attention that this act has established parameters for compliance that are too restrictive. In fact, according to the Department of Justice, while most States have established successful sex offender registration programs, not one is in compliance with the narrowly drawn provisions outlined in the bill.

This fact is particularly distressing considering that the penalty for noncompliance is the loss of 10 percent of that State's Edward Byrne Memorial Grant funds. States that already run successful registration programs do not deserve such a penalty.

The amendments that I propose will allow States to be in compliance with Jacob Wetterling while retaining their own unique system of registering sexually violent offenders.

First, this legislation would allow States to devise their own way of registering paroled offenders. Current law requires States to conduct a mail registration system, which is costly. In New Hampshire and other States, the current system requires offenders to register in person at their local police departments. My amendments would allow these States to retain their current, successful systems.

Second, my bill would amend the current provision that requires States to create a board of experts, whose purpose is to determine whether an offender should be labeled as sexually violent and required to register. My amendment would allow States to make this determination through an assessment of the individual for purposes of a sentencing enhancement determination. My own State of New Hampshire is an example of the latter situation in that all people required to register have been designated as sexually violent by a psychiatrist at the time of sentencing. In New Hampshire, no State board needs to be created.

Finally, my bill would allow sex offenders to first register with local law enforcement agencies, who then pass the information to the State, the FBI, and other appropriate agencies.

These amendments simply recognize that it is not the role of the Federal Government to devise each State's system for dealing with its paroled offenders. Each State's methods and needs are different. The Federal Government should not mandate that each of them conduct identical programs.

I ask unanimous consent that the provisions in the bill be included in the RECORD.

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

S. 2138

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT OF STANDARDS FOR STATE SEX OFFENDER REGISTRATION PROGRAMS.**

Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended—

(1) in subsection (a)(1), by striking ''with a designated State law enforcement agency'' in each of subparagraph (A) and subparagraph (B);

(2) in subsection (a)(2), by inserting before the period the following: '', or pursuant to an assessment for purposes of a sentencing enhancement determination'';

(3) in subsection (a)(3)(C), by inserting before the period the following: '', or means a person who has been convicted of a sexually violent offense and has received an enhanced sentence based on a determination that the person is a serious danger to others due to a gravely abnormal mental condition'';

(4) in subsection (b)(1)(A)—

(A) in clause (ii), by striking ''give'' and all that follows through ''days'' and inserting ''report the change of address as provided by State law''; and

(B) in clause (iii), by striking ''shall register'' and all that follows through ''requirement'' and inserting ''shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence'';

(5) by amending paragraph (2) of subsection (b) to read as follows:

''(2) TRANSFER OF INFORMATION TO STATE AND THE FEDERAL BUREAU OF INVESTIGATION.—The officer, or in the case of a person placed on probation, the court, shall forward the registration information to the agency responsible for registration under State law. State procedures shall ensure that the registration information is available to a law enforcement agency having jurisdiction where the person expects to reside, that the information is entered into the appropriate State records or data system, and that conviction data and fingerprints for registered persons are transmitted to the Federal Bureau of Investigation.'';

(6) in subsection (b)(3)(A)—

(A) in the matter preceding clause (i), by inserting after ''(a)(1),'' the following: ''State procedures shall provide for verification of address at least annually. Such verification may be effected by providing that'';

(B) in clause (i), by striking ''The designated State law enforcement'' and inserting ''A designated'';

(C) in clause (ii), by striking ''State law enforcement'';

(D) in clause (iii), by striking ''to the designated State law enforcement agency''; and

(E) in clause (iv), by striking ''State law enforcement'';

(7) in subsection (b)(4), by striking ''section reported'' and all that follows through ''requirement'' and inserting the following: ''section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is available to a law enforcement agency having jurisdiction where the person will reside and that the information is entered into the appropriate State records or data system.'';

(8) in subsection (b)(5), by striking ''shall register'' and all that follows through ''requirement'' and inserting ''who moves to another State shall report the change of address to the responsible agency in the State the person in leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided to an agency responsible for registration in the new State, if that State requires registration''; and

(9) in subsection (d)(3), by striking ''the designated'' and all that follows through ''State agency'' and inserting ''the State or any agency authorized by the State''.●

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By Mrs. MURRAY:

S. 2139. A bill to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILDREN'S AIRLINE SAFETY ACT OF 1996

● Mrs. MURRAY. Mr. President I introduce legislation that would protect our Nation's small children as they travel on aircraft. We currently have Federal regulations that require the safety of passengers on commercial flights. However, neither flight attendants nor an infant's parents can protect unrestrained infants in the event of an airline accident or severe turbulence. A child on a parent's lap will likely break free from the adult's arms as a plane takes emergency action or encounters extreme turbulence.

This child then faces two serious hazards. First, the child may be injured as they strike the aircraft interior. Second, the parents may not be able to find the infant after a crash. The United/Sioux City, IA crash provides one dark example. On impact, no parent was able to hold on to her/his child. One child was killed when he flew from his mother's hold. Another child was rescued from an overhead compartment by a stranger.

In July 1994 during the fatal crash of a USAir plane in Charlotte, NC, another unrestrained infant was killed when her mother could not hold onto her on impact. The available seat next to the mother survived the crash intact. The National Transportation Safety Board believes that had the baby been secured in the seat, she would have been alive today. In fact, in a FAA study on accident survivability, the agency found that of the last nine infant deaths, five could have survived had they been in child restraint devices.

Turbulence creates very serious problems for unrestrained infants. In four separate incidences during the month of June, passengers and flight attendants were injured when their flights hit sudden and violent turbulence. In one of these, a flight attendant reported that a baby seated on a passenger's lap went flying through the air during turbulence and was caught by another passenger. This measure is endorsed by the National Transportation Safety Board and the Aviation Consumer Action Project.

We must protect those unable to protect themselves. Just as we require seatbelts, motorcycle helmets, and car seats, we must mandate restraint devices that protect our youngest citizens. I urge my colleagues to support

this legislation that ensures our kids remain passengers and not victims.●

By Mr. DORGAN (for himself, Mrs. FEINSTEIN, Mr. EXON, and Mr. D'AMATO):

S. 2140. A bill to limit the use of the exclusionary rule in school disciplinary proceedings; to the Committee on the Judiciary.

THE SAFER SCHOOLS ACT OF 1996

Mr. DORGAN. I come to the floor, Mr. President, along with my colleague, Senator FEINSTEIN, from California, to introduce legislation that will help keep our kids safe from gun violence in school. It is late in the session to do this, but I am joined in this effort by the Senator from California, Mrs. FEINSTEIN, the Senator from Nebraska, Mr. EXON, and the Senator from New York, Mr. D'AMATO. I want to describe what this legislation is and why it is necessary at this point.

Yesterday, in the Washington Post, there was a tiny little paragraph at the bottom of a section called ''Around the Nation.'' It is the smallest of paragraphs describing the fate of a man named Horace Morgan. Horace Morgan was a teacher who, as reported in yesterday's news, was killed trying to break up a fight at a school for problem students in Scottdale, GA. He was fatally shot by a teenager. He had taught English and language arts at the De Kalb County Alternative School for 10 years. This teacher died of multiple gunshot wounds. A 16-year-old student was arrested. This was not headlines. It was not the front section. It was not on the front page—a tiny little paragraph in the newspaper about a teacher being shot in school, a teacher named Horace Morgan dying of multiple gunshot wounds.

The point is that it is not so uncommon that it warrants headlines in this country when a student shoots and kills a teacher. About 2 years ago, Senator FEINSTEIN and I wrote the Gun-Free Schools Act, which is now law. The Gun-Free Schools Act says there shall be zero tolerance on the issue of guns in schools—no excuses, no tolerance. Guns do not belong in schools. Schools are places of learning. Students cannot bring guns to school to threaten other students. Bring a gun to school and you will be expelled for 1 year—no tolerance, no excuses, no ifs, ands or buts. No guns in schools. Bring a gun, you are expelled for a year. That is now the law.

A week ago yesterday, I came to the Senate floor and again spoke on the issue of guns in schools. I did this because, as I was shaving in the morning getting ready for work, I heard a news piece on NBC television that so infuriated me I wanted to address it right away. The news story was about an appellate court in New York that had ruled a student who brought a gun to school should not have been expelled for a year because the security aide who found the gun did not have reasonable suspicion to search the student.

The facts of this case made me so angry because it simply stands common sense on its head. In 1992, Juan C. was stopped by a school security aide who said he saw a bulge resembling the handle of a gun inside Juan's leather jacket. The aide grabbed for the bulge, which was indeed a loaded .45 semiautomatic handgun.

Juan was expelled for school for one year. This internal disciplinary action is consistent with the requirements of the Gun-Free Schools Act. Juan was also changed with criminal weapons violations.

The family court that heard Juan's criminal case ruled that the security guard did not have reasonable suspicion to search this student. As a result, the court refused to admit the gun as evidence of Juan's guilt, relying on the judicially created mechanism known as an exclusionary rule.

The New York appellate court took this decision to ridiculous lengths by applying the exclusionary rule to the internal school disciplinary action against this student. In essence, this court was saying that the security aide in the school was to blame for catching this young student red-handed bringing a gun to school. They said he should not have been expelled and ordered his record expunged of any wrongdoing in the matter.

This is the most ludicrous decision from a court. If this ruling is allowed to stand, teachers and school administrators who know that a student is packing a gun will be powerless to act without a ''reasonable suspicion''—whatever that now is—that the gun exists. In some cases, like this one, it tells school officials to look the other way when they know a student is carrying a loaded gun.

I do not understand this thinking. What on Earth has happened to common sense? When you and I board an airplane, we voluntarily consent to security checks in order to preserve the safety and security of ourselves and other passengers. Now we have a court that says, ''Oh, but you can't have that same level of security with respect to kids in school. Yes, you can remove a gun from a passenger who is going on an airplane because it is unsafe, but you cannot remove a gun from the jacket of a 15-year-old who is carrying a loaded .45 semiautomatic pistol into a school.'' What has happened to common sense?

I am introducing a piece of legislation today that is painfully simple. So simple, in fact, that it ought not to have to be introduced. It simply says that you cannot exclude a gun as evidence in a disciplinary action in school. This bill returns to schools the most basic and necessary of disciplinary tools—the ability to keep classrooms safe from gun violence for the students who want to learn.

Let me emphasize that this bill does not violate the constitutional rights of kids. School officials who conduct unreasonable or unlawful searches will not be exonerated by this legislation, and people who have been aggrieved will be free to pursue any judicial or statutory remedies available to them. What they are not free to do—once they have been found with a gun—is slip through a school's disciplinary process and return to school where they can continue to threaten other kids and teachers. I do not want that kid in school with my children. I do not want that kid in school with the children of the Presiding Officer or any other citizen of this country. When a kid puts a semiautomatic pistol, loaded, in his waistband or jacket and heads off to school, if my children or the children of any American citizen are in that school, I want that kid expelled and out immediately.

If our court system does not understand that, then there is something wrong with our court system. Never again, in this country, should we have a circumstance where a court says that, even though a student is caught red-handed with a loaded gun, the security guard who finds it should pat the kid on back and say, ''Sorry, I really should not have seen that. You go to class now.''

No wonder people are angry in this country about a system that excuses everything. I know people will say to me, ''How dare you personalize this? How dare you criticize a judge?'' But who is a judge? Judges are public servants, paid for with public money. I want judges to make thoughtful, reasonable decisions.

When judges, just as when other public officials come up with decisions that defy all common sense, we have a right to be publicly critical. Certainly in this case we have a right to offer legislation to say there ought not be one school district in America that has any other than zero tolerance for guns in schools. There ought not be one judicial jurisdiction in this country that is able to say to any school board, any principal, or any teacher, that a kid bringing a gun to school ought to be sent back to a classroom because someone had no right to find the gun.

If we have a right to ensure the security of passengers who get on airplanes in this country, and we do, then we have a right to ensure the safety of teachers and children in our public schools. If we do not have that right, if we cannot take the first baby step in making sure that places of learning are safe, then we cannot take any step in improving our educational system in America.

I offer this bill in the spirit of bipartisanship. There are Republicans and Democrats who have joined me in offering it. I recall a couple years ago, at the end of a legislative session just like we are now, when Senator FEINSTEIN and I were trying very hard to save the provision that we had put in law saying we ought to adopt a zero tolerance on guns in schools. At the time, I shared a story with my colleagues. I know it is repetitious but it is important, so I am

going to tell it again. I do not know about the subject of guns in schools so much from my hometown because I come from North Dakota, a town of 300, a high school class of nine; a small school. We did not have so many of the problems that so many schools have now.

But a few years ago I toured a school not very far from this Capitol building. That school had metal detectors and security guards. A month later, a student at that school bumped a student who was taking a drink at a water fountain and the student taking the drink, after he was bumped, pulled out a pistol, turned around, and shot the other student four times. The name of the young man who was shot is Jerome. He survived; critically wounded, but he survived. I visited with Jerome after that. He has since graduated.

But I was trying to understand, what is happening here? What is happening that a child who bumps another child in a lunchroom finds himself facing a loaded pistol and is shot four times? I do not even begin to understand it. But I do not need to begin to understand it to know that we ought, in every circumstance, under every condition, decide to fight to make certain that people are not bringing guns into our schools. Our schools ought to be safe havens, places of learning where our young boys and girls come, believing they are going to learn during that day and be safe while they are learning.

That is why we introduced the legislation 2 years ago. I am very surprised we are here on the floor of the Senate talking again about this issue, but we are here because of a court decision that stands logic on its head. When they do that, I will come to the floor again, and again, and again, and introduce legislation that restores some common sense on this issue.

Mr. President, let me say again that I appreciate the opportunity to work closely with the Senator from California on this issue. Mr. President, I yield the floor, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2140

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Safer Schools Act of 1996''.

**SEC 2. SAFER SCHOOLS.**

(a) IN GENERAL.—Section 14601(b)(1) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(b)(1)) is amended—

(1) by striking ''under this Act shall have'' and inserting the following: ''under this Act—

''(A) shall have'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(B) beginning not later than 2 years after the date of enactment of the Safer Schools Act of 1996, shall have in effect a State law or regulation providing that evidence that a student brought a weapon to a school under the jurisdiction of the local educational agencies in that State, that is obtained as a result of a search or seizure conducted on school premises, shall not be excluded in any school disciplinary proceeding on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States.''.

(b) REPORT TO STATE.—Section 14601(d) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(d)) is amended—

(1) in paragraph (1), by striking ''the State law required by'' and inserting ''each State law or regulation''; and

(2) in paragraph (2), by striking ''subsection (b)'' and inserting ''subsection (b)(1)(A)''.

(c) REPORT TO CONGRESS.—Section 14601(f) of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921(f)) is amended by inserting ''of subsection (b)(1)(A)'' before ''of this''.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I thank the Senator from North Dakota for his leadership on this issue. I have been very proud to cosponsor the bill with him, and it has been a very important bill in California.

I will never forget going to a school in Hollywood, CA, speaking to a fourth grade class and asking that class, What is your No. 1 fear?

Do you know what it was? It was getting shot in class or on the way to school. I didn't believe it, so I asked the class: Well, how many of you have even heard gunshots? In the fourth grade of this Hollywood elementary school, every single hand went up.

Then I remember going to Reseda High School and embracing a mother whose son had been shot in a hallway for no reason at all, just shot dead by another student. That is when I came back and sort of firmed up my resolve to really try to do something about it.

In 1993—this is the year before we passed this bill, gun-free schools—the Oakland school officials confiscated 60 guns; Fresno school officials confiscated 43 guns; San Jose, 175 guns; Los Angeles, 256 guns; Long Beach, 37 guns; and San Diego, 30 guns.

These are the schools of California. Who can learn when a youngster has a .45 in their pocket? I don't think your son or daughter could learn. I know my son or daughter or granddaughter couldn't learn in a school if guns are present. So this is a good bill.

I share the frustration of Senator DORGAN. I wasn't shaving that morning, but I did read the New York Times, and what I saw in the New York Times amazed me, because what it said was that no school security guard, seeing a bulge in a youngster's pocket, could go up to that youngster and say, ''What do you have in your pocket?''

If you see a bulge in somebody's pocket, you can have a reasonable belief that they are carrying a weapon, particularly in a day and age where we have 160,000 students a year going into schools with weapons. That is a reasonable belief if there is a bulge.

We know for a fact that many schools now have metal detectors, that many schools routinely search backpacks. What does this court finding do to these routine searches? I think it decimates them.

So we have submitted to you a bill which we hope will correct this. I know that gun-free schools work. In Los Angeles, when they put in a gun-free-school bill, gun incidents went down by 65 percent. In San Diego, gun incidents in school were cut in half.

What we contend is that any school that takes Federal money should have a zero tolerance policy for guns in that school. That means you bring a gun to school, you are expelled for 1 year. No ifs, ands, or buts, you go out. The superintendent has the ability to be able to see there is some alternative placement if that is available and to provide counseling for the youngster. But the point of this is, it has to be enforced. For the New York City Family Court to strike down a gun being entered into evidence that was confiscated by a bona fide security person in the course of their duties on school grounds to me just boggles my mind.

Let me talk just for a moment about what happens if this ruling stands and if we don't address it legislatively. I think it is really a shot in the back of school districts that are attempting to eliminate gun violence in their schools. How many school security guards and teachers will now hesitate to be just a little bit more vigilant in protecting the millions of good, innocent kids who are in our schools? How many overworked and underpaid teachers, fearful for their safety, will decide that this is the last straw and simply turn away from teaching if they can't go out there and say, ''I think you may have something in your backpack that is contraband. Open it up.'' Or, ''Susie,'' or ''Jeff, what is that bulge in your pocket? Let me see what you have in your pocket.''

This raises the whole kind of commonsense aspect: Should a youngster in a school have the same privacy rights that a youngster in a home would have? I don't think so. I think a minor should be subject to search for contraband, to search for possession of a weapon, and if we let our laws in this country bend over so backward that a security guard or a teacher can't say, ''Show me what you have in that pocket,'' or ''Show me what I think you have in that backpack,'' or ''I have reason to believe you may have something you shouldn't have in your locker; I am going to open it up and look at it,'' I think any effort to protect youngsters in schools will go right out the window.

So I think that what we are trying to do today—Senator DORGAN, myself, I know I talked with Senator D'AMATO about this. I know he has said, ''Let's work together.'' I am delighted to see he is on this bill as well.

It is extraordinarily important that we get guns out of our schools, and this

court decision was just a major setback, because what it said is, you can't enter the gun into evidence, you can't make it stick. I cannot fathom how any judge could do this.

I am not entirely sure that the remedy we present today is the full remedy that we need. I think it may even need beefing up in itself. But I think it is a real start in the right direction, and I think it is extraordinarily important that Senators on both sides of the aisle really state to the public their belief that guns must not be brought to school, that knives must not be brought to school, that drugs, for that matter, should not be brought to school, and that we reinforce this in every way, shape or form we can legislatively.

I am very, very pleased and proud to join with the Senator from North Dakota, once again, in hopes that this body will take prompt action in the early part of the next session. My hope also is, as this case proceeds on appeal, that common sense may reign. I cannot believe that the Framers of the Constitution of the United States of America wanted a situation whereby a youngster could be search-proof in a school for a weapon of destruction.

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By Mrs. FEINSTEIN:

S. 2141. A bill to amend the Internal Revenue Code of 1986 to permit certain tax free corporate liquidations into a 501(c)(3) organization and to revise the unrelated business income tax rules regarding receipt of debt-financed property in such a liquidation; to the Committee on Finance.

CHARITABLE GIVING TAX LEGISLATION

● Mrs. FEINSTEIN. Mr. President, I introduce legislation to strengthen tax incentives to encourage more charitable giving in America. The legislation would represent an important step and encourage greater private sector support of important educational, medical, and other valuable programs in local communities across the country.

Americans are among the most caring in the world, contributing generously to charities in their communities:

American families contribute, on average, nearly $650 per household, or about $130 billion, per year, to charities.

Approximately, three out of every four households give to nonprofit charitable organizations.

However, charities are very concerned for the future, anticipating a decline in Federal social spending to address urgent needs like childrens' services, homelessness, job training, health and welfare, just as the need for help accelerates.

Nonprofit charities are very concerned about their ability to maintain their current level of services, let alone expand to meet the increasing demand for services. While charitable contributions grew by 3.7 percent in 1994, contributions for human services, the area most closely associated with poverty programs, dropped by 6 percent.

Private charities can never replace government programs for national social priorities. However, nonprofit charities across America play a critical role in providing vital services to people in need. The Federal Government needs to take steps to ensure we are doing everything we can to encourage private charitable support to supplement government programs and government support.

The Federal Government needs to take steps to encourage greater private sector support. Government must provide both the leadership and the incentives to encourage more private, charitable giving through the tax code. Analysts believe the gift of closely held business stock is an underutilized source of potential funds for charitable activities that warrants closer attention and legislative remedies.

A closely held business is a corporation, in which stock is issued to a small number shareholders, such as family members, but is not publicly traded on a stock exchange. This business form is very popular for family businesses involving different generations.

However, today, the tax cost of contributing closely-held stock to a charity or foundation can be prohibitively high. The tax burden discourages families and owners from winding down a business and contributing the proceeds to charity. This legislation would permit certain tax-free liquidations of closely held corporations into one or more tax exempt 501(c)(3) organizations.

Under current law, a corporation may have to be liquidated to effectively complete the transfer of assets to the charity for its use, incurring a corporate tax at the Federal rate of 35 percent. In 1986, Congress repealed the ''General Utilities'' doctrine, imposing a corporate level tax on all corporate transfers, including those to tax exempt charitable organizations. Additionally, a charitable organization could also be subject to taxation on its unrelated business income from certain types of donated property.

These tax costs make contributions of closely held stock a costly and ineffective means of transferring resources to charity. If the Federal Government is going to find new ways to encourage charitable giving, we need to look at these tax costs which undercut both the incentive to give and the potential value of any charitable gift.

Governments at the Federal, State, and local level, are reducing spending in all areas of their budgets, including spending for social services. Public charities and private foundations already distribute funds to a diverse and wide ranging group of social support organizations at the community level. Congressional leaders have looked to private charities in our religious institutions, our schools and communities, to fill the void created by government cut-backs. However, volunteers are already hard at work in their communities and charitable funding is already stretched dangerously thin. Charities need added tools to unlock the public's desire to give generously. We need to create appropriate incentives for the private sector to do more.

In California and throughout the country, volunteer and charitable organizations, together, perform vital roles in the community and they deserve our support. Allow me to provide a few examples, which could be repeated in any town across America:

Summer Search: In San Francisco, the Summer Search Foundation is hard at work preventing high school students from dropping out of school. Summer Search helps students not only successfully complete high school but, for 93 percent of the participants, go on to college. By increasing charitable contributions, groups like Summer Search can help keep kids in school and moving forward toward graduation and a more productive contribution to the Nation.

Drew Center For Child Development: Dramatic increases in the number of child abuse and neglect cases, which now total nearly 3 million children in the United States, is deeply troubling for everyone. We must do everything to prevent these cases, but cutbacks in Social Services block grants will impose new burdens on local communities. Charitable support can be a small part of the solution.

Drew Child Development, a child care and development center in the Watts neighborhood of Los Angeles, works directly with children and families involved in child abuse environments. Unfortunately, these 130 families in which the Drew Center supports is not the end of the story. There are thousands of other families that could benefit from this child abuse treatment program if more resources were available.

The Drew Center expects cuts in government funding. They anticipate that they will have to cut counselor positions and turn needy families away. Stronger incentives for private sector giving would provide the Drew Center with some of the resources needed to combat this enormous problem.

The Chrysalis Center: In 1993 I visited the Chrysalis Center, a nonprofit organization in downtown Los Angeles dedicated to helping homeless individuals find and keep jobs. Chrysalis provides employment assistance, from training in job-seeking skills to supervised searches for permanent employment. In 1995, the center helped over 750 people find work, and has helped place more than 3,000 people in permanent, full-time jobs in the last decade.

However, there are still an estimated 15,000 homeless individuals in the Los Angeles area that are able to work. Most of these men and women, however, lack literacy skills and the resources to move from the streets to full-time employment. With increased charitable contributions, Chrysalis would be able to offer hope and opportunity for thousands more.

Today, I introduce tax incentive legislation to encourage stronger support for the Nation's vital charities. The proposal:

Eliminates the corporate tax upon liquidation of a qualifying closely-held corporation under certain circumstances. The legislation would require 80 percent or more of the stock to be bequeathed to a 501(c)(3) tax-exempt organization; and

Clarifies that a charity can receive mortgaged property in a qualified liquidation, without triggering unrelated business income tax for a period of 10 years. This change parallels the exemption from unrelated business income tax provided under current law for direct transfers by gift or bequest.

Under the legislation, the individual donor would receive no tax benefit from the proposal, as the tax savings generated would increase the funds available for the charity.

By eliminating the corporate tax upon liquidation, Congress would encourage additional, and much needed, charitable gifts. Across America, countless thousands have built successful careers and have generated substantial wealth in closely-held corporations. As the individuals age and plan for their estate, we should help them channel their wealth to meet philanthropic goals. Individuals who are willing to make generous bequests of companies and assets, often companies they have spent years building, should not be discouraged by substantially reducing the value of their gifts through Federal taxes.

While the Joint Tax Committee has not yet prepared an official revenue cost, previous estimates suggest a 7-year cost of about $600 million.

However, the revenue estimate represents the expectation of significant transfer to charity as a result of the legislation. By the same techniques used to estimate the tax cost to Treasury, we estimate between $3 and $5 billion in charitable contributions would be stimulated by this tax change. This tax proposal may generate as much as seven times its revenue loss in expanded charitable giving.

The legislation has been endorsed by the Council on Foundations, the umbrella organization for foundations throughout the country, and the Council of Jewish Federations.

I am pleased to add my colleagues MARK HATFIELD, of Oregon, SLADE GORTON of Washington and MAX BAUCUS, of Montana, as co-sponsors of the legislation. I encourage others to review this legislation and listen to the charitable sectors in your community. During this past year, the proposed legislation went through several different revisions in order to sharpen the bill's focus and target the legislation in the most effective manner. I want to encourage the review process to continue, so we may continue to build support and target the bill's impact for the benefit of the Nation's nonprofit community.

With virtually limitless need, we must look at new ways to encourage and nurture a strong charitable sector. The private sector cannot begin to replace the government role, but if the desire to support charitable activity exists, we should not impose taxes to deplete the value of that support.

Tax laws should encourage, rather than impede, charitable giving. By inhibiting charitable gifts, Federal tax laws hurt those individuals that most need the help of their government and their community.

I request unanimous consent to have the legislation and section-by-section analysis printed in the RECORD.

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

S. 2141

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ELIMINATION OF CORPORATE LEVEL TAX UPON LIQUIDATION OF CLOSELY HELD CORPORATIONS UNDER CERTAIN CONDITIONS.**

(a) IN GENERAL.—Paragraph (2) of section 337(b) of the Internal Revenue Code of 1986 (relating to treatment of indebtedness of subsidiary, etc.) is amended—

(1) by striking ''Except as provided in subparagraph (B)'' in subparagraph (A) and inserting ''Except as provided in subparagraph (B) or (C)'', and

(2) by adding at the end the following new subparagraph:

''(C) EXCEPTION IN THE CASE OF STOCK ACQUIRED WITHOUT CONSIDERATION.—If the 80-percent distributee is an organization described in section 501(c)(3) and acquired stock in a liquidated domestic corporation from either a decedent (within the meaning of section 1014(b)) or the decedent's spouse, subparagraph (A) shall not apply to any distribution of property to the 80-percent distributee. This subparagraph shall apply only if all of the following conditions are met:

''(i) Eighty percent or more of the stock in the liquidated corporation was acquired by the distributee, solely by a distribution from an estate or trust created by one or more qualified persons. For purposes of this clause, the term 'qualified person' means a citizen or individual resident of the United States, an estate (other than a foreign estate within the meaning of section 7701(a)(31)(A)), or any trust described in clause (i), (ii), or (iii) of section 1361(c)(2)(A).

''(ii) The liquidated corporation adopted its plan of liquidation on or after January 1, 1997.

''(iii) The 80-percent distributee is an organization created or organized under the laws of the United States or of any State.

Nothing in subsection (d) shall be construed to limit the application of this subsection in circumstances in which this subparagraph applies.''.

(b) REVISION OF UNRELATED BUSINESS INCOME TAX RULES TO EXEMPT CERTAIN ASSETS.—Subparagraph (B) of section 514(c)(2) of the Internal Revenue Code of 1986 (relating to property acquired subject to mortgage, etc.) is amended by inserting ''or pursuant to a liquidation described in section 337(b)(2)(C),'' after ''bequest or devise,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SECTION BY SECTION DESCRIPTION

Amending the Internal Revenue Code to permit certain tax free corporate liquidations into 501(c)(3) organizations and to revise the Unrelated Business Income Tax (UBIT) rules regarding the receipt of mortgaged property in a corporate liquidation:

Section 1: Establishes an exception under IRC section 337 to permit a tax-free liquidation of a corporation into a charitable organization under IRC section 501(c)(3) when eighty percent or more of the corporation is dedicated to the charity through a bequest at death by a US citizen or resident of the US, an estate or trust.

Section 2: Expands the current law ten year exemption from the Unrelated Business Income Tax to include entities receiving mortgaged assets in a corporate liquidation. When a tax exempt entity receives mortgaged property from a corporate liquidation covered by section one of this bill, no Unrelated Business Income Tax would be imposed for 10 years.

Section 3: The amendment takes effect upon date of enactment for corporate plans of liquidation adopted on or after January 1, 1997.●

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By Mr. WARNER (for himself, Mr. GRAHAM, Mr. INHOFE, Mr. COATS, Mr. LUGAR, Mr. GRAMM, Mrs. HUTCHISON, Mr. ROBB, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. MCCONNELL, Mr. FORD, and Mr. NICKLES):

S. 2143. A bill to authorize funds for construction of highways, and for other purposes; to the Committee on Environment and Public Works.

THE ISTEA INTEGRITY RESTORATION ACT

Mr. WARNER. Mr. President, I am pleased to introduce today, along with my distinguished colleague from Florida, Mr. GRAHAM, the ISTEA Integrity Restoration Act. We have a number of cosponsors, I am pleased to say, whom I shall not list. But it is a bipartisan group.

As chairman of the Subcommittee on Transportation and Infrastructure, and the distinguished Senator from Florida is a member of my subcommittee, we do this on behalf of many Senators and invite others, hearing of this introduction at this time, to consider adding their names as cosponsors.

This legislation is the product of 2 years of work on the part of many Senators and, indeed, specifically a group of States, 21 in number, known as STEP–21. The goals of this group of States, referred to as STEP–21, are incorporated in this legislation. This group shares, among those goals, that of ensuring that our surface transportation system is prepared to respond to the economic challenges of the 21st century.

The current surface transportation authorization bill, known as ISTEA—I might refer to it as ISTEA 1, and next year I, hopefully, will be a part of the legislating group to provide for ISTEA 2—but ISTEA 1 expires September 30, 1997. So it is imperative that the Congress of the United States draft and legislate ISTEA 2 next year.

American products are reaching domestic and international markets in shorter times. Manufacturing plants are reducing inventories and relying on just-in-time deliveries. I visited an industrial plant in my State, in Luray,

VA, which is primarily making blue jeans. I asked them, ''How do you compete with the low-cost labor market in Asia? Indeed, how do you compete with the European markets?'' They came straight to the point. No. 1, the hard work delivered by the citizens of Virginia in that plant. But, No. 2, it is very clear, is turnaround time. We get an order in, we fill the boxes, we put it on the truck, and that truck turns around and goes back, back to the purchasers in a very short period of time. Mr. President, that turnaround time, that ability to turn goods around on the roads as they exist in America today that will exist even in better form tomorrow through improved bridges and other forms of transportation, that gives us an edge in this ''one world market'' to beat those other competitors.

Throughout Virginia, all types of industries tell me that their ability to get the goods to domestic or international markets makes the difference in their competitiveness here at home, indeed, and worldwide. In this one-world market, our existing modern transportation system is probably one of the major factors that gives us such a competitive edge as we have here today. But we must improve that for a tougher competitive environment of tomorrow.

We are a mobile society here in the United States, but our transportation challenges are growing as we face an aging surface transportation system. As we work to develop a national consensus on transportation policy, I remain committed to a future that provides for easier access for every community to a modern, safer road system designed for ever-increasing volumes of traffic.

Responding to the congestion on our Nation's highways and the resulting lost productivity is a primary focus of the legislation we are introducing today, such that all in America can study it. And tomorrow, next year, we will begin work in response to the needs of our country.

It is not too early to begin the discussion, to ensure that the next multiyear surface transportation bill provides a system that:

First, effectively moves people and goods—that is more effectively;

Second, provides for the safety of the traveling public, and this Senator and, indeed, my colleague from Florida have always stood in the forefront for provisions which add safety to our transportation system;

Third, fosters a healthy economy;

Fourth, ensures a consistent level of performance and service among the 50 States and provides an equitable distribution of highway trust funds that responds to the challenging demographics in America.

These are our national priorities that must be met.

The legislation Senator GRAHAM and I are introducing today is a sound approach that meets these priorities.

With the completion of the Interstate Highway System, the mobility of Americans has steadily increased.

Every day we commute longer distances to our jobs. We travel longer distances for vacations or to visit friends and family.

In testimony before the Transportation and Infrastructure Subcommittee this year, Secretary of Transportation Peña indicated that gridlock on our Nation's highways wastes $30 billion annually. The ISTEA Integrity Restoration Act addresses this critical problem by redirecting Federal dollars to our States on a more equitable basis.

Our legislation also builds upon the successes of ISTEA by: preserving public participation and the role of local governments in transportation decision-making; continuing the national goal of intermodalism; expanding State and local authority to determine transportation priorities; and, increasing the flexibility to use transportation dollars on other modes of transportation that improve air quality, facilitates the flow of traffic or enhances the preservation of historic transportation facilities.

The ISTEA Integrity Restoration Act continues to move our surface transportation policy forward. It responds to the single most glaring failure of ISTEA by modernizing our outdated Federal apportionment formulas.

Virginia and many other States have historically been ''donor'' States—sending more into the Highway Trust Fund that we receive in return.

This legislation addresses the needs of the ''donor'' States and also recognizes the demands of our rural States and small States with dense populations.

This bill is an honest, good-faith effort to reduce the extremes in the funding formulas. It provides that all States should receive at least 95 percent of the funds their citizens pay into the highway trust fund by way of the Federal gas tax.

We are introducing this legislation today, near the end of the 104th Congress, to stimulate discussion among the States, local governments and various interested groups on how the Congress should approach the reauthorization of ISTEA.

As chairman of the Subcommittee on Transportation and Infrastructure of the Environment and Public Works Committee, the subcommittee will hold extensive hearings next year of ISTEA reauthorization.

I pledge to work with all of my colleagues to craft a multiyear reauthorization bill that addresses the issues I have outlined. I welcome all comments on the legislation I am introducing today as we share the common goal of providing for an efficient transportation system for the 21st century.

I want to credit my distinguished colleague from Florida, because the two of us, along with others, have stood toe-to-toe on this floor trying to bring into balance a more equitable system of allocation of the public highway trust funds donated by our respective States. As I said, some of our States, like Virginia and Florida, are referred to as donor States, meaning we send more to Washington than we get back. That must be adjusted next year.

Mr. GRAHAM. Mr. President, I appreciate the opportunity this afternoon to join my friend and colleague from Virginia in the introduction of this important legislation. I believe there are a couple of historical notes that should be made at this time.

First is, we are introducing legislation to carry on a program which will expire 368 days from today. By introducing this legislation today, we are giving to our colleagues—but more important to the millions of Americans who will be affected by this legislation—more than a year to give full consideration to the policy proposals which we are advancing.

We are doing that at the very time that, here on the Senate floor, other important matters are being denied that kind of full attention and exploration. I commend the Senator from Virginia for his vision and his farsightedness in making it possible for such a dispassionate, thoughtful consideration of this important legislation.

Mr. WARNER. Mr. President, I thank my distinguished colleague for helping draft the first blueprint of this exciting challenge for America.

Mr. GRAHAM. The second historical point is consistent with what my friend from Virginia has just said, and that is we are at a new point of departure for our surface transportation system. We could date the current era with adoption of the Interstate Highway Act during the administration of President Eisenhower. We have had a great national objective over almost a half century, to link America with the highest standards of highway engineering, design and construction and maintenance. We have largely accomplished the task that we set out for ourselves in the 1950's.

Now the question is, what will this generation's contribution be to America's transportation for the first half of the 21st century? The decisions that we will be making in 1997 will be an important step toward answering that question of what we shall do for the future of America's transportation.

I am pleased to cosponsor this important legislation which has a number of significant provisions. One of those provisions is the need for equity in the funding of our highway system. In report after report—and I bring to the Senate's attention just two of many. One, a report in 1985, ''Highway Funding, Federal Distribution Formulas Should Be Changed,'' which was produced prior to the 1991 act upon which we are currently distributing our Federal highway funds, and then a second dated November of 1995, 4 years after

the adoption of the 1991 Highway Act, which is entitled ''Highway Funding Alternatives for Distributing Highway Funds'' in which it states that ''the formula process in the current law is cumbersome, yielding a largely predetermined outcome and partially relies on outdated and irrelevant factors.''

So, Mr. President, in spite of repeated reports pointing out shortcomings in our past and current distribution laws, we still are subject to the criticism of being cumbersome, predetermined, and outdated and irrelevant in our distribution facts.

One of the important objectives of this legislation that we introduced today is to bring greater rationality and modernity into our distribution of highway funds while we also strive to give greater flexibility to the States that have the responsibility for administering these funds.

I am glad that we commenced the debate today. I look forward to more than a year of opportunity to move this idea into a form that can come before the Senate and our colleagues in the House for passage and to usher in a new postinterstate era for American highway transportation.

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By Mr. D'AMATO (for himself, Mr. KERRY, Mr. FAIRCLOTH, Mr. PRESSLER, and Mr. DODD):

S. 2144. A bill to enhance the supervision by Federal and State banking agencies of foreign banks operating in the United States, to limit participation in insured financial institutions by persons convicted of certain crimes, and for other purposes; to the Committee on Banking, Housing, and Urban affairs.

THE FOREIGN BANK ENFORCEMENT ACT OF 1996

● Mr. D'AMATO. Mr. President, today I introduce the Foreign Bank Enforcement Act of 1996.

This legislation proposes a number of important modifications to statutes governing the activities of foreign banks operating in the United States. It reflects the recommendations of Federal and State bank regulators. It will enhance the ability of U.S. regulators to oversee the 275 foreign banks from 61 countries now operating in the United States.

The world's financial system is increasingly interconnected, and foreign banks operate in the United States to a greater degree than ever before. These banks now hold more than $1 trillion in U.S. banking assets and make approximately 30 percent of the amount of all loans to U.S. businesses.

The integrity of the U.S. financial system is one of our most important national assets. This asset is threatened whenever any bank—domestic or foreign—operating on our shores engages in misconduct or fraud. It is therefore imperative that U.S. bank regulators possess all of the tools necessary to supervise the U.S. operations of foreign banks with the same care and attention as those of our domestic banks.

Over the past several years, the activities of rogue traders at banks and securities firms have shaken world financial markets. Last year, the $1.3 billion in hidden losses from derivatives trading by Nicholas Leeson in Singapore brought down the venerable Barings Bank in Great Britain. In September 1995—and much closer to home—Federal bank regulators learned that Daiwa Bank's New York branch had incurred losses of $1.1 billion from the unauthorized trading activities of just one employee, Mr. Toshihide Iguchi, over a period of 10 years.

Mr. President, the Daiwa matter is particularly troubling. Although Daiwa senior management learned of these hidden trading losses of $1.1 billion in July 1995, they concealed the losses from U.S. bank regulators for almost 2 months. Even worse, Daiwa senior management directed Mr. Iguchi to continue his fraudulent transactions during July and August 1995 to avoid detection of the losses.

In November 1995, Federal and State bank regulators took the stern, but entirely appropriate step, of terminating all of Daiwa Bank's operations in the United States. The bank also paid a criminal fine of $340 million, and two of its officials entered guilty pleas to criminal offenses.

In the wake of the Daiwa scandal, I asked the Federal Reserve to conduct a full inquiry into this matter and to examine our existing scheme for regulating the U.S. activities of foreign banks. The Banking Committee also held a hearing in November 1995 on Daiwa and related matters at which Federal and State bank regulators testified.

Mr. President, it is clear that we must learn from the Daiwa scandal. Over the past year, the Banking Committee has worked with Federal and State regulators, including the Federal Reserve and the New York State Banking Department, to identify any limitations in the existing laws governing the U.S. operations of foreign banks.

After reviewing the recommendations of Federal and State bank regulators, I today introduce the Foreign Bank Enforcement Act. This legislation would make the following five changes to the statutory scheme now governing the U.S. operations of foreign banks.

First, it would clarify that the Federal Reserve possesses the statutory authority to set conditions for the termination of a foreign bank's activities in the United States. Under the International Banking Act of 1978, the Federal Reserve may order the complete termination of a foreign bank's branches and agencies in the U.S. This amendment would make explicit that the Federal Reserve also may issue, on an involuntary basis, a termination order that sets specific conditions on the termination of a foreign bank's U.S. activities. These conditions might include requiring the terminated bank to maintain the records of its U.S. activities in the U.S., to make its officials available in the U.S. to facilitate U.S. investigatory efforts, and to escrow funds in the U.S. to meet contingent liabilities after the foreign bank has left the U.S.

Second, this bill would clarify the authority of federal banking agencies to remove convicted felons from the banking industry. Under Section 8(g) of the Federal Deposit Insurance Act, the Federal Reserve and other Federal banking agencies may suspend and permanently bar from the banking industry persons convicted of certain felonies. This amendment would make clear that Federal banking agencies possess this authority with regard to persons who are not actually employed by a banking organization.

Third, the Foreign Bank Enforcement Act would expand the current automatic bar on the employment of persons convicted of a crime involving dishonesty, breach of trust, or money laundering. Under Section 19 of the Federal Deposit Insurance Act, a person convicted of such crimes may not work for an insured depository institution without the approval of the Federal Deposit Insurance Corporation; it does not expressly bar the future employment of a convicted person by a bank holding company, an Edge or Agreement corporation, or a U.S. branch or agency of a foreign bank. For instance, under the current Section 19, Mr. Iguchi, the senior Daiwa official who caused the bank's $1.1 billion trading loss, would not automatically be barred from working for another U.S. branch or agency of a foreign bank. This amendment would close this loophole.

Fourth, this legislation would increase the ability of the federal bank regulators to obtain from foreign bank supervisors critical examination and supervision-related information concerning foreign banks operating in the U.S. Specifically, it would amend the International Banking Act of 1978 to provide explicitly that federal bank regulators may keep confidential critical bank-examination information obtained from foreign supervisors. This provision would not protect such information from disclosure to Congress or to the courts and is similar to a provision in the securities laws that allows the SEC to maintain the confidentiality of information received from a foreign securities authority.

Finally, this bill would authorize Federal courts, upon a motion of a U.S. Attorney, to issue orders authorizing the disclosure of matters occurring before a grand jury to State bank regulators. Under current law, such disclosures may be made only to Federal bank regulators, and, as the Daiwa matter demonstrates, State bank regulators play an important role in the supervision of foreign banks operating in the U.S.

Mr. President, we must not allow loopholes in existing law to erode the confidence of the American people in the integrity of our financial system.

Congress must provide Federal and State bank regulators with all of the tools necessary to supervise fully the U.S. operations of foreign banks. The Foreign Bank Enforcement Act proposes a number of narrow, but important, changes in existing law. It reflects the recommendations of the Federal Reserve and other bank regulators. I urge the swift approval of this important legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 2144

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Foreign Bank Enforcement Act of 1966''.

**SEC. 2. UNAUTHORIZED PARTICIPATION BY CONVICTED PERSONS.**

Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended—

(1) in subsection (a), by striking ''Corporation'' and inserting ''appropriate Federal banking authority''; and

(2) by adding at the end the following new subsection:

''(c) DEFINITION.—For purposes of this section—

''(1) the term 'appropriate Federal banking authority' means—

''(A) the Corporation, in the case of any insured depository institution, except as specifically provided in subparagraphs (B), (C), and (D), or in the case of any insured branch of a foreign bank;

''(B) the Board of Governors of the Federal Reserve System, in the case of any bank holding company and any subsidiary thereof (other than a bank), uninsured State branch or agency of foreign bank, or any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act;

''(C) the Comptroller of the Currency, in the case of any Federal agency or uninsured Federal branch of a foreign bank; and

''(D) the Office of Thrift Supervision, in the case of any savings and loan holding company and any subsidiary thereof (other than a bank or a savings association) or any institution that is treated as an insured bank under section 8(b)(9); and

''(2) the term 'insured depository institution' shall be deemed to include any institution treated as an insured bank under paragraph (3), (4), or (5) of section 8(b) or as a savings association under section 8(b)(9).''.

**SEC. 3. REMOVAL ACTIONS AGAINST PERSONS CONVICTED OF FELONIES.**

Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended—

(1) by inserting '', or any order pursuant to subsection (g),'' after ''any notice''; and

(2) by inserting ''or order'' after ''such notice''.

**SEC. 4. INTERNATIONAL COOPERATION.**

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following new subsections:

''(c) INFORMATION OBTAINED FROM FOREIGN SUPERVISORS.—

''(1) IN GENERAL.—Except as provided in subsection (d), the Board, the Comptroller, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision shall not be compelled to disclose information obtained from a foreign supervisor if—

''(A) the foreign supervisor has, in good faith, determined and represented to such agency that public disclosure of the information would violate the laws applicable to that foreign supervisor; and

''(B) the United States agency obtains such information pursuant to—

''(i) such procedure as the agency may authorize for use in connection with the administration or enforcement of the banking laws; or

''(ii) a memorandum of understanding.

''(2) TREATMENT UNDER TITLE 5.—For purposes of section 552 of title 5, United States Code, this subsection shall be considered to be a statute described in subsection (b)(3)(B) of such section 552.

''(d) SAVINGS PROVISION.—Nothing in this section authorizes the Board, the Comptroller, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision to withhold information from the Congress or to prevent such agency from complying with an order of a court of the United States in an action commenced by the United States or by such agency.''.

**SEC. 5. TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.**

Section 7(e) of the International Banking Act of 1978 (12 U.S.C. 3105(e)) is amended by adding at the end the following new paragraph:

''(8) PROVISIONS OF A TERMINATION ORDER.—An order issued by the Board under paragraph (1) or by the Comptroller under section 4(i) may contain such terms and conditions as the Board or the Comptroller, as the case may be, deems appropriate to carry out this subsection.''.

**SEC. 6. DISCLOSURE OF CERTAIN MATTERS OCCURRING BEFORE GRAND JURY.**

Section 3322(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''State or Federal'' before ''financial institution''; and

(2) in paragraph (2), by inserting ''at any time during or after the completion of the investigation of the grand jury'' before ''upon''.

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SUMMARY OF THE FOREIGN BANK ENFORCEMENT ACT OF 1996

SECTION 2. EMPLOYMENT PROHIBITION

Section 19 of the Federal Deposit Insurance Act (''FDI Act''), (12 U.S.C. 1829), prohibits anyone convicted of a criminal offense from being employed by, or participating in the affairs of, an insured depository institution unless they receive the written consent of the FDIC. Section 19 covers only employees of depository institutions and thus does not currently prohibit the employment of convicted felons in a bank holding company, Edge or Agreement Corporation, or in a U.S. branch or agency of a foreign bank. The Act would expand the employment bar to these regulated entities and give authority for regulatory review to the federal regulator with oversight over the affected institution.

SECTION 3. REMOVAL ACTIONS

Banking regulators are empowered under Section 8(g) of the FDI Act (12 U.S.C. 1818(g)) to suspend or permanently prohibit a person who is indicted or convicted of a felony from participating in the affairs of a regulated institution. Under 8(g), the regulatory order must be made against an ''institution-affiliated party.'' The FDI Act clarifies that even when the person resigns or is terminated by the institution and is thus no-longer an ''institution-affiliated party,'' the regulators may prohibit employment in regulated institutions.

SECTION 4. INTERNATIONAL COOPERATION

Section 4 provides that communications from foreign supervisors to U.S. banking agencies may be held confidential. The provision, by making such protection explicit in the law, would encourage foreign bank supervisors to communicate more closely with their U.S. counterparts, thereby contributing to better oversight of banks operating internationally. The provision parallels the authority already available to securities regulators, and would not affect the ability of Congress or the courts to obtain such information.

SECTION 5. TERMINATION OF FOREIGN BANK OFFICES

The International Banking Act of 1978 (12 U.S.C. 3105(e)(1)) authorizes the Federal Reserve Board and the OCC to terminate a foreign bank's activities in the U.S. The Act is unclear, however, about whether the termination order can require the foreign bank to take actions such as establishment of escrow accounts for the payment of potential fines. Section 5 states explicitly that the regulators may include appropriate terms and conditions in their termination orders.

SECTION 6. GRAND JURY DISCLOSURE

Under section 3322 of the U.S. Criminal Code, (18 U.S.C. 3322(b)) a federal court may authorize disclosure to federal banking regulators of grand jury information used by law enforcement authorities investigating federal banking law violations. Section 6 expands the scope of this provision to include disclosure of such information to state bank regulatory authorities.●

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By Mr. PELL (for himself and Mr. HATFIELD):

S. 2147. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking, Housing, and Urban Affairs.

THE LIBRARY OF CONGRESS COMMEMORATIVE

Mr. PELL. Mr. President, at the request of the Library of Congress I am introducing, for myself and for the senior Senator from Oregon [Mr. HATFIELD], the Library of Congress Commemorative Coin Act, in recognition of the 200th anniversary of the Library of Congress, which will occur in the year 2000.

Established in 1800, the Library of Congress is our Nation's oldest national cultural institution and has become the largest repository of recorded knowledge in the world. It stands as a symbol of the vital connection between knowledge and democracy.

The Library of Congress Commemorative Coin Act authorizes the Secretary of the Treasury to issue, in year 2000, 500,000 silver dollars and 500,000 half dollar coins commemorating the anniversary. The proceeds of the sale of the coins will support not only the observance of the bicentennial of the Library's creation, but also digitization projects that will share the resources of the Library with the Nation's schools and libraries.

James Madison said ''Learned institutions ought to be the favorite objects of every free people. They throw the light over the public mind which is the best security against crafty and dangerous encroachments on the public liberty.'' This bill commemorates the fact that the Library of Congress for two centuries has fulfilled James Madison's hope by dispensing the light of

knowledge over the Congress, the Nation, and the world.

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By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2149. A bill to establish a program to provide health insurance for workers changing jobs; to the Committee on Labor and Human Resources.

THE TRANSITIONAL HEALTH INSURANCE COVERAGE FOR WORKERS BETWEEN JOBS ACT

Mr. KENNEDY. Mr. President, last month, President Clinton signed the Kassebaum-Kennedy Health Insurance Reform Act. That legislation provides portability of health insurance coverage. It said to American workers and their families: you do not have to lose your health insurance coverage because you lose your job.

That legislation is important. But for too many workers who lose their job, it could be an empty promise if the coverage is unaffordable. In fact, those between jobs typically have great difficulty paying the cost of insurance coverage. In 1996, family coverage costs an average of $6,900 a year, and individual coverage costs $2,600.

The legislation we are introducing today will help fill this gap. It is a modified version of President Clinton's proposal to provide temporary assistance for workers to keep their coverage between jobs. I commend the President for offering this progressive, thoughtful program, and I commend my colleague, Senator JOHN KERRY, for his leadership on this issue and his important contribution to the development of this legislation.

This is a logical and needed step in health insurance reform. The needs of the unemployed are especially great. Since 1936, we have provided a temporary program of income maintenance to workers who lose their jobs. Because of the high cost of health care, temporary assistance for health insurance during periods of unemployment is essential for American workers in 1996. Unemployment insurance alone is no longer sufficient.

Temporary health insurance assistance is especially critical as we face the economic changes associated with the new global economy and changing corporate behavior. Corporations used to reduce their work forces only when they were in trouble. But now, no worker can count on job security, since the trend is for profitable companies to lay off good workers to become even more profitable. Experts estimate that the average worker entering the work force today will change jobs seven to nine times in a typical career. Some of these workers will choose to change jobs, but others will be forced to. The Department of Labor estimates that in 1996 alone, 8.5 million workers will collect unemployment insurance for some period of time.

The legislation we are proposing today will provide financial assistance to help maintain health insurance coverage for workers and their families who are no longer eligible for on-the-job coverage because they have lost their job. To qualify, an individual would have to be eligible for unemployment insurance, would have to have had employer-sponsored coverage for 6 months before becoming unemployed, and could not be eligible for employment-based coverage through a spouse or domestic partner or for Medicaid or Medicare.

In the month for which assistance is provided, the family income would have to be 240 percent of poverty or less—about $37,440 for a family of four. Assistance would be limited to 6 months. The goal of this program is to help workers in transition between jobs—not to provide permanent coverage.

The program will be administered through the states. Typically, an eligible individual will receive assistance in paying the cost of COBRA continuation coverage under current law. If the worker is not eligible for COBRA, assistance will be available for any other policy that is not more generous than the Blue Cross-Blue Shield standard option plan available to Federal employees and Members of Congress.

There are a number of unanswered questions about the best way to structure the program, and I look forward to working with my colleagues in the next Congress, with the administration, and outside experts to improve it before it is passed. But the underlying principle is clear. No family should lose its health insurance coverage because a breadwinner is in transition between jobs.

The administration estimates that the cost of the program will be approximately $2 billion a year over the next 6 years, that approximately 3 million workers and their families will be helped to maintain their coverage every year.

The program can be paid for largely by closing two of the most notorious corporate tax loopholes—the title passage loophole and the runaway plant loophole. The first loophole involves bookkeeping transactions under which multinational corporations artificially shift income to overseas operations to avoid U.S. taxes. The second loophole allows corporations to move jobs abroad, accrue large in foreign bank accounts, and avoid U.S. taxes. Closing these loopholes to help unemployed workers keep their health insurance coverage is an appropriate use of the revenue.

This program is a modest attempt to help American workers cope with the disclosures of modern industrial life and the new global economy. But it is also important to understand what it does not do:

It does not add to the deficit. The program will be fully financed. In President Clinton's budget, it was paid for within his balanced budget plan.

It does not impose additional burdens on employers or create an employer mandate.

It is not an unfunded mandate on the States. The Federal Government pays 100 percent of the cost of the program. If a State chooses not to administer the program, it is not required to do so.

The Kassebaum-Kennedy health insurance reform bill passed the Senate by a strong bipartisan vote of 98 to 0, because it was clearly needed. This additional improvement is also needed—to help see that the promise of health insurance portability is fulfilled in practice.

We have heard a great deal of talk about family values in this campaign year. One of the most important expressions of family values is to help families keep their health insurance coverage when a breadwinner is between jobs. For the millions of American workers who worry that their family will lose their health insurance if they lose they job, this bill can be a lifeline, and I look forward to its bipartisan passage next year.

Mr. KERRY. Mr. President, today Senator KENNEDY and I are introducing the Transitional Health Insurance Coverage for Workers Between Jobs Act. This bill would build on the recently passed Kennedy-Kassebaum health bill by providing funding to States in order to finance up to 6 months of health coverage for unemployed workers and their families.

The Kennedy-Kassebaum bill was an important step toward assuring portability of health insurance coverage. More than 20 million people will benefit from that legislation and the senior Senator from Massachusetts deserves our thanks for his tireless efforts to achieve its passage. Unfortunately, however, although more people are now allowed to purchase health care coverage, many workers are still unable to afford this coverage. Those workers who have been laid off are most likely not to be able to obtain coverage.

The bill we are introducing today would help temporarily unemployed workers to afford health coverage for themselves and their families. It would do so by providing Federal assistance to pay the premium for health insurance. A worker would be eligible who had employer-based coverage in his or her prior job, is receiving unemployment benefits, and has income below certain levels. Families would have to earn no more than $37,440 for a family of four to qualify for the subsidy. People who are eligible for Medicaid or Medicare would not be able to receive this subsidy. Funds would be allocated to States based on the proportion of unemployed persons in the State who collected unemployment insurance [UI] benefits relative to all persons in the Nation who collected UI benefits.

This bill is necessary because, in the real world, workers between jobs still face mortgage or rent payments, utility bills, and other expenses necessary to support themselves and their families in addition to health insurance costs. Many lack a source of income and have exhausted family savings and other resources during the period of unemployment. And unemployment insurance in most states barely pays

enough to cover rent and food—the average monthly UI benefit was only $692 in 1993. In today's increasingly turbulent economy, a secure job is difficult to find. This year in Massachusetts, for example, such major corporations as Digital, Raytheon, and Fleet Bank have laid off hundreds of workers. And over the last few years, most of the major hospitals in my State have significantly downsized their work force. This bill will help workers as they move to new jobs.

I want to squarely address the issue of the cost of this program. The administration has estimated the annual cost to be approximately $2 billion. But I want to make clear that we are committed to fully offsetting the cost with other budget components. I am heartened that President Clinton was able to support establishing such a program in the context of his fiscal year 1997 balanced budget request. Senator KENNEDY has described two corporate loopholes we propose to close. I look forward to working with the administration and my colleagues to identifying a budget offset that is acceptable to my colleagues for this important program.

As Senator KENNEDY said, this plan will not add to the deficit, does not impose additional burdens on employers, and is not an unfunded mandate on States. I look forward to working with the administration and my colleagues to refine this bill and to pass it in the 105th Congress.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. HATCH, Mr. BENNETT, Mr. CAMPBELL, Mr. BURNS, Mr. NICKLES, and Mr. STEVENS):

S. 2150. A bill to prohibit extension or establishment of any national monument on public land without full compliance with the National Environmental Policy Act and the Endangered Species Act, and an express Act of Congress, and for other purposes; to the Committee on Energy and Natural Resources.

THE PUBLIC LANDS PROTECTION ACT OF 1996

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation for myself, Senator CRAIG, Senator HATCH, Senator BENNETT, Senator GRAMS, Senator NICKLES, Senator CAMPBELL, Senator BURNS, and Senator STEVENS to protect public lands from the type of assault visited upon the people of Utah last week, when our President created a new national monument containing 1.7 million acres. That was done without a process, without a process involving public hearings, without a process involving notification of the Utah delegation, and without courtesies extended in advance so the delegation could be responsive to the particular delineations of the area suggested.

I think it is further important to point out the announcement of the President's action was not made in the State of Utah but in the State of Arizona. The withdrawal of land, 1.7 million acres, was in the State of Utah. One could curiously ask, for a Presidential proclamation, why go to another State? It was clear that this action was not welcome in Utah. There would have been many school children to protest that action.

The legislation I introduce with my colleagues is called the Public Lands Protection Act of 1996. It provides that no extension or establishment of a national monument can be undertaken pursuant to the Antiquities Act without full compliance with the National Environmental Policy Act, NEPA, and the Endangered Species Act, and an affirmative act of Congress.

Yet, by invoking the Antiquities Act, the President chose to ignore NEPA, ignore the Endangered Species Act, and take action almost as though it were simply a Presidential mandate that was necessary. Some of us might suggest it was political expediency suggested by some of the President's advisers that caused him to circumvent the process, the public process.

We have had some tough conversations in the Congress. The California Desert Wilderness was an example, of contested legislation and contested hearings. But the process went forward. We got the job done. This action taken in Utah last week defies logic, defies principle, and defies all semblance of courtesy. In effect, the President declared himself to be above the law by unilaterally declaring that the action he took, which unquestionably is a ''major Federal action'' within the meaning of NEPA, did not require an analysis to determine its impact on the environment. By specifically using the authority of the Antiquities Act, a statute enacted in 1906 to enable President Theodore Roosevelt to take action to protect unique features of our public land, the President conveniently sidestepped NEPA and the requirement to consider the environmental consequences of his action.

We know President Clinton is no President Theodore Roosevelt. Theodore Roosevelt allowed a tremendous public dialog to take place before he invoked the Antiquities Act. President Carter invoked the Antiquities Act in my State in a massive land withdrawal. But there was a long process. We didn't like it, but we participated. The people of Utah simply had the national monument dictated to them.

Further, by creating a national monument in the manner the President chose, he circumvented the Endangered Species Act, a law that the elite environmental lobbyists invoke at every turn to strike fear in the hearts of the American people that public land use for timber harvesting, oil and gas development, livestock grazing, and mining is causing irreversible and intolerable damage to threatened and endangered species and their habitat and that such use of the public domain should be eliminated altogether.

Finally, Mr. President, the Clinton administration kept the decision concerning the national monument cloaked in secrecy until it was sprung on the citizens of Utah by surprise. There was no consultation with the Governor, no consultation with the congressional delegation, no outreach effort to the citizens, no interactive process with the public land users, and no consideration of any of the benefits of the lands that have now been taken out of productive multiple use.

The President didn't want the democratic process, or the hearing process to go forward. It would have gone into the 105th Congress. We would have resolved it.

I dare say, President Clinton's action is probably the most arrogant, hypocritical, and blatantly political exercise of Federal power affecting public lands ever, and the media seems to have bought it. President Clinton's and Interior Secretary Bruce Babbitt's war on the West, in this unprecedented action, has almost the feel of Pearl Harbor. The President chose the most politically expedient and least publicly interactive route possible. The fact that he announced his decision, as I stated, in Arizona speaks for itself.

My bill and that of my colleagues would bring an end to the use of this old law to abuse Federal power and trample on States' rights. It is not needed anymore. We have the democratic process, we have NEPA, we have the Endangered Species Act, and we have the checks and balances so that a Presidential land grab is not in order.

Our bill is very straightforward. It provides that no extension or establishment of a national monument can be undertaken pursuant to the Antiquities Act without full compliance with NEPA, full compliance with the Endangered Species Act and an expressed act of Congress. What is wrong with that? That is the process. That is the democratic way.

This bill, when passed, would mean that there will be a public process and a deliberate, thoughtful analysis of the environmental consequences of the proposed action. There will also be consultation under the Endangered Species Act among the affected agencies on the potential effects on threatened and endangered species and their habitat.

More important, Mr. President, by requiring an act of Congress before a monument can be extended or established, the American people, the affected citizenry of the State involved, and interested public land users will have an opportunity to voice their opinions during the process.

This can occur during the NEPA process, during the endangered species consultation process and during legislative consideration of the act to extend or establish a national monument. No secret decision by the President's handlers and spin doctors and no campaign ploys, such as we have seen with the Utah monument.

President Clinton's action in Utah ignored public sentiment. It ignored the wishes of the citizens of Utah, of the public land users, of those who hold valid existing property rights and

those who care deeply—deeply—about environmental stewardship. As our committee process continued, had it been allowed to continue, areas would have been identified and put into wilderness that were agreed upon by the State of Utah, the Governor, the legislature and the congressional delegation.

My bill would restore the public's voice in these matters and give meaning to the concept of public participation.

Mr. President, I urge my colleagues to join me in supporting this bill. I ask unanimous consent that the RECORD be left open until the end of the session to allow additional sponsors to join me on this measure.

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

Mr. CRAIG. Mr. President, I rise today in support of a bill being introduced that has been forced by recent events. I'm talking about President Clinton's proclamation unilaterally declaring nearly two million acres of southern Utah a National Monument.

After the President's announcement, Senator KEMPTHORNE and I introduced the Idaho Protection Act. The bill would require that the public and the Congress be included before a National Monument could be established in Idaho.

When we introduced that bill, I was immediately approached by other Senators seeking the same protection. What we see unfolding before us in Utah ought to frighten all of us. Without including Utah's Governor, Senators, congressional delegation, the state legislature, county commissioners, or the people of Utah—President Clinton set off limits forever approximately 1.7 million acres of Utah.

Under the 1906 Antiquities Act, President Clinton has the authority to create a National Monument where none existed before. And if he can do it in the State of Utah, he can do it in Idaho, or Montana, or California. In fact, since 1906, the law has been used some 66 times to set lands aside.

Just as 64 percent of the land in Utah is owned by the Federal Government, 62 percent of Idaho is also owned by Uncle Sam. Even New Hampshire, on the East Coast, has 14 percent of its land owned by the Federal Government. What the President has done in Utah, without public input, he could also do in Idaho or any of the States where the Federal Government has a presence.

The bill that is being introduced would simply require that the public and the Congress be fully involved and give approval before such a unilateral administrative act could take effect on our public lands.

Unfortunately, for the people of Utah, what the President has done there, should be a wake up call to people across America. While we all want to preserve what is best in our States, people everywhere understand that much of their economic future is tied up in what happens on the public lands in our States.

In the West, where public lands dominate the landscape, issues such as grazing, timber harvesting, water use, have all come under attack by an administration seemingly bent upon kowtowing to a segment of our population that wants other uses off our public lands.

But in addition to those in the West, everyone wants the process to be open and inclusive. No one wants the President, acting alone, to unilaterally lock up enormous parts of any State. That is not what Idahoans, or Utah natives or others. We certainly don't work that way in the West. There is a recognition that with common sense, a balance can be struck that allows jobs to grow and families to put down roots while at the same time protecting America's great natural resources.

In my view, the President's actions are beyond the pale and for that reason—to protect others from suffering a similar fate, I am cosponsoring this bill.

Thank you and I yield the floor.

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By Mr. SIMPSON (by request):

S. 2151. A bill to provide a temporary authority for the use of voluntary separation incentives by Department of Veterans Affairs offices that are reducing employment levels, and for other purposes; to the Committee on Veterans' Affairs.

THE DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT REDUCTION ASSISTANCE ACT OF 1996

Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2151, the ''Department of Veterans Affairs Employment Reduction Assistance Act of 1996'' relating to the Department of Veterans Affairs' authority to offer separation incentives to achieve reductions in employment levels. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated September 11, 1996.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

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

S. 2151

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Department Of Veterans Affairs Employment Reduction Assistance Act of 1996.''

**SEC. 2. DEFINITIONS.**

For the purpose of this Act—

(1) ''Department'' means the Department of Veterans Affairs.

(2) ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) is employed by the Department of Veterans Affairs;

(B) is serving under an appointment without time limitation; and

(C) has been currently employed for a continuous period of at least 12 months; but does not include—

(i) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Federal Government;

(ii) an employee having a disability on the basis of which such employee is eligible for disability retirement under the applicable retirement system referred to in clause (i);

(iii) an employee who is in receipt of a specific notice of involuntary separation for misconduct or performance;

(iv) an employee who has accepted a final offer of a voluntary separation incentive payment, payable upon completion of an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111);

(v) an employee who previously has received any voluntary separation incentive payment by the Federal Government under this Act or any other authority and has not repaid such payment; or

(vi) an employee covered by statutory reemployment rights who is on transfer to another organization.

(3) ''Secretary'' means the Secretary of Veterans Affairs.

**SEC. 3. DEPARTMENT PLANS; APPROVAL.**

(a) If the Secretary determines that, in order to improve the efficiency of operations or to meet actual or anticipated levels of budgetary or staffing resources, the number of employees employed by the Department must be reduced, the Secretary may submit a plan to the Director of the Office of Management and Budget to pay voluntary separation incentives under this Act to employees of the Department who agree to separate from the Department by retirement or resignation. The plan shall specify the planned employment reductions and the manner in which such reductions will improve operating efficiency or meet actual or anticipated levels of budget or staffing resources. The plan shall include a proposed period of time for the payment of voluntary separation incentives by the Department and a proposed coverage for offers of incentives to Department employees, targeting positions in accordance with the Department's strategic alignment plan and downsizing initiatives. The proposed coverage may be based on—

(1) any component of the Department;

(2) any occupation, occupation level or type of position;

(3) any geographic location; or

(4) any appropriate combination of the factors in paragraphs (1), (2), and (3).

(b) The Director of the Office of Management and Budget shall approve or disapprove each plan submitted under subsection (a),

and may make appropriate modifications to the plan with respect to the time period in which voluntary separation incentives may be paid or with respect to the coverage of incentives on the basis of the factors in subsection (a) (1) through (4).

**SEC. 4. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

(a) In order to receive a voluntary separation incentive payment, an employee must separate from service with the Department voluntarily (whether by retirement or resignation) during the period of time for which the payment of incentives has been authorized for the employee under the Department plan under section 3.

(b) A voluntary separation incentive payment—

(1) shall be paid in a lump sum at the time of the employee's separation:

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code (without adjustment for any previous payment made under that section), if the employee were entitled to payment under that section; if the employee were entitled to payment under that action; or

(B) if the employee separates—

(i) during fiscal year 1996 or 1997, $25,000;

(ii) during fiscal year 1998, $20,000;

(iii) during fiscal year 1999, $15,000;

(iv) during fiscal year 2000, $10,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit, except that this paragraph shall not apply to unemployment compensation funded in whole or in part with Federal funds;

(4) shall not be taken into account in determining the amount of severance pay to which an employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(5) shall be paid from the appropriations or funds available for payment of the basic pay of the employee.

**SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.**

(a) An individual who has received a voluntary separation incentive payment under this Act and accepts any employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay, prior to the individual's first day of employment, the entire amount of the incentive payment to the Department.

(b)(1) If the employment under subsection (a) is with an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(2) If the employment under subsection (a) is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under subsection (a) is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(c) For the purpose of this section, the term ''employment''—

(1) includes employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(2) includes employment under a personal services contract, as defined by the Director of the Office of Personnel Management.

**SEC. 6. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.**

(a) In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the Department who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this Act.

(b) For the purpose of this section, the term ''final basic pay'', with respect to an employee, means the total amount of basic pay that would be payable for a year of service by that employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

**SEC. 7. REDUCTION OF AGENCY EMPLOYMENT LEVELS.**

(a) Total full-time equivalent employment in the Department shall be reduced by one for each separation of an employee who receives a voluntary separation incentive payment under this Act. The reduction will be calculated by comparing the Department's full-time equivalent employment for the fiscal year in which the voluntary separation payments are made with the actual full-time equivalent employment for the prior fiscal year.

(b) The Office of Management and Budget shall monitor the Department and take any action necessary to ensure that the requirements of this section are met.

(c) Subsection (a) of this section may be waived upon a determination by the President that—

(1) the existence of a state of war or other national emergency so requires; or

(2) the existence of an extraordinary emergency which threatens life, health, safety, property, or the environment so requires.

**SEC. 8. REPORTS.**

(a) The Department, for each applicable quarter of each fiscal year and not later than 30 days after the date of such quarter, shall submit to the Office of Personnel Management a report stating—

(1) the number of employees who receive voluntary separation incentives for each type of separation involved;

(2) the average amount of the incentives paid;

(3) the average grade or pay level of the employees who received incentives; and

(4) such other information as the Office may require.

(b) No later than March 31st of each fiscal year, the Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

(1) the number of employees who received voluntary separation incentives;

(2) the average amount of such incentives;

(3) the average grade or pay level of the employees who received incentives; and

(4) the number of waivers made under section 5 of this Act in the repayment of voluntary separation incentives, and for each such waiver—

(A) the reasons for the waiver; and

(B) the title and grade or pay level of the position filled by each employee to whom the waiver applied.

**SEC. 9. VOLUNTARY PARTICIPATION IN REDUCTIONS IN FORCE.**

Section 3502(f) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting '', the Secretary of Veterans Affairs,'' after ''Defense'';

(2) in paragraph (3), by inserting '', the Department of Veterans Affairs,'' after ''Defense'';

(3) by striking paragraph (4); and

(4) by redesignating paragraph (5) as paragraph (4); and

(5) by amending such paragraph (4), as so redesignated, by striking ''1996'' and inserting ''2000'' in lieu thereof.

**SEC. 10. CONTINUED HEALTH INSURANCE COVERAGE.**

Section 8905a(d)(4) of title 5, United States Code, is amended—

(1) in subparagraph (A) by striking ''in or under the Department of Defense'';

(2) in subparagraph (B)—

(A) by striking ''1999'' in clause (i) and (ii) and inserting ''2000''; and

(B) by striking ''2000'' in clause (ii) and inserting ''2001''; and

(3) in subparagraph (C) by inserting ''by the agency'' after ''identified''.

**SEC. 11. REGULATIONS.**

The Director of the Office of Personnel Management may prescribe any regulations necessary to administer the provisions of this Act.

**SEC. 12. LIMITATION; SAVINGS CLAUSE.**

(a) No voluntary separation incentive under this Act may be paid based on the separation of an employee after September 30, 2000;

(b) This Act supplements and does not supersede other authority of the Secretary of Veterans Affairs.

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ANALYSIS OF DRAFT BILL

The first section provides a title for the bill, the ''Department of Veterans Affairs Employment Reduction Assistance Act of 1996.''

Section 2 provide definitions of ''Department'', ''employee'', and ''Secretary.'' Among the provisions, an employee who has received any previous voluntary separation incentive from the Federal Government and has not repaid the incentive is excluded from any incentives under this Act.

Section 3 provides that, when the VA Secretary determines that employment in the agency must be reduced in order to improve operating efficiency or meet anticipated budget or staffing levels, the Secretary may submit a plan to the Director of the Office of Management and Budget for payment of voluntary separation incentives to Department employees. The plan must specify the manner in which the planned employment reductions will improve efficiency or meet budget or staffing levels. The plan must also include a proposed time period for payment of separation incentives, and a proposed coverage for offers of incentives to Department employees, targeting positions in accordance with VA's strategic alignment plan. Coverage may be on the basis of any component of the Department, any occupation or levels of an occupation, any geographic location, or any appropriate combination of these factors. The Director of the Office of Management and Budget shall approve or disapprove each plan submitted, and may modify the plan with respect to the time period for incentives or the coverage of incentive offers.

Section 4 provides that in order to receive a voluntary separation incentive, an employee covered by an offer of incentives must

separate from service with the agency (whether by retirement or resignation) within the time period specified in the agency's plan as approved. For an employee who separates, the voluntary separation incentive is an amount equal to the lesser of the amount that the employee's severance pay would be if the employee were entitled to severance pay under section 5595 of title 5, United States Code (without adjustment for any previous severance pay), or whichever of the following amounts is applicable based on the date of separation: $25,000 during fiscal year 1996 or 1997; $20,000 during fiscal year 1998; $15,000 during fiscal year 1999; or $10,000 during fiscal year 2000. These reductions in incentive amount for each year an employee delays separation would encourage eligible employees to take the incentive at an earlier point.

Section 5 provides that any employee who receives a voluntary separation incentive under this Act and then accepts any employment with the Government within 5 years after separating must, prior to the first day of such employment, repay the entire amount of the incentive to the agency that paid the incentive. If the subsequent employment is with the Executive branch, including the United States Postal Service, the Director of the Office of Personnel Management may waive the repayment at the request of the agency head if the individual possesses unique abilities and is the only qualified applicant available for the position. For subsequent employment in the legislative branch, the head of the entity or the appointing official may waive repayment on the same basis. If the subsequent employment is in the judicial branch, the Director of the Administrative Office of the United States Courts may waive repayment on the same criteria. For the purpose of the repayment and waiver provisions, employment includes employment under a personal services contract, as defined by the Director of the Office of Personnel Management.

Section 6 requires additional agency contributions to the Civil Service Retirement and Disability Fund in amounts equal to 15 percent of the final basic pay of each employee of the Department who is covered by the Civil Service Retirement System to whom a voluntary separation incentive is paid under this Act.

Section 7 provides that full-time equivalent employment (FTEE) in the Department will be reduced by one for each separation of an employee who receives a voluntary separation incentive under this Act, and directs the Office of Management and Budget to take any action necessary to ensure compliance. Reductions will be calculated by using the Department's actual FTEE levels. For example, if the Department's FTEE usage in FY 1996 is 1,050 FTEEs, and 50 FTEEs separate during FY 1997 using voluntary separation incentive payments provided under this Act, then the Department's staffing levels at the end of FY 1997 shall not exceed 1,000 FTEEs. The President may waive the reduction in FTEE in the event of war or emergency.

Section 8 requires the Department to report to the Office of Personnel Management (OPM) on a quarterly basis: the number of employees receiving incentive payments for each type of separation; the average amount of incentive payments; the average grade or pay of employees receiving incentive payments; and other information OPM may require. This section also requires the Office of Personnel Management to report by March 31st of each year to the Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight concerning the Department's use of voluntary separation incentives in the previous fiscal year. The report must show the number of employees who received incentives, the average amount of the incentives, and the average grade or pay level of the employees who received incentives. The report must also include the number of waivers made under the provisions of section 5 in the repayment of incentives upon subsequent employment with the Government, the reasons for each waiver, and the title and grade or pay level of each employee to whom the waiver applied.

Section 9 amends section 3502(f) of title 5 to authorize the Secretary to allow an employee to volunteer for separation in a reduction-in-force when this will result in retaining an employee in a similar position who would otherwise be released in the reduction-in-force. Section 9 also changes section 3502(f)'s sunset date from 1996 to 2000.

Section 10 amends section 8905a(d)(4) to provide that employees who are involuntarily separated in a reduction in force, or who voluntarily separate from a surplus position that has been specifically identified for elimination in the reduction in force, can continue health benefits coverage for 18 months and be required to pay only the employee's share of the premium. Section 10 also extends section 8905a(d)(4) sunset provisions.

Section 11 provides that the Director of OPM may prescribe any regulations necessary to administer the provisions of the Act.

Section 12 provides that no voluntary separation incentive under the Act may be paid based on the separation of an employee after September 30, 2000, and that the Act supplements and does not supersede other authority of the Secretary.

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SECRETARY OF VETERANS AFFAIRS,
*Washington, DC, September 11, 1996.*

Hon. ALBERT GORE, Jr.,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are submitting a draft bill ''Department of Veterans Affairs Employment Reduction Assistance Act of 1996.'' We request that it be referred to the appropriate committee for prompt consideration and enactment.

In the next several years, VA will undergo dramatic change. VA believes that separation incentives can be an appropriate tool for those VA components that are redesigning their employment mix when the use of incentives is property related to the specific changes that are needed within those components and thus will reshape the agency for the future. They can also be an invaluable tool for components that are restructuring and reengineering, such as the Veterans Health Administration and the Veterans Benefits Administration, as they move towards primary care and new methods of delivering services to veterans. Further, it is vital to provide for consistent administration of any incentive programs that prove necessary for different components, and to appropriately limit the time period for any incentive offers.

This initiative is based on VA's experience with voluntary separation incentives under the Federal Workforce Restructuring Act of 1994. The Restructuring Act provided Federal civilian agencies, including VA, with authority to offer voluntary separation incentives for a 1-year period that ended March 31, 1995. VA generally used these incentives successfully to help avoid involuntary separations and to achieve reductions in administrative overhead and supervisory positions, and the Restructuring Act provided a useful framework for consistent administration of incentive programs in many different VA components.

This proposal would provide an overall system for the limited use of voluntary separation incentives by VA. When the Secretary determines that employment in particular organizations must be reduced in order to meet restructuring goals, the Secretary may submit a plan to the Director of the Office of Management and Budget for payment of voluntary separation incentives to Department employees. The plan must specify how the planned employment reductions will improve efficiency or meet budget or staffing levels. The plan must also include a proposed time period for payment of incentives, and a proposed coverage for offers of incentives to agency employees on the needed organizational, occupational, or geographic basis, targeting positions in accordance with VA's strategic alignment plan. The Director of the Office of Management and Budget would approve or disapprove each plan submitted, and would have authority to modify the time period for incentives or coverage of incentive offers. We believe that these provisions for plan approval will ensure that separation incentives are appropriately targeted within the Department in view of the specific cuts that are needed, and are offered on a timely basis. Although the Department's full-time equivalent employment would be reduced by one for each employee of the Department who receives an incentive, we believe that service to veterans will improve as a result of the reengineering that is happening simultaneously within the system.

The authority for separation incentives would be in effect for the period starting with the enactment of this Act and ending September 30, 2000. The amount of an employee's incentive would be the lesser of the amount that the employee's severance pay would be, or whichever of the following amounts is applicable based on the year of separation in accordance with the agency plan; for employees who retire, $25,000 during fiscal year 1996 or 1997, $20,000 during fiscal year 1998, $15,000 during fiscal year 1999, and $10,000 during fiscal year 2000.

These reductions in the incentive amount for each year an employee delays separation would encourage employees to take the incentives during the first year of eligibility. An employee who receives an incentive and then accepts any employment with the Government within 5 years after separating must, prior to the first day of employment, repay the entire amount of the entire amount of the incentive. The repayment requirement could be waived only under very stringent circumstances of agency need.

In order to further assist VA components in making needed changes, the bill would authorize VA, under appropriate conditions, to allow an employee to volunteer for separation in a reduction-in-force when this will prevent the involuntary separation of an employee in a similar position. In addition, in order to minimize the impact of reduction-in-force actions on employees, the bill provides that employees who are involuntarily separated in reductions-in-force can continue their health insurance coverage for 18 months while continuing to pay only the premium that would apply to a current employee.

This proposal would provide a very useful tool to assist in reorganizing VA and reengineering services provided to veterans, quickly, effectively, and humanely. We also believe that it is a tool that will allow significant cost savings. If the proposal is enacted, we will report, on an annual basis, cost savings associated with separation incentives as well as where such funds have been redirected to improve the provision of services to veterans.

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By Mr. SIMPSON (by request):

S. 2152. A bill to amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida, and for other purposes; to the Committee on Veterans' Affairs.

THE AGENT ORANGE BENEFITS ACT OF 1996

Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2152, a bill to provide benefits for certain children of Vietnam veterans who are born with spina bifida. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated July 25, 1996.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter of the draft legislation.

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

S. 2152

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**SECTION 2. BENEFITS FOR THE CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA.**

(a) SHORT TITLE.—This section may be cited as the ''Agent Orange Benefits Act of 1996.''

(b) Establishment of new chapter 18.—Part II is amended by inserting after chapter 17 the following new chapter:

**''CHAPTER 18—BENEFITS FOR THE CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA.**



**''1801. Purpose**

''The purpose of this chapter is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care, vocational training, and monetary benefits.

**''1802. Definitions**

''For the purposes of this chapter—

''(1) The term 'child' means a natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

''(2) The term 'Vietnam veteran' means a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era.

''(3) The term 'spina bifida' means all forms of spina bifida other than spina bifida occulta.

**''1803. Health care**

''(a) In accordance with regulations the Secretary shall prescribe, the Secretary shall provide such health care under this chapter as the Secretary determines is needed to a child of a Vietnam veteran who is suffering from spina bifida, for any disability associated with such condition.

''(b) The Secretary may provide health care under this section directly or by contract or other arrangement with a health care provider.

''(c) For the purposes of this section—

''(1) The term 'health care' means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care, and includes the training of appropriate members of a child's family or household in the care of the child and provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care authorized under this section, and other materials as the Secretary determines to be necessary.

''(2) The term 'health care provider' includes, but is not limited to, specialized spina bifida clinics, health-care plans, insurers, organizations, institutions, or any other entity or individual who furnishes health care services that the Secretary determines are covered under this section.

''(3) The term 'home care' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

''(4) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

''(5) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

''(6) The term 'outpatient care' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

''(7) The term 'preventive care' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines are necessary to provide effective and economical preventive health care.

''(8) The term 'habilitative and rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent, the functioning of a disabled person.

''(9) the term 'respite care' means care furnished on an intermittent basis in a Department facility for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.''.

**''§ 1804. Vocational training**

''(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

''(b)(1) If a child elects to pursue a program of vocational training under this section, the program shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

''(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of such vocationally oriented services and assistance, including such placement and postplacement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment.

''(B) A vocational training program under this subsection—

''(i) may not exceed 24 months unless, based on a determination by the Secretary that an extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the child, the Secretary grants an extension for a period not to exceed 24 months;

''(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment; and

''(iii) may include a program of education at an institution of higher learning only in a case in which the Secretary determines that the program involved is predominantly vocational in content.

''(c)(1) A child who is pursuing a program of vocational training under this section who is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both of such programs concurrently but shall elect (in such form and manner as the Secretary may prescribe) under which program to receive assistance.

''(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

**''§ 1805. Monetary allowance**

''(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for disability resulting from spina bifida suffered by such child.

''(b) The amount of the allowance paid under this section shall be based on the degree of disability suffered by a child as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe. The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based. The allowance shall be [$200] per month for the lowest level of disability prescribed, [$700] per month for * * *.

* * * * *

(B) by striking out'', aggravation,'' both places it appears; and

(C) by striking out ''sentence'' and substituting in lieu thereof ''subsection''.

(b) The amendments made by subsection (a) shall govern all administrative and judicial determinations of eligibility for benefits under section 1511 of title 38, United States Code, made with respect to claims filed on or after the date of enactment of this Act, including those based on original applications

and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under section 1151 of that title or predecessor provisions of law.

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THE SECRETARY OF VETERANS AFFAIRS,
*Washington, DC, July 25, 1996.*

Hon. ALBERT GORE, Jr.,
*President of the Senate, Washington, DC.*

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill ''To amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida.''

On March 14, 1996, the Institute of Medicine (IOM) of the National Academy of Sciences released a report which concluded that there is ''limited/suggestive'' evidence of an association between exposure to herbicides and spina bifida, a neural tube birth defect in which the bones of the spine fail to close over the spinal cord, often causing neurological impairment.[1] Based on this conclusion, and consistent with the spirit of the statutory standard governing decisions regarding presumptions of service connection for disabilities associated with exposure to herbicides during active military service in the Republic of Vietnam, as established by Public Law 102–4, I have determined that a positive association exists between exposure of a parent to herbicides during such service and the birth defect of spina bifida.

This determination was made based on a recommendation of a special task force I established to review the IOM report. The task force noted that certain studies of Vietnam veterans suggested an apparent increase in the risk for spina bifida in their offspring. These included studies conducted by the Centers for Disease Control and Prevention and, more recently, a study of offspring of Air Force Ranch Hand personnel. Although noting that scientific questions remain, the task force indicated that spina bifida does appear to meet the statutory standards set forth in Public Law 102–4.[2] The task force noted that VA currently has no authority to establish presumptions of service connection for diseases in the offspring of veterans, but concluded that, if such authority existed, it would recommend, at this time, that spina bifida in the offspring of Vietnam veterans be treated in the same manner as prostate cancer and acute/subacute peripheral neuropathy. Because VA currently has no authority to provide benefits to these offspring, enabling legislation is necessary.

We recognize that the provisions of law that govern and, in some instances, mandate, the addition of new disabilities for which a presumption of service connection is provided do not govern the present situation. However, the level of association that we believe has been shown to exist is no less compelling for the conditions suffered by these children than for certain diseases in Vietnam veterans themselves for which the Government has assumed responsibility. It seems appropriate, therefore, and in the best interests of these children, that the same benefit of the doubt as is required to be given Vietnam veterans be given to their offspring, whose birth defects may be a result of their father's or mother's service to this country.

Historically, benefits for spouses and/or children have been derivative, that is, based on the death or disability of a veteran. The benefits proposed in this draft bill would represent the first instance in which VA would be authorized to provide benefits to a nonveteran based on a possible relationship between that individual's disability and a veteran's service. While this is unprecedented, we believe it to be an appropriate extension of the principle of providing benefits for disabilities that are incurred or aggravated as a result of an individual's service on active duty in the Armed Forces of the United States. When sound medical judgment indicates a course of action, as it appears to in this case, we believe that it is not only reasonable, but responsible, to propose the enactment of appropriate legislative remedies. We believe Congress, in enacting the standards for compensation found in Public Law 102–4, intended that the benefit of the doubt should be applied in making judgments regarding the consequences surrounding the use of herbicide agents and that benefits be provided to individuals who have suffered injury as a result thereof, a policy which should have equal force in terms of providing benefits to the offspring of such individuals.

The primary benefit proposed in the draft bill is associated comprehensive medical care, which could be provided directly by VA or by contract with non-VA providers. Second, because of the likelihood that individuals who suffer from spina bifida will encounter difficulties in pursuing vocational goals, we believe it is appropriate to assist them through the provision of vocational training benefits. Finally, in recognition of other, special financial needs these children are likely to have, we believe they should be provided with a monthly stipend to help defray additional expenses associated with their disabilities. The Secretary would be required to base the amount of the stipend, or allowance, on each child's level of disability, in accordance with a special schedule established for this purpose. Under the proposed framework, the Secretary would pay the allowance based upon three levels of disability, resulting in monthly levels of $200 per month for the lowest level of disability assigned, $700 per month for the intermediate level of disability assigned, and $1,200 per month for the highest level of disability assigned.

In addition, this proposal includes a provision to offset costs associated with these new benefits. This provision would effectively reverse the U.S. Supreme Court decision in *Gardner* v. *Brown* which held that monthly VA disability compensation must be paid for any additional disability or death attributable to VA medical treatment even if VA was not negligent in providing that care. A detailed explanation of the justification for this cost-saving measure appears in the testimony of VA's General Counsel before the Senate Committee on Veterans' Affairs on June 8, 1995.

This bill would affect direct spending and therefore is subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act of 1990. Enactment of this legislation would increase direct spending by $5.5 million in Fiscal Year 1997 and decrease direct spending by $291.5 million over a 5-year period.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.

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[1] That report, *Veterans and Agent Orange: Update 1996,* also concluded that ''limited/suggestive'' evidence of an association exists between exposure to herbicides and cancer of the prostate and acute/subacute peripheral neuropathy. Based on these conclusions, I have determined, under statutory guidelines set forth in section 1116(b)(3) of title 38, United States Code, that a ''positive association'' exists between such exposure and the two conditions. Pursuant to section 1116(b)(1), we intend to add such diseases to the list of diseases for which a presumption of service connection is established.

[2] The standard for determining whether a positive association exists with respect to herbicide exposure and diseases in Vietnam veterans is set forth in 38 U.S.C. §1116(b)(3), as added by Public Law 102–4, which states, ''An association between the occurrence of a disease in humans and exposure to a herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association.''

## ADDITIONAL COSPONSORS

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1237

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1237, a bill to amend certain provisions of law relating to child pornography, and for other purposes.

S. 1628

At the request of Mr. BROWN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

S. 1734

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 1734, a bill to prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.

S. 1925

At the request of Mr. GORTON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 2030

At the request of Mr. LOTT, the names of the Senator from Tennessee [Mr. THOMPSON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2057

At the request of Mr. THURMOND, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2057, a bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs guarantee loans with adjustable rate mortgages.

S. 2104

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2104, a bill to amend chapter 71 of title 5, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes.

S. 2108

At the request of Mr. DORGAN, the name of the Senator from Connecticut

[Mr. LIEBERMAN] was added as a cosponsor of S. 2108, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 2123

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 2123, a bill to require the calculation of Federal-aid highway apportionments and allocations for fiscal year 1997 to be determined so that States experience no net effect from a credit to the Highway Trust Fund made in correction of an accounting error made in fiscal year 1994, and for other purposes.

S. 2125

At the request of Mr. HELMS, his name was added as a cosponsor of S. 2125, a bill to provide a sentence of death for certain importations of significant quantities of controlled substances.

SENATE RESOLUTION 233

At the request of Ms. SNOWE, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 233, a resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

SENATE RESOLUTION 295

At the request of Mr. BIDEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 295, a resolution to designate October 18, 1996, as ''National Mammography Day.''

## SENATE CONCURRENT RESOLUTION 72—RELATIVE TO PARDONS

Mr. SHELBY (for himself, Mr. BOND, Mr. GRAMS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. KYL, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. THURMOND, Mr. HELMS, and Mr. BENNETT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 72

Whereas it is incumbent upon the Congress to oppose any action that would have the effect of undermining the rule of law or the faith of the American people in our jury system;

Whereas on May 28, 1996, former business partners of the President were convicted of a total of 24 felony counts by a jury of 12 Arkansas residents;

Whereas Susan McDougal and Jim Guy Tucker have been sentenced for their crimes by a Federal district judge in Little Rock, Arkansas, and their codefendant James McDougal is awaiting sentencing by the same judge;

Whereas on September 4, 1996, Susan McDougal was held in contempt of court for refusing to answer questions before a Federal grand jury relating to (1) the knowledge of the President with respect to the fraudulent transactions for which she was convicted, and (2) the truthfulness of the testimony of the President at her trial;

Whereas in a televised interview broadcast on September 23, 1996, the President stated that any request for a Presidential pardon made by James or Susan McDougal or Jim Guy Tucker would be reviewed in the normal course, thereby leaving open the possibility that one or more pardons might indeed be issued at some later date;

Whereas any Presidential pardon of James or Susan McDougal or Jim Guy Tucker would seriously undermine the confidence of the American people in our criminal justice system, by essentially nullifying felony convictions of friends and associates of the President rendered by a jury of 12 Arkansas residents on charges initially brought by a grand jury comprised of 23 other Arkansans; and

Whereas the September 23, 1996, remarks by the President could be construed by his recently convicted friends and associates as offering them an inducement to refuse to testify honestly and openly about matters under investigation by Federal law enforcement authorities: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring,* That it is the sense of the Congress that the President should categorically disavow any intention of issuing a Presidential pardon to James or Susan McDougal or Jim Guy Tucker, and thereby affirm the principle that, in the system of justice in the United States, no person is above the law.

● Mr. SHELBY. Mr. President, I have been very disturbed by the recent press reports detailing the President's willingness to pardon Susan McDougal and possibly other former business partners and friends who have been convicted of defrauding the government.

The President's public willingness to suggest that a pardon may be forthcoming, at a time when Susan McDougal is facing contempt charges by a lawfully empaneled grand jury for not responding to questions about the role and truthfulness of the President himself, undermines our judicial system and seriously questions his ability to fulfill his obligation to see that ''the laws be faithfully executed.''

As you will recall, Mr. President, Susan McDougal was convicted on several felony counts of defrauding the government. She was tried and convicted by a jury of her peers in Little Rock, Arkansas and sentenced to 2 years in prison for her crimes.

While the President may not be pleased with the results of Independent Counsel Kenneth Starr's, investigation, including the conviction of many of his friends and former associates, it is outrageous for the President to now allege prosecutorial misconduct on behalf of Mr. Starr. At the request of Attorney General Reno, a three judge panel appointed an Independent Counsel, Kenneth Starr, to investigate fully any violation of Federal law relating in any way to James B. McDouglal's, President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc.

Mr. President, the President's recent statements raise serious questions about his intent to interfere with, and possibly undermine, the Independent Counsel's ongoing investigation into these matters.

Today, Senator BOND and I are submitting a concurrent resolution that would express the Sense of the Congress that the President should disavow any intent of issuing presidential pardons to James and Susan McDougal and Jim Guy Tucker and reaffirm one of the basic tenets of our American system of justice that no one is above the law.●

## SENATE CONCURRENT RESOLUTION 73—RELATIVE TO PROPERTY CLAIMS

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 73

Whereas Fascist and Communist dictatorships have caused immeasurable human suffering and loss, degrading not only every conceivable human right, but the human spirit itself;

Whereas the villainy of communism was dedicated, in particular, to the organized, and systematic destruction of private property ownership;

Whereas the wrongful and illegal confiscation of property perpetrated by Fascist and Communist regimes was often specifically designed to victimize people because of their religion, national or social origin, or expressed opposition to the regimes which repressed them;

Whereas Fascists and Communists often obtained possession of properties confiscated from the victims of the systems they actively supported;

Whereas Jewish individuals and communities were often twice victimized, first by the Nazis and their collaborators and then by the subsequent Communist regimes;

Whereas churches, synagogues, mosques, and other religious properties were also destroyed or confiscated as a means of breaking the spiritual devotion and allegiance of religious adherents;

Whereas Fascists, Nazis, and Communists have used foreign financial institutions to launder and hold wrongfully and illegally confiscated property and convert it to their own personal use;

Whereas some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims while denying heirs access to these assets;

Whereas refugees from communism, in addition to being wrongly stripped of their private property, were often forced to relinquish their citizenship in order to protect themselves and their families from reprisals by the Communists who ruled their countries;

Whereas the participating states of the Organization for Security and Cooperation in Europe have agreed to give full recognition and protection to all types of property, including private property, as well as the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the countries of Central and Eastern Europe, as well as the Caucasus and Central Asia, have entered a post-Communist period of transition and democratic

development, and many countries have begun the difficult and wrenching process of trying to right the past wrongs of previous totalitarian regimes;

Whereas restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation are arbitrary and discriminatory in violation of international law; and

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures and such laws themselves must be consistent with international human rights standards: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of plundered properties;

(2) urges countries which have not already done so to return plundered properties to their rightful owners or, as an alternative, pay compensation, in accordance with principles of justice and in a manner that is just, transparent, and fair;

(3) calls for the urgent return of property formerly belonging to Jewish communities as a means of redressing the particularly compelling problems of aging and destitute survivors of the Holocaust;

(4) calls on the Czech Republic, Latvia, Lithuania, Romania, Slovakia and any other country with restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation to remove such restrictions from their restitution or compensation laws;

(5) calls upon foreign financial institutions, and the states having legal authority over their operation, that possess wrongfully and illegally property confiscated from Holocaust victims, from residents of former Warsaw Pact states who were forbidden by Communist law from obtaining restitution of such property, and from states that were occupied by Nazi, Fascist, or Communist forces, to assist and to cooperate fully with efforts to restore this property to its rightful owners; and

(6) urges post-Communist countries to pass and effectively implement laws that provide for restitution of, or compensation for, plundered property.

● Mr. D'AMATO. Mr. President, I submit a concurrent resolution which addresses a number of distinct, but closely related, property issues. It follows up on work already done by the Helsinki Commission, which held a hearing on this subject on July 18, 1996. This same concurrent resolution is being submitted today in the House by the Commission's distinguished Chairman, my good friend and colleague from New Jersey, Congressman CHRIS SMITH. It is cosponsored by the majority of the Commission.

The substance of this concurrent resolution has been discussed with the Administration and parallels and supports the work being done by Under Secretary of Commerce for International Trade Stuart E. Eizenstat, who also serves as the U.S. Department of State Special Envoy for Property Claims in Central and Eastern Europe.

I strongly believe that there must be a full, complete and final accounting of the assets of Holocaust victims that have been wrongfully held by Swiss—and possibly other banks—for some five decades now. Those records must be opened, and the stolen assets returned to their rightful heirs. This concurrent resolution addresses that issue.

It also addresses the compelling situation of Holocaust survivors in Central and Eastern Europe. Many of these people, unlike their counterparts in Western Europe, were denied the chance to receive any compensation for their suffering or to receive the return of properties stolen by the Nazis when the iron curtain closed, leaving them at the mercy of new dictatorships. This concurrent resolution recognizes the urgent need for Jewish communal properties to be restored to their rightful owners, to help give these survivors the means to live out their final days in dignity.

Finally, this concurrent resolution speaks to the difficult and complex process underway in many post-Communist countries in Central and Eastern Europe and the former Soviet Union. Some countries have already taken steps to return property or provide compensation for property wrongly confiscated by Communist regimes. I commend those countries for their efforts.

At the same time, I am deeply troubled that some restitution or compensation laws have discriminated against American citizens, people who lost both their property and their citizenship when they sought refuge in this country, fleeing Communist persecution. To exclude these people from efforts to right past wrongs pours salt on an open wound. I urge my colleagues to join me in supporting this concurrent resolution, and in sending a message that these injustices must be remedied before the passage of time carries the victims beyond our mortal abilities to offer them some recompense for their suffering.

While restoration of property ownership or compensation for its wrongful confiscation can never right the terrible wrongs done to the victims by their Nazi, fascist, and communist oppressors, it can go some way toward balancing the scales. That is what this concurrent resolution is about and why it deserves our support.●

## AMENDMENTS SUBMITTED

## THE FEDERAL POWER ACT AMENDMENTS OF 1996

### MURKOWSKI AMENDMENT NO. 5412

Mr. NICKLES (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 737) to extend the deadlines applicable to certain hydroelectric projects, and for other purposes; as follows:

Beginning of page 2 line 1 through page 6 line 6, strike section 2, 3, 4, 5 and 6, and renumber subsequent section accordingly.

On page 9, following line 17, add the following new section

**"SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE CERTAIN HYDROELECTRIC PROJECTS LOCATED IN ILLINOIS.**

''(A) PROJECT NUMBER 3943.—

''(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 3943 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

''(2) An extension may be granted under paragraph (1) only in accordance with—

''(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

''(B) the procedures of the Federal Energy Regulatory Commission under such section.

''(3) This subsection shall take effect for project number 3943 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Federal Energy Regulatory Commission under section 13 of the Federal Power Act.

''(b) PROJECT NUMBER 3944.—

''(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project number 3944 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

''(2) An extension may be granted under paragraph (1) only in accordance with-

''(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

''(B) the procedures of the Commission under such section.

''(3) This subsection shall take effect for project number 3944 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Commission under section 13 of the Federal Power Act.

**"SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF A HYDROELECTRIC FACILITY IN MONTANA**

''Notwithstanding section 10(e)(1) of the Federal Power Act or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under Part I of the Federal Power Act, a political subdivision of the State of Montana that accepts the terms and conditions of a license for Federal Energy Regulatory Commission project number 1473 in Granite County and Deer Lodge County, Montana—

''(a) shall not be required to pay any such charge with respect to the 5-year period following the date of acceptance; and

''(b) after that 5-year period and for so long as the political subdivision holds the license, shall be required to pay such charges under section 10(e)(1) of the Federal Power Act or any other law for the use, occupancy, and enjoyment of the land covered by the license as the Federal Energy Regulatory Commission or any other federal agency may assess, not to exceed a total of $20,000 for any year.''.

ADDITIONAL STATEMENTS

## INNOVATIVE CONTRACTING FOR TECHNOLOGY AT THE NATIONAL INSTITUTES OF HEALTH

● Mr. COHEN. Mr. President, this morning I rise to commend the National Institutes of Health and its leadership for changing the way the Government buys technology.

Earlier this year, the Information Technology Management Reform Act, which I authored, became law. ITMRA fundamentally changes the rules governing how the Government purchases and uses technology. It eliminated overly bureaucratic and cumbersome procedures that resulted in the Government's failure to get what it needed and frustrated vendors who were unable to provide government with the optimum solution. ITMRA sets the stage for Federal agencies to emulate successful organizations and break up large computer projects into smaller more manageable segments—a strategy that up to now had been hindered by a procurement system that encourages large complex contracts.

Despite passage of this major reform, the Government must also overcome a culture that arose from the antiquated and cumbersome way of doing business. While the full impact of this reform may take a little time to be felt, some agencies have seized the opportunity to become leaders in innovation consistent with the spirit and intent of the legislation. While I have witnessed recent innovations within the Department of Defense, General Services Administration and a number of other agencies, one effort stands out as exemplifying the spirit behind ITMRA and is particularly well developed based on the intent behind ITMRA.

The chief information officers solutions and partners contract at the National Institutes of Health is an excellent example of how government, under ITMRA, will be able to meet its technology needs in a reasonable time frame and obtain optimum solutions. By comprehending the possibilities presented by recently enacted procurement reform, NIH has provided a contracting vehicle that will allow Federal agencies to buy goods and services in a manner that is competitive, easy to use, fair and timely.

Although the ultimate success of this program will depend on NIH's ability to properly administer the task orders it receives, the innovation demonstrated in the early phases of this procurement deserves special mention. In particular, the leadership and hard work of two NIH employees, Manny DeVera and Gale Greenwald, deserve special attention.

Both Mr. DeVera and Ms. Greenwald quickly recognized the potential of ITMRA and procurement reform, allowing them to award a flexible contract in record time. Both the Government customers and the vendor community are quite excited about the prospects for obtaining needed services in a timely and efficient manner. Government clients will be able to obtain the technology, services, and solutions they need under ITMRA via competitive task orders. Agencies will not have to bundle their requirements into large contracts that take years to award and often end in protest and litigation. Under the new law, an agency can look to the growing number of multiple award task order contracts or the GSA schedule to fulfill information technology requirements. Agency chief information officers can then focus on the return on investment from information technology rather than on finding ways to overcome obstacles in the Federal procurement system.

Mr. President, while this contract must still prove itself, this effort represents a milestone in innovation. The two Federal employees most responsible for this innovation, Manny DeVera and Gale Greenwald, deserve our thanks and appreciation.●

## HIGHWAY FUNDING FAIRNESS ACT OF 1996

● Mr. BIDEN. Mr. President, today I proudly join with the distinguished ranking member of the Environment and Public Works Committee, Senator BAUCUS, to correct a serious accounting error that will cost my home State of Delaware millions of dollars in badly needed Federal highway assistance.

Federal-aid highway funds are for the creation and maintenance of our Nation's interstate highways—literally the lifelines of our economy. The east coast's largest, most important interstate, I–95, runs through the northernmost part of Delaware, carrying hundreds of millions of tons of goods and products from Maine to Florida and beyond. Tens of thousands of Delawareans commute daily on I–95.

In fact, the Delaware Department of Transportation is just now beginning a massive, $73 million project to repave and resurface key parts of I–95. This undertaking is vitally important not only to the people of Delaware, but to commuters and businesses across America.

Yet, next fiscal year, Delaware—partly because of a 1994 bureaucratic snafu—is going to receive approximately $8.2 million less than it received in 1996. That is an 11-percent cut.

This will occur even though the Federal Government will spend a record $18 billion on Federal highway assistance—roughly $455 million more than the current year.

During consideration of the Transportation Appropriations bill this past July, Senator BAUCUS successfully offered an amendment that I supported to correct this miscalculation and restore the needed funding. Yet despite the strong vote in support, and the best efforts of Senator LAUTENBERG, conferees dropped the Baucus amendment, thus preserving the slip-up and cutting funding to 28 States.

Because of this fundamental unfairness, and the egregious, short-sighted cuts in Amtrak funding, I voted against the Transportation Appropriations conference report.

The legislation introduced by Senator BAUCUS that I am cosponsoring today, the Highway Funding Fairness Act of 1996, corrects the 1994 highway fund credit mistake and gives the 28 affected States their rightful allocations.

This 1994 accounting error skims the surface of the issue, however. The root cause of the $8 million cut in funding to Delaware is the skewed allocation formula put in place by the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA], which fails to accurately reflect highway needs. This formula, particularly the so-called 90 percent of payments guarantee, unfairly rewards selected States at the expense of smaller, less populated States, such as Delaware.

I intend to work hard next year during consideration of the ISTEA reauthorization bill to correct this fundamental unfairness, and ensure that States, like Delaware, receive their proper share of highway funds.

I hope my colleagues representing the other 27 affected States will seriously consider cosponsoring the Highway Funding Fairness Act of 1996, and I commend and thank Senator BAUCUS for all of his work.●

## JOE MARK ELKOURI

● Mr. INHOFE. Mr. President, I rise today to honor a great American and a great Oklahoman, Joe Mark Elkouri, who passed from this earth September 26, 1996. Joe Mark was born February 28, 1950, in Altus, OK, and was a respected long-time resident of Oklahoma City.

An alumnus of Oklahoma State University, the Oklahoma City University School of Law, and Southern Methodist University Law School, where he specialized in tax law, Joe Mark utilized his education to the betterment of society.

Joe Mark tirelessly involved himself in civic causes such as the Red Andrews Christmas Dinner, Toys for Tots, the Aids Support Program, and the Winds House, an assisted living center in Oklahoma City. Throughout his life, Joe Mark gave of himself for the benefit of countless others, endearing friends and loved ones for life.

He is survived by two loving daughters, Brie and Lee Elkouri of Oklahoma City; two sisters, KoKo Sparks and family of Oklahoma City, and Sharon Massad of California; his mother Dorothy Weinstein of Dallas, TX, and Jim Roth of the home.

Joe Mark served his community as a distinguished member of the State bar of Oklahoma and served as an Administrative Law Judge for numerous State agencies and as a Special Judge for the city of Oklahoma City. Joe Mark's professional accomplishments are many, but he will be remembered most for his

tremendous good will, enormous heart, and joyful sense of humor. He will be greatly missed by all who knew him and loved him. May He Rest In Peace.●

## THE ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT OF 1996

● Mr. BRADLEY. Mr. President, I am pleased to support S. 1505, the Accountable Pipeline Safety and Partnership Act of 1996. My interest in the pipeline safety issue dates back to the explosion and fire at Edison, NJ in 1994. In reaction to that tragedy, which set fire to eight apartment houses and cost one life, I introduced the Comprehensive One-Call Notification Act, S. 164, cosponsored by Senators SPECTOR, LAUTENBERG and EXON. The purpose of that bill was to improve state-wide notification systems to protect natural gas and hazardous liquid pipelines from being damaged during excavations, the cause of the Edison accident.

In S. 1505, the Commerce Committee has wisely chosen to strengthen State one-call programs, and has provided new authorization for grants to States to establish one-call notification systems consistent with standards which assure at least a minimally acceptable level of protection from accidents. These grants, which were also a feature of S. 164, will assist States in developing the kinds of one-call systems needed to prevent future Edisons from happening.

While I would have preferred a stronger and more comprehensive set of requirements, the bill is an important first step toward the goal of implementing strong, comprehensive one-call systems nationwide.

S. 1505 also includes new language broadening public education programs carried out by natural gas pipeline owners to include the use of one-call systems.

Finally, I was pleased to join with Senator LAUTENBERG in proposing additional provisions which are the subject of a manager's amendment to S. 1505. These include a survey and risk assessment by the Department of Transportation of the effectiveness of remotely-controlled valves which shut off the flow of natural gas in the event of a pipeline rupture. Once the survey and assessment are completed, the Secretary of Transportation shall issue standards for their use if he or she finds them technically and economically feasible.

The manager's amendment also includes measures to promote public awareness of pipeline location. Pipeline owners or operators must provide municipalities where pipelines are located with facility maps to prevent accidents and respond to pipeline emergencies. In addition, the Secretary of Transportation must survey existing public education plans to determine which components are most effective at accident prevention. After analyzing the results of the survey, the Secretary may promulgate nationwide regulations, if necessary, to ensure the safest feasible pipeline public education system.

The bill and these amendments, taken together, represent a considerable improvement over current practices for accident prevention. I hope they can be enacted this year, and prevent another Edison accident.●

## NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT OF 1996

● Mr. MCCAIN. Mr. President, I rise today to urge my colleagues to support this important legislation which will resolve a longstanding dispute between the Hopi Tribe, the Navajo Nation and the United States. This legislation marks the culmination of 4 years of mediation efforts of the Ninth Circuit Court of Appeals involving the Hopi Tribe, the Navajo Nation, representatives of the Navajo families residing on Hopi partitioned lands, and the U.S. Department of Justice. S. 1973 provides for the settlement of four claims of the Hopi Tribe against the United States and provides the necessary authority to the Hopi Tribe to issue 75-year lease agreements to Navajo families residing on the Hopi partitioned land. This legislation will ratify the settlement and accommodation agreements made by the Department of Justice, the Hopi Tribe, the Navajo Nation, and the Navajo families residing on the Hopi partitioned lands.

The settlement marks an important first step in bringing this longstanding dispute between the Hopi Tribe, the Navajo Nation, and the United States to an orderly and peaceful conclusion. These agreements are the product of many, many hours of negotiation under the auspices of the Ninth Circuit Court of Appeals mediation process. While I understand that there are factions in both the Hopi Tribe and the Navajo Nation who have voiced their opposition to the settlement, I believe that these agreements represent the only realistic way to settle the claims of the Hopi Tribe against the United States and to provide an accommodation for the hundreds of Navajos residing on Hopi partitioned lands.

I believe it is imperative that the Congress take this step before the close of this session in order to bring this longstanding dispute to a final resolution. It has been over 22 years since the Navajo-Hopi Settlement Act was passed with the intention of settling the disputes between the Navajo Nation and the Hopi Tribe. Since that time, the Federal Government has spent over $350 million to fund the Navajo-Hopi Relocation Program. That funding exceeded the original cost estimates by more than 900 percent. And yet, there are over 130 appeals still pending, which raises a great deal of uncertainty regarding who is and is not eligible for further relocation benefits under the act. I am convinced that future Federal budgetary pressures will force closure of the Navajo-Hopi Relocation Housing Program. I intend to ensure that this be done in an orderly fashion. I will introduce separate legislation in the near future that will provide for a measured phase out of the Navajo-Hopi Relocation Housing Program in 5 years. As an important first step, it is critical that the Congress pass legislation to settle the outstanding claims of the Hopi Tribe against the United States.

There are several important clarifications that have been made to the legislation as part of our committee's deliberation on the bill. S. 1973 has been amended to make clear that the Hopi Tribe has the authority to renew leases entered into under the settlement for additional terms of 75 years. The bill makes clear that the Hopi Tribe cannot place land into trust that is located within a 5 mile radius of an incorporated town or city in northern Arizona and that prior to placing lands into trust for the Hopi Tribe, the Secretary shall certify that no more than 15 percent of the eligible Navajo households remain on the HPL without having an accommodation agreement with the Hopi Tribe. These clarifications will help ensure that this settlement will achieve a greater degree of finality.

Mr. President, I am also proposing several amendments which further clarify provisions in the settlement and its potential impacts on communities in northern Arizona. The first amendment clarifies that the provisions prohibiting the Secretary from taking lands into trust within 5 miles of an incorporated town also apply to cities in northern Arizona. The second amendment adds a finding to the bill that recognizes that the Navajo Nation and the Navajo families did not participate in the settlement between the Hopi Tribe and the United States. The third amendment adds a new definition for newly acquired trust lands. The fourth amendment pertains to the potential impacts of the settlement provisions on ongoing water rights negotiations in northern Arizona. It would make clear that the settlement agreements provisions would not prejudice or adversely impact existing water users and more senior water rights holders along the Little Colorado River. This provision also makes clear that any water rights covered in the settlement agreement are a part of, and bound by, the adjudication of the court presiding over the Little Colorado River adjudication. Finally, the amendment makes clear that nothing in the Act or the amendments made by the act shall preclude, limit, or endorse actions by the Navajo Nation to seek, in court, an offset from judgments for payments received by the Hopi Tribe.

It is my understanding that as part of the negotiations on provisions in the bill relating to the Little Colorado River adjudication, the Hopi Tribe and the city of Flagstaff have commenced discussions to resolve the water rights of the city of Flagstaff. I am very

pleased that the city of Flagstaff has communicated its support for this settlement and its desire to work with the Hopi Tribe to resolve the outstanding issues related to their respective claims to scarce water resources. I am also pleased that the Hopi Tribe has pledged to work diligently with the city to resolve these difficult issues. It is my hope that both the Hopi Tribe and the city of Flagstaff will be able to resolve these issues amicably in the near future. To that end, let me assure the parties that I will provide whatever assistance I can in working with the Hopi Tribe and the city of Flagstaff to resolve these important issues.

Mr. President, this long overdue legislation marks an important first step toward the resolution of the disputes between the Hopi Tribe, the Navajo Nation, and the United States which have been the subject of over 35 years of litigation and acrimony. For the first time since this dispute began, a mechanism will be provided that permits Navajo families to legally remain on homesites within the Hopi partitioned lands. It is vitally important that Congress pass this legislation in order to settle these long-standing claims against the United States and to provide an opportunity for many Navajo families to remain on their homesites.

Finally, Mr. President, this legislation is supported by the Navajo Nation, the Hopi Tribe, the administration, the State of Arizona, and representatives of the Navajo families residing on the Hopi partitioned lands. Accordingly, I strongly urge the Senate to pass S. 1973.●

## TRIBUTE TO ARMY COL. BARBARA SCHERB

● Mr. INOUYE. Mr. President, as the 104th Congress draws to a close, I stand to pay tribute to a distinguished Army officer who served as a congressional science fellow on my staff during this Congress. Col. Barbara Scherb, U.S. Army, was selected for this highly coveted fellowship as a result of her outstanding training, experience, and accomplishments. She is the prototype of what nursing leadership should be. Her impeccable credentials and superb performance earned her the respect and admiration of the Senate staff. She distinguished herself rapidly as a professional who possessed an infectious demeanor, tremendous integrity, decisive leadership style, political savvy, and unending energy. The ultimate Army officer, Colonel Scherb is a visionary thinker who has the innate ability to implement these visions. Colonel Scherb is the consummate professional; nursing never had a better ambassador nor patients a more devoted advocate.

Colonel Scherb forged strong alliances and affiliations with a myriad of congressional offices, committees, and Federal and civilian agencies to present a cohesive approach to legislative proposals. She worked closely with staff members on the Senate Armed Services and Labor and Human Resources Committees and Defense and Labor, Health and Human Services and Education Appropriations Subcommittees in support of military health issues and national nursing and health care agendas.

As a champion of tri-service nursing and military health issues, Colonel Scherb was instrumental in the clarification of the board certification pay statutes to include certain military nurse specialists; establishment of equitable disbursement of incentive special pay for nurse anesthetists; authorization to establish a graduate school of nursing at the Uniformed Services University of the Health Sciences [USUHS]; and authorization to establish a tri-service nursing research program at USUHS.

Her dynamic leadership provided the driving force behind legislation that enabled any qualified officer in the military health system to be appointed as Surgeon General, and promoted the development of leadership opportunities for nurses and other nonphysicians to include command and general officer promotion. Colonel Scherb wrote legislative language enabling the Services to distribute their field grade end-strength equitably ushering in a new era of equality for military medicine. Colonel Scherb actively pursued codification of Army and Air Force chief nurse appointments as general officers. She championed telemedicine initiatives including advanced medical technologies, digitized radiography, computerized patient records, teleconsultation, and remote distance learning.

As a recognized authority on health care, Colonel Scherb's expertise was in constant demand as a speaker and writer. At significant personal sacrifice, she eagerly sought each and every opportunity to advance nursing, and the health care goals and vision of America.

Colonel Scherb is now attending the Army War College. Based on her splendid performance and exceptional leadership while in my office, I am confident that she will excel in this new endeavor.

Colonel Scherb is an officer of whom the military and our Nation can and should be justifiably proud; a unique combination of talent and devotion to duty. I want to personally and publicly acknowledge my sincere appreciation to Colonel Scherb for her dedicated months of exemplary service and to bid her a fond aloha and heartfelt mahalo.●

## CONGRATULATING REPUBLIC OF CHINA'S CONGRESSIONAL LIAISON

● Mr. MURKOWSKI. Mr. President, many Senators have come to the floor this week to give tribute to our retiring colleagues as the 104th Congress moves toward adjournment. The end of the congressional session also means that many of our friends in the diplomatic community are moving on to other assignments.

I rise today to say farewell and to congratulate Dr. Lyushun Shen, who has served as head of the Republic of China's Congressional Liaison Division in Washington for many years. In recognition of his good work here, Dr. Shen has been named Director of North American Affairs in the the Ministry of Foreign Affairs and will return to Taipei at the end of this month. This is an extremely important position because he will be responsible for coordinating Taiwan's policies toward the United States, among other things. I am pleased the United States will have a good friend in that position.

My staff and I have had many occasions to work with Lyushun during his tenure in Washington. Whether the issue was one where we disagreed, such as back in the days of fishing disputes between Taiwan and Alaska, or where we agreed, such as allowing a private visit by President Lee to his alma mater, Lyushun has served his country with diligence, professionalism, and a fine sense of humor—an important quality in this town. I also had the chance to observe his fishing skills when he attended my wife's charity fishing tournament this past summer, but I think he should stick with diplomacy.

I am confident that Lyushun will be as successful in his new role as he has been here. And I know our paths will cross again during my travels to Asia. I am certain that my colleagues join me in wishing Lyushun and his family all the best in the coming years.●

## AD HOC HEARING ON TOBACCO

● Mr. LAUTENBERG. Mr. President, on September 11, I cochaired with Senator KENNEDY an ad hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN, WELLSTONE, BINGAMAN, and SIMON. Regrettably, we were forced to hold an ad-hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

Yesterday I entered into the RECORD the testimony of the witnesses from the second panel. Today I am entering the testimony of the witnesses from the third panel which included talk-show host Morton Downey, Jr.; his doctor, Dr. Martin Gordon; former Marlboro man, Alan Landers; and, former cigarette model Janet Sackman.

Mr. President, I ask that the testimony and related materials from the third panel of this ad hoc hearing be printed in the RECORD.

The material follows:

TESTIMONY AT THE AD-HOC TOBACCO HEARING, U.S. SENATE, SEPTEMBER 11, 1996

STATEMENT OF MORTON DOWNEY, JR.

Mr. Chairman, distinguished Senators, Dr. Martin Gordon, Fellow members of the American Lung Association, Ladies and Gentleman, I wish I did not belong on this panel of people who have learned first hand the connection between smoking and cancer. Sadly this former smoking fool heads the list.

Like 3,000 kids every day, I began smoking at the age of about 13. My parents had sent me to military school. All my buddies smoked, it was cool. By Christmas vacation I was hooked. Banging down about 20 butts a day. I knew they couldn't hurt me, because the full-page advertising Life magazine and the Policeman's Gazette said, ''More Doctors Smoke Camels Than Any Other Cigarette.'' Think of how hooked I was. It was military boarding school, every time I got caught smoking it was ten demerits, which meant ten hours of marching with a rifle on my shoulder after class and on weekends. In my first year, I marched over 300 hours of punishment for smoking. My dad said that showed how stupid I was to smoke. Billy Waldon, my roommate, said it showed how stupid I was to get caught. I agreed, kept smoking and kept being stupid. Bill Waldon, my ex-roommate, died when he was 53. He had given up smoking at 40 and started chewing tobacco so as not to get lung cancer. He died ten years of tongue and throat cancer—some trade off.

What kind of trade off are we giving our children, Mr. Chairman? An absolute guarantee that if we do not face our responsibility right now, at least 1,000 of those new daily smokers will die an agonizing death from a smoking-related illness.

To those who falsely gnash their teeth over First Amendment rights, what about the Preamble, those first thoughts our forefathers had about the right to Life, Liberty and the Pursuit of Happiness? Cancer will steal their life! Liberty should mean the right to be liberated from our own youthful stupidity.

Mr. Chairman, can I find happiness for my child when I know the adults who pretend to care for her, the Tobacco Lobbyists, the Government that is sworn to protect her, abandon their responsibility and bow to the cigarette giants, the Tobacco Terrorists?

She needs your courage, your leadership, your ability to stand-up in the face of those who would spend 5 billion a year to send our children to an early but agonizing death—but not spend one red cent toward the breaking of the smoking habit, money to purchase medication for the agonizing pain as death approaches, or dollars to develop a cure for their addicting gift to our children.

To think I was a role model for cigarette smoking youth, even signing my name on their cigarettes. To that generation, I beg your forgiveness. May the next generation have kinder and wiser role models such as you Senators and President Bill Clinton who will not bow to the Tobacco Terrorists by weakening the regulations that only serves to deny our youth the opportunity to destroy themselves as many of us already have. I ask you to show the legislative courage to save my little girl. She need not suffer as I have, as my colleagues have. Think of some of my fellow smokers, Sammy Davis, Jr., Edward R. Murrow, Yul Brynner——

They smoked and they're dead. Wouldn't it be a better world if they were alive today?

STATEMENT OF MARTIN N. GORDON, M.D.

Good Morning.

My name is Dr. Martin N. Gordon. I am a physician specializing in pulmonary medicine at Cedars Sinai Medical Center and I am Morton Downey, Jr.'s pulmonologist. I am honored and pleased to address this committee and offer my views on tobacco smoke, lung cancer and the FDA regulations.

It is generally agreed by those in the scientific and medical communities that most lung cancer is attributable to the inhalation, by a susceptible host, of carcinogenic pollutants. Cigarette and other tobacco smoke are the most important of these pollutants. Members of the committee may be interested to know that the initial suspicion that tobacco might cause cancer was first voiced by the English physician, John Hill, in 1761! This was promptly followed by our Surgeon General's report in 1964.

Early in this century, physicians and scientists alike strongly suspected a relationship between smoking and lung cancer. Dr. I. Adler was the first to strongly suggest that lung cancer is related to smoking in a monograph published in 1912. A similar conclusion was reached in a 1941 article by Dr. Michael DeBakey, who cited a correlation between the increased sale of tobacco and the increasing prevalence of lung cancer. In addition, early investigators seemed to understand the correlation between the age when one first begins to smoke and lung cancer, finding that smokers with lung cancer began smoking earlier and continued to smoke longer than control groups.

Lung cancer is only the tip of the iceberg. Smoking has been causally related to an increased incidence of a number of other malignancies, and is a significant risk factor in the development of coronary artery disease. As Dr. Thomas Petty from Colorado states, ''Today, no reasonable person would deny that smoking is the cause of 90% to 95% of lung cancer.''

Lung cancer is the most fatal malignancy of both men and women. In the United States we will probably have close to 193,000 reported cases of lung cancer this year, 112,000 in men and 81,000 in women, with a 5 year mortality rate of 85%.

Building on Dr. Petty's statement, it would be safe to state that, sadly, 90% of lung cancers are preventable. Logically, preventing people from smoking would be the single most positive step towards reducing the incidence of lung cancer. Furthermore, since it is widely known that starting to smoke at an early age is a particularly strong risk factor in the development of lung cancer and almost 90% of daily smokers begin before the age of 18, it would make sense to focus our effort on preventing children from smoking. This is the goal of the FDA regulations—to protect children from tobacco's addictive properties and its deadly effects. As a physician who has seen the ravages of lung cancer, I fully support the timely enactment of the FDA regulations. I believe they will go a long way towards my seeing fewer patients like Morton Downey, Jr. walk through my door.

I urge those on the committee and other members of Congress to support the FDA regulations and oppose any legislative efforts to weaken them. Thank you for the opportunity to address this distinguished body. I would be happy to answer any questions.

STATEMENT OF ALAN LANDERS

My name is Alan Landers. I live in Ft. Lauderdale, Florida, and I am 55 years old. I am a professional actor, model, and acting teacher. My career began with the pilot film ''Aloha from Hawaii''. Over the years I appeared in various television shows and motion pictures, including ''Annie Hall'', ''Stacey'', ''The Tree'', ''The Web'', ''Hurricane,'' ''Ellery Queen'', ''The DuPont Show'', ''Deadly Rivals'', ''Cop and ½'', ''South Beach'', ''America's Most Wanted,'' ''Superboy'', ''Model of the Year'', ''Petrocelli'', ''Kate McShane''. I also appeared as a model and actor in numerous advertising campaigns, including: Binaca, United Airlines, Lancer Wine, Brylcreme, M.J.B. Coffee, BelAir Cigarettes (South America), Sony, and Vics 44.

I owned the Alan Landers Acting Studio in Hollywood, California. Some of the people who attended the Studio and were coached by me include: JoAnne Woodward, Jerry Hall, Ali McGraw, Joe Penny, George Lazinbee, Sara Purcell, Frankie Crocker, Lynn Moody, Lydia Cornell, Susan Blakely, Merite Van Kamp, Vinviano Vincenzoni, Shel Silverstein, and Joe Lewis. I have appeared in numerous television and motion picture productions, including ''Annie Hall''.

During the height of my acting and modeling career I was courted by R.J. Reynolds to appear as the ''Winston Man''. I did the majority of the print ads for the RJ Reynolds tobacco company in the late 1960's and early 1970's.

I appeared on billboards and in magazine advertising holding a Winston cigarette urging others, young and old, to smoke. I was expected to portray smoking as stylish, pleasurable, and attractive. I was required to smoke on the set, constant smoking was required to achieve the correct appearance of the cigarette, ash, and butt length. During this time frame I also promoted Tiparillo small cigars. In television advertisements, my character, dressed in a trenchcoat utters the rhetorical line, ''should a gentleman offer a Tiparillo to a lady?''

Despite the fact that I worked closely with cigarette company personnel during the shooting, at no time was I ever told that cigarettes could be dangerous to my health. I knew that some people believed them to be unhealthful, but the cigarette manufacturers denied, and still deny to this date, that their product is harmful.

Later in this statement I explain what I have learned about the hazards of cigarette smoke, and when the cigarette industry realized these hazards. Looking back on my career I am ashamed that I helped promote such a lethal and addictive product to the children and adults of this country. Had I understood then what I now understand—that cigarettes are an addictive poison that kills almost 50% of their users—I would never have participated in their mass marketing.

In 1987 the hazard of cigarettes became tragically apparent as I was diagnosed with lung cancer. Although 95% of lung cancer victims do not survive five years from diagnosis, I was determined to beat the odds. In a painful and dangerous surgical procedure, my doctors removed a large section of lung, hopefully to remove the cancer from my body. After the surgery, I lived from examination to examination, hoping the cancer would not recur. In 1992 I received devastating news. Another cancer had formed, this time in my other lung. The only hope was more surgery, which was accomplished with major complications. A nerve leading to my vocal cords was cut, causing it to be almost impossible to speak normally. This is a crushing blow to an actor. I survived the second surgery and am hoping for the best, although there are no guarantees. I am extremely short winded because sections of both lungs have been removed, and I am told that I have in addition emphysema from cigarette smoking. Scars from the surgery wrap around my back permanently disfiguring me, but I feel lucky to be alive.

I have learned a great deal since the surgery for lung cancer, about the true dangers of cigarettes and the deceit of the industry that sold them. I never understood how lethal the product really is. Looking back, I recall smoking on the eve of my second surgery. I am a strong willed person who had broken the addiction several years earlier. The addictive power of nicotine addiction is real and that my frustration of being unable to quit is shared with many, if not most, regular smokers.

I have also became aware of the industry's deceitful attitude toward its customers. My attorney, Mr. Norwood S. Wilner of Jacksonville, has filed a case on my behalf seeking compensation from R.J. Reynolds and others. I was delighted to see that Mr. Wilner

was successful in August of this year in obtaining a verdict on behalf of one of his other clients against the cigarette industry. The landmark case *Carter v. Brown and Williamson Tobacco Comapny*, tried in Jacksonville, showed that juries will not forgive the cigarette industry for its carelessness and deception in refusing to warn its customers or to develop safer alternative products.

I have donated my time to the fight against tobacco and to protect children from becoming involved in this dangerous drug. Lawton Chiles, Florida's courageous Governor, has asked me to address the Florida Legislature. I have appeared numerous times for the American Cancer Society, the Tobacco Free Coalition, Citizens Against Tobacco, the Duval County Public Schools ZIP program, the Monroe County (Key West) School System, the Cancer Survivors for Life. I have at my expense appeared on national and local television and radio shows.

I now understand, and wish to place into the record, some of the shocking facts that the Carter jury saw, which reveal how the industry put profits over people, stonewalled its critics, and concealed scientific evidence from the public and its customers. The attached article entitled ''Mass Destruction: A Medical, Legal, and Ethical Indictment of the Cigarette Industry'' authored by my attorney, Norwood S. Wilner, and my physician, Dr. Allan Feingold of South Miami Hospital, outlines my understanding of these terrible facts.

I call upon the lawmakers of this country to protect our children from this dangerous substance. Tobacco products should be regulated as the addictive drugs they are. Tobacco advertising should be eliminated or strictly curtailed. I call upon the tobacco industry to compensate its victims, its former customers, who are suffering and dying from its products. Thank you for permitting me to appear before this committee.

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STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
*Tallahassee, FL, August 12, 1996.*

Mr. ALAN LANDERS,
*Lauderhill, FL.*

DEAR ALAN: On behalf of the citizens of Florida, I wish to thank you. As a former model for cigarette manufacturers, your compelling testimony before the Florida Legislature of cigarettes' insidious poison, and the perverse marketing of this product to our youth is a true ''profile in courage''. Your personal message made the difference in our winning 1996 Legislative battle against Big Tobacco.

Your critical help, combined with the American Cancer Society, American Lung Society, and the American heart Association, permitted Floridians to beat back over sixty (60) high paid lobbyists and a million dollar media campaign designed to distort the truth. In biblical parlance, ''we smote them with the jaw bone of an ass.''

Alan, thank you again. We will need your help in the future, and I am glad that I can count on you.

Warmly yours,

LAWTON C. CHILES.

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JANET SACKMAN

Janet Sackman was born on September 3, 1931 in New York City, New York. In 1946, at age 14, Mrs. Sackman began working as a photographer's model, and soon became the Lucky Strike cover girl. At the request of a tobacco executive, Mrs. Sackman learned to smoke at age 17. He advised her that she should learn to smoke in order to learn to hold a cigarette, and look more natural when being photographed.

In 1983, Mrs. Sackman was diagnosed with throat cancer, and underwent a laryngectomy. In 1990 late doctors found cancer in her right lung, and Mrs. Sackman had a portion of that lung removed.

After her illness Mrs. Sackman vowed to begin speaking out against smoking. She has made numerous appearances worldwide in order to educate the public regarding the health hazards of cigarette smoking.●

## PUBLIC LANDS ENVIRONMENTAL PROTECTION ACT OF 1997

● Mr. CRAIG. Mr. President, this month marks the 20th anniversary of Congress' passage of the National Forest Management Act of 1976 [NFMA]. As many of you know, at the beginning of this Congress we embarked upon the first sustained oversight of the implementation of the NFMA, and the related statutes and regulations that govern the management of Federal forest lands—both those managed by the U.S. Forest Service, as well as by the Bureau of Land Management.

During the course of last year and this, our subcommittee held 15 hearings, receiving testimony from over 200 witnesses concerning the status of Federal forest management. We then participated in, and reviewed the results of, the Seventh American Forest Congress before finalizing our conclusions. These conclusions are summarized in a June 20, 1996 letter that I sent to Secretary of Agriculture, Dan Glickman. Since the transmittal of this letter and its subsequent circulation, we have received a number of letters, calls, and comments from various individuals both inside and outside the federal land management establishment. Generally, they have been: First telling us that we are accurate in our diagnosis of the problems associated with federal forest management; and second urging us to address some of the problems and opportunities described in the June 20 letter.

At the conclusion of our oversight hearings earlier this year we invited the administration to provide us with ideas about needed changes, basically making good on the commitment that Secretary Glickman made when he was confirmed by the Senate in March 1995. In the June 20 letter, we again offered to entertain the administration's proposals. On August 1 we received a response indicating that no proposals were ready to tender. We are distributing a copy of the letter and the Secretary's response to you.

Last week, I met with the Secretary to see whether the administration was close to offering a proposal of any sort. Not surprisingly, they are not—nor will they be anytime before a certain date in November that seems to figure heavily in all of their planning.

I also asked the Secretary whether he imagined that—if we were to introduce a legislative proposal before that magic date—we might have a thoughtful and substantive discussion detached from partisan wrangling and political recriminations? He thought not. What a surprise, but more the pity.

Without being overly critical, I think we have to question both the seriousness of the administration's approach to these issues, and the depth of the Secretary's commitment to constructively engage Congress on Federal forest management. But I want to emphasize that my mind and my door are still open. As we move forward, we would still be happy to see a legislative proposal from the administration to put alongside what we propose.

WE MUST CHOOSE A COHERENT PHILOSOPHY UNDER WHICH OUR FEDERAL FOREST LANDS SHOULD BE MANAGED

Today, I want to review the basic approach we took to our oversight task. In evaluating the need for change, we started by evaluating how well our current statutes are working. Then, having established that change is imperative, we stepped back and tried to evaluate the overall philosophy under which we want our Federal lands to be managed.

We chose to reaffirm the multiple-use mandate that has guided the management of Federal forest lands since the early part of this century. We have refused to accede to the no-use philosophy that is currently being popularized by elements of the national environmental community and, to some extent, agents of this administration.

We have chosen the former over the latter because any sentient being can see the results of the no-use philosophy on the land. Fires are burning out of control through forests that are inherently unhealthy because of stand conditions that have been allowed to deteriorate as a consequence of both simple administrative inaction, and a more basic and grievous confusion over the role of man in nature. The bill we will propose does not deal with the forest health issue alone. Rather, it will also deal with the health of the Forest Service and the other land managing agencies. It is our conclusion that the clear results of the implementation of no-use philosophies on the agencies have been as dramatic as the results of the application of similar philosophies on the land.

Consider this—in over 15 hearings with 200 witnesses—no one supported the status quo. Let me repeat, no one from any walk, profession, interest group, or point of view provided any testimony that suggested Congress need not act to fix the current situation. In sum, the health of the Forest Service—or, more broadly, our Federal Government—as an enlightened advocate of professional resource management has reached a critical point. In an era of tightening Government budgets this might be the case even if this administration was not subjecting the agencies to unprecedented political interference. But, in fact, the amount of political interference that the Forest Service and the Bureau of Land Management are facing is extraordinary.

Thus, as we summarize our general philosophy, we flatly reject the preservationist philosophy that the best

thing we can do for our Federal forests is to walk away and leave them alone. Rather, we choose to: First, reaffirm and reinvigorate multiple-use management; second, restore the health of our forests and the morale of our professional forest managers; third, fashion forest policy on hope instead of fear; fourth, develop solutions instead of conflict; fifth, encourage education instead of litigation; sixth, rely upon science instead of stoking emotions; and seventh, employ human resources in environmental stewardship, instead of destroying them in the interest of environmental purism.

OUR APPROACH TO THIS PROCESS HAS NECESSARILY BEEN TIME CONSUMING

When we initiated this oversight process two Marches ago, I remarked upon the novelty of Congress wading into an area where it has been absent from the field for so many years. I also noted that, if our oversight uncovered the need for significant changes, these changes would take time. Indeed, legislative changes of this nature always take more than one Congress to achieve. When you write the environmental history of this Congress I hope you will remember that we expected it to take awhile, but we will get the job done.

I relish the opportunity to quote Senator Hubert Humphrey's remarks 20 years ago this week as he brought the conference report accompanying the 1976 National Forest Management Act to the Senate floor. He stated that:

> It is with a tremendous amount of pride and satisfaction that I offer this measure for the consideration of the Senate. It is a product of 3 years of work by four committees of this Congress, as well as more than a dozen public interest groups and business interests.

These issues could not be viewed as the work of a single Congress or the result of an individual election, even then. They certainly cannot now. For those critical of Congress' efficiency, it is worth noting that the number of congressional committees has decreased, even as the panoply of interest groups has expanded exponentially.

Generally speaking, significant change comes only through crisis or consensus. I would submit that, today, we have a consensus that the status quo is unacceptable. But there is not yet a shared sense of crisis, nor any specific agreement on an appropriate solution. Therefore, our proposal will represent a starting point to see if we can: First, build upon the only established consensus—that is, the status quo is unacceptable; and second, move toward some agreement on what kinds of appropriate solutions should be provided.

By necessity, many parties will be involved in the deliberations that we will begin in a few weeks, and carry forward through the next Congress and perhaps beyond. But at the same time, many parties have already been involved in providing us useful insights that are reflected in the proposal we will circulate in the near future. Let me mention a few groups that have been involved and deserve recognition for the contributions made to date.

First, I want to recognize the thousands of people involved in the Seventh American Forest Congress. Their coming together was a truly unique experience. I directed my staff to attend, and they benefitted greatly from the insights provided. We delayed introduction of this measure to benefit from their deliberations. I hope to continue this extraordinary dialog with this other Congress.

Representatives of the environmental community have also been instrumental in providing both the backdrop for the discussions that have occurred in this Congress, as well as a number of specific suggestions for changes. While we do not agree with all they advocate, they nevertheless deserve the credit for elevating the public's interest in the state of our Federal forests.

Third, I want to recognize the forest scientists that have begun to look at land management and ecosystem analysis at broader geographic scales. Many of the initiatives that have been pioneered by this group of devoted Forest Service and other Federal agency scientists over the last 4 years are going to be recognized and provided with a statutory basis.

Fourth, I want to thank State and local officials who have provided considerable testimony about the current state of federalism, insofar as Federal resource management is concerned. They have suggested a number of improvements based upon their increasingly impressive capabilities to perform a number of the management functions that are currently entrusted solely to the diminishing number of Federal agency employees spread across the country.

Fifth, I want to thank representatives of local, dependent communities and industries. I want to commend their patience in seeing us through these deliberations, while in many cases—and for justifiable reasons—they felt their concerns are of a more immediate nature.

Finally and most importantly, I want to thank the Forest Service and other Federal agency employees who contributed so much to our oversight process both formally and informally. By elevating environmental considerations within the agency, Forest Service employees have made many of the changes that we will propose both reasonable and possible. There is less need now to use other Federal employees to police the work and commitment of Forest Service scientists, biologists, and land management professionals than there may once have been. For this, and for other efficiencies in better land stewardship that we will propose, Forest Service employees deserve considerable credit. I am also appreciative of the amount of time and effort that went into the development of agency testimony and support materials that provided the information necessary for our oversight and ongoing drafting processes. I deeply appreciate, the professionalism and commitment of these employees.

I do not expect any of the above mentioned groups to be wholly or very satisfied—or, in a few cases, even remotely satisfied—with the proposal that we will unveil shortly. Nevertheless, all of their views were heard and in many ways reflected, even if not exactly the way they thought they would be.

Now having reviewed the process that we used to develop the legislation, let me explain how we will proceed. Prior to meeting with the Secretary last week, I was prepared to introduce this measure immediately and start the process of discussing these ideas. The Secretary's responses to my questions have convinced me that this would result in little more than the most cynical exercise in political posturing at the present time.

Therefore, I plan to wait and circulate this proposal immediately after the election. If the current administration returns, the invitation to come forward with their own proposal still stands. If not, I expect that their successors may well be more aggressive and communicative in their desire to proceed and address these issues. After I finish a little work I have back in Idaho, I will sponsor a series of workshops and/or hearings during the recess to secure specific comments and suggestions for change. I will also direct our staff to meet with interested groups to secure additional comments. I hope that we will then have an improved bill to introduce at the beginning of the next Congress in order to begin a more focused dialogue on legislation that I will strive to advance in a bi-partisan fashion.

To this end, I look at the forthcoming proposal as a working draft—even though I have been at it for 2 years. I urge people to review it carefully. I hope that, with a minimum amount of rhetorical overkill, they will tell us what they think the good parts and the bad parts are. I will not be seeking immediate support, and I will try to avoid immediate condemnation. This proposal is going to change—perhaps dramatically—as we listen and rework it to reintroduce in the next Congress.●

## DR. JOE CARROLL CHAMBERS

● Mr. HOLLINGS. Mr. President, I would like to recognize today a man who has given selflessly to his community and profession, Dr. Joe Carroll Chambers. He will be retiring on October 11, 1996 and we are very sad to see him go. Dr. Chambers is a graduate of the University of Tennessee College of Medicine, interned at the Baptist Hospital in Nashville, and completed a masters in public health at the University of North Carolina. He is the recipient of many awards, including the James Hayne Award by the SC Public Health Association for meritorious

achievements in public health over an extended period time and the American Lung Association's John Martin Medal for significant contributions. I wish him and his wife, Bettye Ann, the best as they take on the slower pleasures and pace of retirement. I ask to have printed in the RECORD a synopsis of Dr. Chambers' accomplishments as director of the Charleston County Health Department.

The synopsis follows:

JOE CARROLL CHAMBERS, MD, MPH

Dr. Joe Chambers was named Health Director of the Charleston County Health Department in 1977 after having served in the same capacity for Aiken County. Since that time, Charleston has seen improved public health, grown in services, increased activity in preventing potential environmental hazards and, in general, an increased awareness of the need for preventative health measures.

The CCHD Public Health Nursing Division is accredited by the National League for Nursing as is the Home Health Services Program. Home Health visits have continued to grow for the past several years as the public has become increasingly aware of this service for those in need.

The Women, Infants and Children Food Program serves pregnant, breast feeding, postpartum women, infants and children under five. The Charleston program serves the largest number of patients, who are at nutritional or medical risk, in the state.

One of the County Health Clinics recently received the Distinguished Volunteer Award from the Charleston County School District.

Environmental Health programs have prevented the spread of communicable disease through control of the environment. Annually, the food protection program inspects over 1,700 food service establishments.

Think about this health department that sponsors rabies clinic throughout the county vaccinating 10,000 animals annually, handling more than 4,000 relative activities through its Solid Waste/Litter Control Program and being nationally recognized for its Lead Poisoning Prevention Program. All these have had skillful leadership of fine teams, headed by Dr. Chambers.

Certain health conditions serve as a barometer of the health status of the community. In Charleston, as the immunization of children under two continues to improve, the infant mortality rate improves. Because early and continuous prenatal care services have been promoted by Dr. Chambers, results are positive. Dr. Chambers is recognized as an advocate for prevention initiatives that protect and improve the health of our community.

The Charleston County Board of Health recognizes and congratulates Dr. Joe Carroll Chambers for his vision, knowledge and leadership as Director of the Charleston County Health Department. Through his tenure, we have witnessed a safer Charleston, a growth in needed health services and an increased awareness of environmental risks. This Tri-County area, Charleston, Berkeley and Dorchester Counties, has been fortunate to have enjoyed better community health due to Dr. Chambers' diligence, dedication and foresight. He has given attention to every facet of this area's well being that touches on good health and disease prevention. All of this he has done with skill, grace, kindness and understanding.●

● Mr. INHOFE. Mr. President, everyone should have one—a Poot, that is. And maybe everyone does have one. The important thing is I do.

We all have our causes. It's just that some of us are more assertive than others. In my business we're all assertive. So I engage in combat every day with my adversaries who, although I love each and every one of the misguided souls, would sell our country and everything we hold dear for one more social program.

Mr. President, they look the other way as we strip our Nation of its vital defenses, leaving us vulnerable to both conventional and missile attacks—and hope desperately the people don't find out the truth. They load up our system with unbearable burdens of overregulation and wonder why we are not globally competitive. They bleed the very lifeblood from our veins in the form of taxes until we are too weak and disheartened to produce—and then come after that last drop—all to support their insatiable appetite to render their control of our lives absolute. They give dancing lessons to hardened criminals—punishment, heaven forbid—and then turn them lose to plunder again.

And so I do combat every day with every fiber of my being, leaving no doubt in my mind that the fate and the very essence of Western civilization is absolute in its dependence upon my actions, wisdom and performance.

That is, until—until I see Poot. And I realize that while she is tolerant of my priorities, hers are not the same. Not even close. She wants the same thing I want but she doesn't worry about it because she assumes I'll do it. And that lets her keep close to the ones she loves, which is everybody, and stay in touch with them to the extent that she knows every birthday, wedding date, draft status and social security number. She, along with her diary, is a data bank with the chip capacity of the CONGRESSIONAL RECORD—that's her priority.

And in addition she is the control center for compassion. For her family, yes, but also anyone else who stumbles along. No matter who is in trouble or in need, she is their counselor and companion—that's her priority.

But all the while her capacity for enjoyment will never be challenged. There's not a Broadway show she hasn't both seen and memorized—that's her priority.

So, Mr. President, you should be so lucky to have a Poot like I do. Just when you begin to believe that you are so important, you have no one to put you back in perspective. I do. And when you forget the street address where you lived when you were 6 years old, you don't have anyone to call. I do. And when you cast a vote that makes everyone hate you, you don't have anyone who understands. I do—in fact she even agrees with me.

So Mr. President, I've got the No. 1 70-year-old Poot in the Nation, a beautiful and compassionate consolidation of the pioneer woman, mother Teresa, and hello Dolly. So maybe, Mr. President, she's right and we're wrong. Anyway, you should be so lucky. Amen.●

## ARMED TROOPS IN ARMENIA ARREST DOZENS OF PROTESTERS

● Mr. SIMON. Mr. President, I was sorry to read the story in the New York Times by Steve LeVine under the title ''Armed Troops in Armenia Arrest Dozens of protesters.''

Armenia is generally moving in the right direction.

While there may have been abuses in the election, the fact that the election results showed the incumbent president getting 51 percent and his major rival 42 percent suggests to me that it was basically a free election.

I have come to have great respect for President Ter-Petrossian who apparently has been reelected.

I believe that restraint is essential for freedom to survive in Armenia.

We do not want Armenia to go in the direction of chaos.

An overreaction to protests does not help the future and the stability of Armenia.

I was particularly concerned about the suggestions in the story that opposition leaders have been jailed or chased underground and that government troops went into an opposition party office and arrested eight people.

I will continue to do what I can for Armenia in or out of the United States Senate, but I hope self-restraint is used by the government. Self-restraint is essential for stability and for freedom.

Mr. President, I ask that the New York Times story be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 27, 1996]

ARMED TROOPS IN ARMENIA ARREST DOZENS OF PROTESTERS

(By Steve LeVine)

YEREVAN, Armenia, Sept. 26—Government troops arrested and beat dozens of demonstrators and bystanders today in an effort to end three days of protests against Armenia's presidential election, which was tainted by charges of fraud.

Armored vehicles blocked the streets, parks and squares where tens of thousands of opposition supporters had protested the announced victory by President Levon Ter-Petrossian in the election on Sunday.

Bands of soldiers in full combat gear patrolled the streets, breaking up gatherings of civilians as the Government imposed what in effect was a state of emergency in parts of the capital.

The main opposition leader, Vazgen Manukian, a former Prime Minister who trailed in the vote to Mr. Ter-Petrossian according to official results, disappeared from public view and his whereabouts were unknown. An Interior Ministry spokesman said Mr. Manukian, 50, was ''being pursued.''

Some tension remained this evening, but the Government moves seemed to bring at least a pause the three days of protests outside Parliament in which crowds of opposition supporters called for Mr. Ter-Petrossian to resign.

With the crackdown, Mr. Ter-Petrossian has now jailed, chased underground or forced into exile most of his key political opponents.

The Government action came a day after demonstrators tore down a gate and part of a fence surrounding Parliament, charged onto the grounds and beat up the Speaker.

The protesters asserted that fraud nudged Mr. Ter-Petrossian over the 50 percent mark in the election, allowing him to avoid a runoff in Armenia's first presidential election since the collapse of the Soviet Union in 1991.

Government troops dispersed the crowd by firing in the air and beating protesters on Wednesday, and a state newspaper reported today that a policeman and a civilian were killed.

In a television address this morning that opened with pictures of the protest, Mr. Ter-Petrossian condemned his rivals and banned unauthorized public gatherings. Citing the strife in neighboring Georgia and Azerbaijan since the Soviet collapse, Mr. Ter-Petrossian suggested that he was the only barrier between calm and chaos in Armenia.

''Can it possibly be that the mistakes of our immediate neighbors have taught us nothing, or did we have to feel this on our own skin''? Mr. Ter-Petroassian asked. ''I warned you about this danger, the danger of fascism from one group of mentally ill people who wanted to rule over you.''

Within an hour, troops stormed into an opposition party office, beat up and arrested eight people, according to a Reuters reporter who witnessed the incident.

At the same time, soldiers fired live ammunition into the air near the Opera House, an opposition gathering place. Men booed and women screamed as soldiers and armed men in plainclothes pursued, beat and arrested several bystanders.

Pro-Government Members of Parliament beat up six opposition members when they entered a morning emergency session. The opposition politicians were then arrested by Interior Ministry troops.

Government officials said the deputies and some other opposition figures would be tried in what they are calling an attempted coup.

Near the concentrations of Government troops, residents were openly bitter, angry and frightened. Uniformed soldiers and men in black leather or denim jackets roamed these areas, slapping, kicking or beating seemingly any Armenian who inquired in less than polite tones about the action.

''This is a nightmare,'' said Vartan Petrossian, a musician who was strolling with his wife to buy some fish. ''This has happened to our neighbors, but how can this happen in Armenia''? I don't want a government that splits in my face.''

Another man, who did not want to give his name, asserted: ''They are worse than the Communists. What kind of government do we have that keeps power this way?''

In the sprawling flea market near the Razdan Soccer Stadium, a dozen merchants expressed sympathy with the opposition. But they voiced dismay that the opposition would risk disorder in a republic that until now has been spared it.

The ferocity of the crackdown has perplexed diplomats who generally admire Mr. Ter-Petrossian, who rose to power in a wave of nationalism that began here in 1988 and once had been jailed with Mr. Manukian, then a close ally.

It has been hard for some diplomats to reconcile the harsh local ruler with a President who is moderate on other matters like seeking better relations with Turkey.

''What has surprised me is that the Government is doing nothing to sound conciliatory,'' a Western diplomat said today of the crackdown. ''They just sent out the attack dogs.''●

## TRIBUTE TO BILL MONROE

● Mr. FRIST. Mr. President, I rise today to salute a legend in Bluegrass music. Bill Monroe, the father of Bluegrass music and a member of Nashville Tennessee's Grand Ole Opry, passed away this month. He was a national treasure whose talents spanned several generations and influenced many musical talents.

Bill Monroe had a simple upbringing. While his formal education ended with the third or fourth grade, he had of such great musical talent that he was credited with founding an American music form. Bluegrass music was born when Bill Monroe took the ingredients of what had come before him and mixed them with his emotions, acoustic talent, and mandolin playing skills.

Monroe and his brothers, Charlie and Birch Monroe, performed together for several years and made their radio debut in 1927. Later, Bill struck out on his own, forming his own Bluegrass band and joining the Grand Ole Opry in 1939. Monroe's success with the mandolin in Bluegrass music influenced other musicians to include that instrument. In time it became an essential instrument to Bluegrass music.

Mr. President, over the years Monroe's band went through many changes. Band members moved on and new talents were brought in. At its peak in the 1940's, Monroe's band remained a stronghold in the music industry. Though rock 'n' roll quickly took center stage and pushed aside the sound of Bluegrass, Monroe's genius left its mark on the music industry.

The influence of Bill Monroe and his mandolin tunes can be seen in rock 'n' roll, as well as country music. The ''King of Rock 'N' Roll,'' Elvis Presley, was heavily influenced by the music of Bill Monroe, and even recorded Monroe's ''Blue Moon of Kentucky'' on his first album. Buddy Holly was one of Bill Monroe's greatest fans and Bluegrass contributed to many of his songs. Country music has also been influenced by Bill Monroe. Ricky Skaggs grew up listening to Bluegrass music and was a young fan of Monroe. The music of Hank Williams is also influenced by the Bluegrass great. Bill Monroe's music and spirit has become a part of our culture.

Mr. President, it is important that we remember Bill Monroe as an artist and a contributor to our Nation's culture. He influenced the lives of so many young artists and his music and talent live on today. He will be missed, but never forgotten.●

## A TRIBUTE TO GAIL WALKER, RN

● Mr. INOUYE. Mr. President, I rise to pay tribute to an outstanding American health care hero. Ms. Gail Walker is a registered nurse and the executive director of the Hamakua Health Center in Honokaa, HI. She was recently honored by the Robert Wood Johnson Community Health Leadership Program for her outstanding commitment to providing residents of the Hamakua area with continuing access to health care. She was 1 of 10 health care heroes selected from a national pool of 720 candidates and the recipient of a $100,000 award for her community cause. This is truly an outstanding life-time achievement.

Ms. Walker was born in Honokaa, HI and raised on a cattle ranch in Kukaiau, a community just east of Honokaa, where her father worked as a cowboy and mechanic. Her mother is a retired nurse. Leaving her native home for a formal nursing education and several years of work experience, she returned to excel in the health care industry on Oahu. In 1989 she returned to her home to take the position of director of nursing at the Hamakua Medical Center. In 1991, she became the executive director of that health center, the only medical clinic in the district.

Ms. Walker quickly reorganized this clinic, instituting an appointment process, thus expediting medical care to the beneficiaries. In 1992, disaster struck the area when the Hamakua Sugar Co. filed for bankruptcy. Her friends and neighbors were without jobs and their families without support. Without the innovation, dedication, energy, and personal sacrifice of Ms. Walker these people would have lost not only their security, but their health care as well.

Ms. Walker organized a task force of local residents, politicians, and department of health representatives. Financing the clinic's operation through her own funds, she had to manage the health care of a community with one tenth of her normal budget. Over the next 2 years, Ms. Walker engineered support initiatives with the insurance companies, local banks, local private donors, and the State Legislature. This resulted in the restoration of the health care system, a life line for the 7,500 residents of this 900-square-mile poverty-stricken area.

In 1995 the State of Hawaii built a 7,000-square foot rural health clinic with a staff of 32 dedicated physicians, nurses, and support personnel in Honokaa. This new facility provides an expanded array of medical and social services never seen before in this rural, plantation community. These services include primary care, mental health, disease prevention, an indigent medication program, a nurse certification training program, and a School-to-Work Nurse's Aide Training Program for high school juniors. Ms. Walker will use funds from this award to establish a new urgent care program thus expanding the health care services in the community even further.

It is hard to overstate the benefits these services provide the community of Honokaa, HI. Ms. Walker's ability to overcome enormous obstacles to provide modern health care in her native community attests to her strength of character, her compassion, and vision. I want to personally and publicly acknowledge my sincere appreciation to Ms. Walker for her dedicated years of exemplary leadership and service to her community and to bid her a heartfelt mahalo.●

## TRIBUTE TO BRIAN THOMPSON, BOB GAGNON, ''CHIPPER'' ROWE, SANDY ROBINSON, MURRAY SMITH, AND ALBERT DAUPHINAIS, SIX NEW HAMPSHIRE HEROES

● Mr. SMITH. Mr. President, I rise today to pay tribute to six heroic residents of North Sutton, NH, who saved the life of my good friend and neighbor, Rosa Weinstein. Brian Thompson, Bob Gagnon, ''Chipper'' Rowe, Sandy Robinson, Murray Smith and Albert Dauphinais all acted without hesitation to rescue Rosa from her burning car in order to get her to the hospital. I am very proud of these six individuals from North Sutton who did not waste 1 second in coming to Rosa's rescue. I would like to extend a personal word of thanks to each one of them for saving my friend's life.

On September 1, Rosa Weinstein was driving through North Sutton, NH, when her car went out of control, flipped over on its side and caught on fire. By what many have described as a miracle, the accident occurred within a few yards of the North Sutton Volunteer Fire Station and in front of the home of Brian Thompson. Immediately after Brian saw the car from his kitchen window, he used a fire extinguisher to contain the flames coming from the car. As Brian was doing this, two firemen, Bob Gagnon and ''Chipper'' Rowe, ran to the nearby firehouse for the equipment to put out the flames. Three additional heroes, Murray Smith, Albert Dauphinais, and Sandy Robinson, a emergency management technician, helped put out the flames, rescued Rosa from inside the car and kept her alive long enough to be taken to the hospital.

Rosa suffered considerably from the accident, but she is very grateful for the actions of the North Sutton residents who so quickly came to her aid. There is no doubt whatsoever in anyone's mind that Rosa owes her life to these six heroes.

It is my hope that Rosa will regain her strength soon and will make a speedy recovery over the next few weeks. Both Rosa and her husband, Harris, are wonderful, thoughtful friends. Indeed, I was very sad to hear about the accident, but am also very proud of the way the six North Sutton residents reacted.

Harris expressed the deep gratitude of Rosa's family by saying, ''The uncommon heroism demonstrated by Brian Thompson, Bob Gagnon, ''Chipper'' Rowe, Sandy Robinson, Murray Smith, and Albert Dauphinais is an extraordinary example of America at its best. We will forever be thankful for their selfless, quick-thinking action.''

Mr. President, the actions of these six individuals on that day in early September are truly remarkable. Their efforts are appreciated not only by Rosa's family but by myself and many other New Hampshire residents. And, for Rosa, I wish the very best for her as she recovers from her injuries. Our thoughts and prayers are with her.●

## TRIBUTE TO DANA PODELL OF COLORADO, GIRL SCOUT GOLD AWARD WINNER

● Mr. BROWN. Mr. President, I would like to take this opportunity to recognize 18-year-old Dana Podell of Greeley, CO. The Mountain Prairie Girl Scout Council honored Molly with the Girl Scout Gold Award on May 4, 1996. The Gold Award is considered to be the highest honor achieved in U.S. Girl Scouting and is awarded to young women between the ages of 14 and 17 who display outstanding achievement in the areas of leadership, community service, career planning, and personal development. Additionally, a Girl Scout must earn the Career Exploration Pin, four interest patches, the Senior Girl Scout Leadership Award, and complete a Gold Award project of her own creation.

As a senior at Greeley Central High School, and a member of Girl Scout Troop 2000, Dana displays genuine leadership and truly exhibits concern for the world around her. In March 1996, Dana began work on the Gold Award project by organizing bilingual story times, recruiting Spanish-speaking volunteers from the community. She also found an established organization—the Chavez Center—willing to continue the program.

Dana has made outstanding contributions to her community and is an excellent role model for all youth. I am proud to salute Dana as a recipient of the prestigious Girl Scout Gold Award.●

## MENTAL HEALTH CARE: AN AGENDA FOR THE FUTURE

● Mr. FRIST. Mr. President, yesterday, the ''Mental Health Parity Act of 1996'' was signed into law by President Clinton. Mr. President, the act provides parity of coverage for treatment of mental illness. The debate over the bill was both stimulating and educational, in that it encouraged many of us to learn more about issues affecting the management of mental health disorders. I believe that, as a group, we now have a greater awareness and sensitivity to this area. I would like to take this opportunity to present some of the issues which I feel must be addressed.

Mental health may be affected by numerous factors ranging from outside stressors, presenting in ways that may be difficult to manage, to physical disease or genetic defects that impair brain function. The erosion of our traditional social support systems, including fragmentation of extended and nuclear family structures, have contributed to the morbidity of mental disorders. Increased complexity and stress in society are also responsible for the higher incidence of symptoms.

Consequently, alcohol, drug abuse, and mental health disorders affect 18–30 percent of adults annually. Suicide claims 30,000 lives each year. We are also faced with skyrocketing costs and utilization of mental health and substance abuse services which now represent 4 percent of the GDP. However, these costs represent only one-fourth of the total price. Employees with behavioral health problems experience higher accident rates, use more health benefits, and have lower overall work performance ratings than other workers. The costs of crimes which are committed as a result of behavioral disorders must also be included.

As a physician and surgeon, I understand the impact of mental illness on the lives of my patients and their families. I also understand the importance of good psychiatric care. Advances in medication and psychological therapeutic techniques have improved our ability to treat these disorders effectively. In addition, the destigmatization of mental illness and chemical dependency have led to a greater willingness on the part of the general public to seek help for these problems.

However, traditional techniques have not been effective in controlling either the costs or quality of care provided in this arena. Reorganization of public sector, local authority, and managed care contracting has begun and a niche industry of specialized managed mental health/substance abuse organizations or carve-outs has developed.

Unfortunately, we cannot necessarily rely on competition and the market to solve these problems. These forces may fail because of externalities and information problems. Even our health care providers have not always received the education about mental illness necessary to perform their tasks. At this point, no one is sure that the new programs are any more effective than the old ones.

As a transplant surgeon, I understand the value of teamwork. I believe that we must use that approach if we are to solve these problems. Government, payers, providers, and consumers must each contribute solutions. Together, we can accomplish the following objectives:

First, parity of coverage between mental and physical disorders must be encouraged.

Second, payers must develop incentives for providers to provide appropriate care as well as information for patients.

Third, we must educate providers about the most cost-effective ways to deliver high quality care. Medical school curricula should be revised to provide more in-depth training on mental health and substance abuse disorders. Reimbursement mechanisms for graduate medical education must be changed so that residents are less tied to acute-in-patient facilities. When they are placed in facilities across the continuum of care they will receive more exposure to issues of chronic behavioral disease management.

Fourth, we must learn how to measure the real value of care we provide in

terms of health improvements per dollar spent on care. We must also consider the social consequences of that care.

Fifth, we must learn how to better estimate the effects of cost containment measures on treatment cost effectiveness.

Sixth, we must encourage the development of consistent standards for use of evidence in policy debates.

Mr. President, this Congress has worked in a bipartisan fashion to address mental health parity. As policy makers, we can continue to address the needs of the mental health community by working with educators, health plans, employers, and researchers to encourage them to meet these other important objectives. I believe our health care system can meet these goals. However, it requires cooperation from the entire health care community. I urge my colleagues in the U.S. Senate to consider the issues of mental health in this broader context; as well as, to continue to educate ourselves on the mental health issues that impact our health system and society as a whole.●

## MENTAL HEALTH PARITY

● Mr. WELLSTONE. Yesterday, President Clinton signed the VA/HUD appropriation bill and the Mental Health Parity amendment which was included in the appropriated bill into law. For all of us who worked so hard to achieve passage of the parity amendment, the enactment of the provision represented more than the insurance policy changes that the provision will actually require. Passage of the legislation is a symbol of fairness, progress and hope for millions of Americans and their families who, for far too long, have been victims of discrimination—families who for far too long have been thrust into bankruptcy, or denied access to cost-effective treatments because their illness was a mental illness and not a physical illness like cancer or heart disease. Mental illness has, in one way or another, touched the lives of many of us who work here on Capitol Hill and I am pleased that the 104th Congress was able to take this first and very necessary step toward parity.

I want to take this opportunity to say that while the passage of this amendment was a historic step forward for people with mental illnesses, the amendment was a fist step and a first step only. It does not require parity for copayments or deductibles or inpatient days or outpatient visit limits. It also does not include substance abuse services. My State of Minnesota has passed legislation which goes much further than what we were able to accomplish in this Congress. Minnesota requires that health plans provide full parity coverage for mental health and substance abuse services. The cost impact of this legislation in Minnesota has been minimal according to a recent study based on preliminary data.

Without full parity coverage for mental health and substance abuse, health plans will continue to discriminate against individuals and families in need of services. The responsibility for and cost of care will continue to be shifted from the private to the public sector. For children and adolescents, the burden and cost of care will continue to be shifted to the child welfare, education, and juvenile justice systems. These overburdened systems are often not able to provide needed services, and many are forced to go without treatment. This will continue to be the case.

I have seen first hand in my State at facilities like Hazelden and others, the benefits that drug and alcohol treatment can bring to the lives of millions of Americans. Alcohol and other drug addictions effect 10% of American adults and 3 percent of our youth. Untreated addition last year alone cost this Nation nearly $167 billion. Ultimately we all bear the cost of delays or gaps in mental health and substance abuse services. Sadly, that fact has not been changed by the passage of Senator DOMENICI's and my amendment.

We have much more work to do and I look forward to consideration of legislation which would provide full parity coverage for mental health and substance abuse services. I am grateful for the advocacy, hard work, and compassion of the mental health and substance abuse community. Without them, we could not have achieved such success this year. This victory was made possible because families and friends of people struggling with mental illnesses were willing to speak out in public. This issue has a human face now and that made it possible to win votes and enact legislation.

I look forward to continuing to work with Senators DOMENICI, KENNEDY and CONRAD to expand coverage for mental health and substance abuse services and I also want to take this moment to thank Senators SIMPSON and KASSEBAUM who will not be here next year but were critical in enabling us to take the first critical step toward parity.●

## TRIBUTE TO JEREMY MARKS-PELTZ

● Mr. MACK. Mr. President, every day Americans are exposed to much of what is wrong with America and not enough about what is good and right across our Nation and in our communities.

It is in that light that I rise today to speak about a young man in Florida whose compassion and humanity should serve as a reminder to all of us that there is much about America that is good and right—12 year old Jeremy Marks-Peltz of Kendall, FL.

Last year Jeremy was on a boat tour in south Florida and saw the unfortunate plight of homeless people living in cardboard boxes. He decided he wanted to help them, and began organizing a food, clothes and furniture drive for some of south Florida's homeless charities.

Jeremy went to Bloomingdale's in Miami seeking assistance for his charity drive; they decided to help. Bloomingdale's recently wrote me about Jeremy's efforts and why they got involved.

> We receive hundreds of requests from charities for donations through letters, but this was the first time I was face to face with a twelve year old boy wanting to help the needy. It was touching and in a society that some times only remembers the needy during the holidays, it was refreshing.

With Bloomingdale's assistance. Jeremy's desire to make a difference in his community has resulted in a full-scale campaign called, Making a World of Difference, which will run through the year. The campaign, which began in February, consists of an appeal to all of Bloomingdale's customers for donations for the needy, including food, clothing and furniture.

Over the years I have said many times that individuals must play a greater role in the fight to make our communities safer, more prosperous, and simply better places for all of us to live. Jeremy's work to make south Florida a better place for all its residents to live exemplifies that ideal.

John Randolph once wrote, ''Life is not so important as the duties of life.'' Only 12 years old, Jeremy Marks-Peltz has already learned this lesson well. His compassion, commitment, and understanding of what is genuinely important in this world are truly shining examples for all of us.●

## TRIBUTE TO FIRST TENNESSEE BANK

● Mr. FRIST. Mr. President, I rise today to salute First Tennessee National Corporation, an innovative company that maintains company success by focusing on a family-friendly environment. First Tennessee Bank's success can be attributed in part to the amount of time and effort they put into maintaining a positive employee-company relationship.

Three years ago, First Tennessee developed its Family Matters program to address concerns that involved the work-family relationship. They realized early on that employee job performance did not rely solely on the working conditions at the office. Personal time influenced employees' overall attitude, and in turn, their attitude toward work. First Tennessee adopted a non-traditional work schedule that gives employees more freedom to adjust their schedules around personal needs or family obligations. Family Matters trained managers and supervisors to work with employees who wanted flexible work hours to give them the time they needed without sacrificing job productivity. Variations of the flexible hours differ, but one good example can be seen at First Tennessee's downtown Chattanooga branch office. Richard Grant, Vice President of

Business Development and Manager of the word processing center, was approached by two of his employees in the word processing center who wanted to stagger their work hours and give themselves a day off every other Friday. He agreed, and the women were not only happier, their productivity in their high stress jobs has increased. Now they work longer 4-day weeks one week, followed by a regular 5-day work week the next.

Mr. President, First Tennessee's efforts have paid off. They were recently named the number one family-friendly company by Business Week magazine. This is a fine example of how change and risk-taking are beneficial to the growth of companies. First Tennessee has seen the benefits of its Family Matters program and other family friendly programs in elevated company morale, improved productivity and increased employee tenure.

First Tennessee's interest in improving itself from the inside out is an example to us all that every organization can make improvements. Taking a proactive approach and involving employees in the learning process is a greatly admired advance toward company improvement. First Tennessee has been innovative and is sure to continue to see added improvements and benefits due to its responsibility to its employees as well as its customers.●

## TRIBUTE TO DR. BILL WILEY

● Mr. JOHNSTON. Mr. President, I have been privileged in my career in the U.S. Senate, through my work on the Energy and Natural Resources Committee and on the Appropriations Subcommittee on Energy and Water Development, to work with many of the great scientific minds of this country. I rise today to pay tribute to one of those scientists with whom I worked especially closely and who was a longtime close personal friend before his death last summer.

Dr. Bill Wiley of the Battelle Memorial Institute built a monumental career and left a huge legacy first and foremost because of his special gifts and training as a fine scientist. His achievements over his 31-year career with Battelle, beginning as a staff research scientist and ending with his position as vice president for Science and Technology, contributed significantly to this country's scientific understanding.

But I believe that the work for which Bill Wiley should and will be best remembered is the concrete result of his vision which is now nearing completion on the banks of the Columbia River in Richland, WA, the Environmental Molecular Sciences Laboratory [EMSL], which will be the jewel of the Pacific Northwest National Laboratory and which may very well hold the key to this country's Herculean effort to the cleanup of the Hanford Nuclear Reservation and other, similar sites around the country.

Armed only with this vision and his irresponsible charm and enthusiasm, Bill Wiley came to see me several years ago to lay out his plans for EMSL, undaunted by skeptics who had told him at every turn that it might be a good idea, but the Congress was unlikely to embrace such a costly project. I must say that had it been anyone other than Bill Wiley pushing the dream, the skeptics probably would have been right. But Bill not only convinced me that it was worth doing, he persuaded all the other relevant players that not only was it something we could do, but that it was something a great nation should not fail to do. I visited the EMSL facility in its late stages of construction shortly before Bill's death last summer. Anyone who ever harbored doubts about the wisdom of this research facility should go have a look when it opens its doors next month. It will be home to America's finest scientists employing the latest tools doing the best research in the world today. And it is a point of special pride to those of us who were his friends that they will be doing so in the building named in memory of William R. Wiley.

This African-American son of an Oxford, MS, cobbler served his Nation well professionally and as a humanitarian who was never too busy in his career to help the less fortunate who were trying to work their way up the ladder or merely to get to the first rung of the ladder. I know many colleagues join me in expressing our condolences to Bill's loving wife Gus and to his daughter Johari Wiley-Johnson and in expressing our deep gratitude for the paths that Bill Wiley charted and the mark he left behind.●

## THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT

● Mr. KEMPTHORNE. Mr. President, late last night the Senate acted to adopt S. 2078, the Wildfire Suppression Aircraft Transfer Act. Senator BINGAMAN of New Mexico and I introduced this bill, along with Senator CRAIG with the support of the administration 2 weeks ago. Senator KYL has joined us as a cosponsor, and the bill has been cleared by the Armed Services Committee.

This summer, more acres have burned than in any other fires season in the past 50 years, and unfortunately, this fire season is not over yet. Forest scientists warn us that severe fire seasons are becoming more and more frequent, which is a real cause of concern when rural populations growth is increasing the number of private homes that come into direct contact with fires on Federal lands.

The Forest Service has determined that the existing fleet of aircraft is inadequate to meet Federal obligations to control fire to protect lives, property and resources. The fleet available to them consists currently of 39 planes, two thirds of which are World War II and Korean war era aircraft. An average of one plane a year is lost to old age or accidents. In meetings with the Armed Service Committee, to which the bill was referred, the Forest Service estimated that they will need access to 20 additional planes over the next 3 to 5 years to maintain service and meet increasing demands.

The most obvious source of these planes is surplus military equipment. But the Forest Service and the Department of Defense have found that the planes are not making it through the system to be available for purchase by private contractors. In response, this bill would give the Secretary of Defense the option of making fire fighting needs a priority for the sale of aircraft excess to the needs of the Department. The Secretary of Defense would do so only in response to a request from the Secretary of Agriculture. The legislation ensures that aircraft could only be available for purchase by companies certified to have Forest Service contracts to fight fires, and requires the Secretary of Defense to develop regulations to enforce restrictions that the aircraft sold would only be used for fire fighting purposes.

We do not have time to waste. It will take an estimated 1 to 2 years to retrofit a plane to be used to fight forest and range fires. By Forest Service estimates, we are already two planes short of an adequate fire fighting fleet. The 1996 fire season has already burned nearly 6 million acres across the country. That is three times the 10 year average, but it is not much more than we saw burn in 1994. These fires are burning more intensely, with devastating effects on the environment, and creating dangerous situations for our citizens. In my own State, local and Federal officials are working around the clock to ensure that the scorched hillsides above Boise to try to minimize the devastating mudslides that are only a few inches of rain away. In the way of those mudslides are schools, homes, the downtown district, and our State capitol building.

I am pleased my colleagues recognized the urgency, and agreed to adopt this legislation to make it possible for the Forest Service to have access to the equipment they need to keep our citizens, their property and our natural resources safe from catastrophic fires.●

## TRIBUTE TO CHARLES M. PIGOTT

● Mr. GORTON. Mr. President, at the end of this year Mr. Charles M. Pigott will step down as chairman and chief executive officer of PACCAR, Inc. Today I would like to recognize Mr. Pigott for his superb achievements and to pay tribute to a thoughtful and considerate friend.

Guided for nearly three decades by Mr. Pigott's steady hand, PACCAR is now America's largest domestically owned truck manufacturer. His pursuit of quality and innovation has left a lasting imprint on the company and American industry as well.

Mr. Pigott began at PACCAR with a summer job in 1945. He went on to receive an engineering degree from Stanford University, then served as a Navy aviator in Korea. When his tour of duty ended, he rejoined PACCAR. In 1967 he became chief executive officer. He oversaw a period of great change in the industry, a period in which trucks became safer, more efficient and longer-lasting.

The technical center Mr. Pigott built has brought forth many new products and innovations. They include the aerodynamic Kenworth T600, which was so widely acclaimed and imitated it changed the look of heavy-duty trucks; the Kenworth T2000, PACCAR's newest edition; and the more than 330 patents PACCAR has garnered under Mr. Pigott.

The market, of course, rewards quality. Nearly one out of four class 8 trucks sold in America today is a Peterbilt or Kenworth. And company sales have, on Mr. Pigott's watch, grown from $320 million to $4.5 billion annually. Net income increased almost sixteen-fold, and shareholders' equity from $88 million to well over $1.2 billion. It is remarkable that every year in which Mr. Piggot was CEO, PACCAR, recorded a profit.

Mr. Pigott has made his mark in the community as well. For nearly five decades he has worked with the Boy Scouts of America, serving as president of both the Chief Seattle Council and the National Council. He has been general campaign chairman and trustee for United Way of King County, chairman of the Washington Roundtable and in leadership positions for many other cultural and civic organizations. He also heads the PACCAR Foundation, which distributes approximately $3 million yearly to civic, cultural, educational and health and welfare causes in communities where PACCAR does business.

Mr. Pigott has been blessed with a wonderful family. He and his wife Yvonne have raised seven fine children.

When Mr. Pigott steps down on December 31, 1996, he will continue family tradition and hand leadership over to his son. I congratulate him on a splendid career, thank him for his contributions to American industry, and wish him all the best in his retirement.●

## TRIBUTE TO DAVID EHRENFRIED

● Mr. COHEN. Mr. President, recently, Dave Ehrenfried retired after 40 years as an editor and cornerstone of Lewiston, ME's Sun-Journal.

He began at the paper in 1956, where he quickly showed his talent for newspaper reporting. Dave held many positions throughout his tenure at the Sun-Journal. Most notably, his work was recognized by the New England News Executives Association with a first place award for editorial writing in 1982. In 1988, Dave was named the assistant executive editor at the Sun-Journal and in 1991 he became a representative, advocating for readers of the daily and Sunday papers. He was once again recognized by his peers for his dedication to journalism by being asked to serve as president of the New England Society of Newspaper Editors in 1993.

Dave has always been a hard worker, a requirement when you work for one of Maine's leading newspapers. His coworkers hold him in the highest esteem, including one member of the Sun-Journal staff who referred to him as a quiet leader with sound judgment. Dave gave himself and his time to all who asked and the people who turned to him who knew that they were heard. Dave is a remarkable person who has dedicated his life to journalism and integrity.

I commend his commitment to his family, his coworkers, and to Maine journalism.●

## THE CALENDAR

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following bills, en bloc: Calendar Nos. 369, 488, 235, 238, 371, 233, 236, 237, 368, 232, 370, 372, and 373.

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

Mr. NICKLES. Mr. President, I ask unanimous consent that the bills be deemed read the third time, passed, the motion to reconsider be laid upon the table, that any statements relating to these measures be placed at this point in the RECORD, and that the preceding all occur en bloc.

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

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2501) to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## THE ILLEGAL IMMIGRATION CONTROL ACT OF 1996

The bill (H.R. 1014) to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 1290) to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 657) to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2695) to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 1011) to extend the deadline under the Federal Power Act application to the construction of a hydroelectric project in the State of Ohio, was considered, ordered to a third reading, read the third time, and passed.

## HYDROELECTRIC PROJECT EXTENSION

The bill (H.R. 1335) to provide for the extension of a hydroelectric project in the State of West Virginia, was considered, ordered to a third reading, read the third time, and passed.

## FERC-ISSUED HYDROELECTRIC LICENSE TIME LIMITATION EXTENSION

The bill (H.R. 1366) to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2773) to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## FERC LICENSED HYDRO PROJECTS

The bill (H.R. 680) to extend the time for construction of certain FERC licensed hydro projects, was considered, ordered to a third reading, read the third time, and passed.

## HYDROELECTRIC PROJECT DEADLINE EXTENSION

The bill (H.R. 2630) to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION AND LICENSE REINSTATEMENT

The bill (H.R. 2816) to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT DEADLINE EXTENSION

The bill (H.R. 2869) to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky, was considered, ordered to a third reading, read the third time, and passed.

## FEDERAL POWER ACT AMENDMENTS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 100, S. 737.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 737) to extend the deadlines applicable to certain hydroelectric projects, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5412

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. MURKOWSKI, proposes an amendment numbered 5412.

Mr. NICKLES. 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:

Beginning on page 2, line 1, through page 6, line 6, strike sections 2, 3, 4, 5 and 6, and renumber subsequent sections accordingly.

On page 9, following line 17, add the following new section:

**"SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR CERTAIN HYDROELECTRIC PROJECTS LOCATED IN ILLINOIS.**

''(a) PROJECT NUMBER 3943.—

''(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 3943 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

''(2) An extension may be granted under paragraph (1) only in accordance with—

''(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

''(B) the procedures of the Federal Energy Regulatory Commission under such section.

''(3) This subsection shall take effect for project number 3943 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Federal Energy Regulatory Commission under section 13 of the Federal Power Act.

''(b) PROJECT NUMBER 3944.—

''(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project number 3944 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

''(2) An extension may be granted under paragraph (1) only in accordance with—

''(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

''(B) the procedures of the Commission under such section.

''(3) This subsection shall take effect for project number 3944 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Commission under section 13 of the Federal Power Act.

**"SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF A HYDROELECTRIC FACILITY IN MONTANA.**

''Notwithstanding section 10(e)(1) of the Federal Power Act or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under Part I of the Federal Power Act, a political subdivision of the State of Montana that accepts the terms and conditions of a license for Federal Energy Regulatory Commission project number 1473 in Granite County and Deer Lodge County, Montana—

''(a) shall not be required to pay any such charge with respect to the 5-year period following the date of acceptance; and

''(b) after that 5-year period and for so long as the political subdivision holds the license, shall be required to pay such charges under section 10(e)(1) of the Federal Power Act or any other law for the use, occupancy, and enjoyment of the land covered by the license as the Federal Energy Regulatory Commission or any other federal agency may assess, not to exceed a total of $20,000 for any year.''.

Mr. NICKLES. I ask unanimous consent that the amendment No. 5412 offered by Senator MURKOWSKI be agreed to, the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table.

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

The amendment (No. 5412) was agreed to.

The bill (S. 737), as amended, was deemed read the third time, and passed, as follows:

S. 737

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Federal Power Act Amendments of 1996''.

**SEC. 2. LIMITED EXEMPTION TO HYDROELECTRIC LICENSING PROVISIONS FOR TRANSMISSION FACILITIES ASSOCIATED WITH THE EL VADO HYDROELECTRIC PROJECT.**

(a) EXEMPTION.—Part I of the Federal Power Act, and the jurisdiction of the Federal Energy Regulatory Commission under such part I, shall not apply to the transmission line facilities associated with the El Vado Hydroelectric Project (FERC Project No. 5226–002) which are described in subsection (b).

(b) FACILITIES COVERED BY EXEMPTION.—The facilities to which the exemption under subsection (a) applies are those transmission facilities located near the Rio Chama, a tributary of the Rio Grande, in Rio Arriba County, New Mexico, referred to as the El Vado transmission line, a three phase 12-mile long 69 kV power line installed within a 50-foot wide right-of-way in Rio Arriba County, New Mexico, originating at the El Vado Project's switchyard and connecting to the Spills 69 kV Switching Station operated by the Northern Arriba Electric Cooperative, Inc.

**SEC. 3. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.**

The Federal Power Act, as amended, (16 U.S.C. 1791a et seq.) is further amended by adding the following at the end of section 23:

''(c) In the case of any project works in the State of Alaska—

''(1) that are not part of a project licensed under this Act prior to the date of enactment of this subsection;

''(2) for which a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant);

''(3) having a power production capacity of 5,000 kilowatts or less;

''(4) located entirely within the boundaries of the State of Alaska; and

''(5) not located in whole or in part on any Indian reservation, unit of the National Park System, component of the Wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system,

the State of Alaska shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this part, effective upon the date on which the Governor of the State of Alaska notifies the Secretary of Energy that the State has in place a process for regulating such projects which gives appropriate consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the adequate protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable.

''(d) In the case of a project that would be subject to authorization by the State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

''(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to

subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe.

''(f) Nothing in subsection (c) shall preempt the application of Federal environment, natural, or cultural resources protection laws according to their terms.''.

**SEC. 4. FERC VOLUNTARY LICENSING OF HYDROELECTRIC PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.**

Section 4(e) of the Federal Power Act is amended by striking ''several States, or upon'' and inserting ''several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon''.

**SEC. 5. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR CERTAIN HYDROELECTRIC PROJECTS LOCATED IN ILLINOIS.**

(a) PROJECT NUMBER 3943.—

(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 3943 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

(2) An extension may be granted under paragraph (1) only in accordance with—

(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

(B) the procedures of the Federal Energy Regulatory Commission under such section.

(3) This subsection shall take effect for project number 3943 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Federal Energy Regulatory Commission under section 13 of the Federal Power Act.

(b) PROJECT NUMBER 3944.—

(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project number 3944 (and after reasonable notice), may extend the time required for commencement of construction of such project for not more than 3 consecutive 2-year periods, in accordance with paragraphs (2) and (3).

(2) An extension may be granted under paragraph (1) only in accordance with—

(A) the good faith, due diligence, and public interest requirements contained in section 13 of the Federal Power Act; and

(B) the procedures of the Commission under such section.

(3) this subsection shall take effect for project number 3944 upon the expiration of the extension of the period required for commencement of construction of such project issued by the Commission under section 13 of the Federal Power Act.

**SEC. 6. REFURBISHMENT AND CONTINUED OPERATION OF A HYDROELECTRIC FACILITY IN MONTANA.**

Notwithstanding section 10(e)(1) of the Federal Power Act or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act, a political subdivision of the State of Montana that accepts the terms and conditions of a license for Federal Energy Regulatory Commission project number 1473 in Granite County and Deer Lodge County, Montana—

(1) shall not be required to pay any such charge with respect to the 5-year period following the date of acceptance; and

(2) after that 5-year period and for so long as the political subdivision holds the license, shall be required to pay such charges under section 10(e)(1) of the Federal Power Act or any other law for the use, occupancy, and enjoyment of the land covered by the license as the Federal Energy Regulatory Commission or any other Federal agency may assess, not to exceed a total of $20,000 for any year.

## RELOCATION OF THE PORTRAIT MONUMENT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 216, just received from the House.

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

The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 216) providing for relocation of the Portrait Monument.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. NICKLES. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 216) was agreed to.

The preamble was agreed to.

## MEDICAID CERTIFICATION ACT OF 1995

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 1791, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1791) to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. I ask unanimous consent the bill be deemed read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R 1791) was deemed read a third time, and passed.

## DAVID H. PRYOR POST OFFICE BUILDING IN CAMDEN, AR

Mr. NICKLES. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3877, just receive from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3877) to designate the ''David H. Pryor Post Office Building'' in Camden, Arkansas.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. I ask unanimous consent that the bill be read three times, passed, and that the motion to reconsider be laid on the table.

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

The bill (H.R. 3877) was deemed read a third time, and passed.

## CHILD ABUSE PREVENTION AND TREATMENT ACT AMENDMENTS OF 1996

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 919) to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the bill from the Senate (S. 919) entitled ''An Act to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause, and insert:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the ''Child Abuse Prevention and Treatment Act Amendments of 1996''.*

*(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:*

## TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

### SEC. 100. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), to read as follows:

''(1) each year, close to 1,000,000 American children are victims of abuse and neglect;'';

(2) in paragraph (3)(C), by inserting ''assessment,'' after ''prevention,'';

(3) in paragraph (4)—

(A) by striking ''tens of''; and

(B) by striking ''direct'' and all that follows through the semicolon and inserting ''tangible expenditures, as well as significant intangible costs;'';

(4) in paragraph (7), by striking ''remedy the causes of'' and inserting ''prevent'';

(5) in paragraph (8), by inserting ''safety,'' after ''fosters the health,'';

(6) in paragraph (10)—

(A) by striking ''ensure that every community in the United States has'' and inserting ''assist States and communities with''; and

(B) after ''child'' insert ''and family''; and

(7) in paragraph (11)—

(A) by striking ''child protection'' each place that such term appears and inserting ''child and family protection''; and

(B) in subparagraph (D), by striking ''sufficient''.

### Subtitle A—General Program

### SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

Section 101 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended to read as follows:

**''SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.**

''(a) ESTABLISHMENT.—The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

''(b) PURPOSE.—The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.''.

### SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended to read as follows:

**''SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.**

''(a) APPOINTMENT.—The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

''(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).

''(c) COMPOSITION.—In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

''(1) law (including the judiciary);

''(2) psychology (including child development);

''(3) social services (including child protective services);

''(4) medicine (including pediatrics);

''(5) State and local government;

''(6) organizations providing services to disabled persons;

''(7) organizations providing services to adolescents;

''(8) teachers;

''(9) parent self-help organizations;

''(10) parents' groups;

''(11) voluntary groups;

''(12) family rights groups; and

''(13) children's rights advocates.

''(d) VACANCIES.—Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

''(e) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

''(f) DUTIES.—Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

''(1) recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;

''(2) specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

''(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.''.

### SEC. 103. REPEAL OF INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.

Section 103 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103) is repealed.

### SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104) is amended—

(1) in subsection (a), to read as follows:

''(a) ESTABLISHMENT.—The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''Director'' and inserting ''Secretary'';

(B) in paragraph (1)—

(i) by inserting ''assessment,'' after ''prevention,''; and

(ii) by striking '', including'' and all that follows and inserting ''; and'';

(C) in paragraph (2)—

(i) in subparagraph (A), by striking ''general population'' and inserting ''United States'';

(ii) in subparagraph (B), by adding ''and'' at the end;

(iii) in subparagraph (C), by striking ''; and'' at the end and inserting a period; and

(iv) by striking subparagraph (D); and

(D) by striking paragraph (3); and

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''In establishing'' and inserting the following:

''(1) IN GENERAL.—In establishing''; and

(ii) by striking ''Director'' and inserting ''Secretary'';

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving the text of subparagraphs (A) through (D) (as redesignated) 2 ems to the right;

(C) in subparagraph (B) (as redesignated), by striking ''that is represented on the task force'' and inserting ''involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses'';

(D) in subparagraph (C) (as redesignated), by striking ''State, regional'' and all that follows and inserting the following: ''Federal, State, regional, and local child welfare data systems which shall include—

''(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports; and

''(ii) information on the number of deaths due to child abuse and neglect;'';

(E) by redesignating subparagraph (D) (as redesignated) as subparagraph (F);

(F) by inserting after subparagraph (C) (as redesignated), the following new subparagraphs:

''(D) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;

''(E) compile, analyze, and publish a summary of the research conducted under section 105(a); and''; and

(G) by adding at the end the following:

''(2) CONFIDENTIALITY REQUIREMENT.—In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.''.

### SEC. 105. RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES.

(a) RESEARCH.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking '', through the Center, conduct research on'' and inserting '', in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on'';

(B) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) the nature and scope of child abuse and neglect;'';

(D) in subparagraph (B) (as so redesignated), to read as follows:

''(B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;''; and

(E) in subparagraph (D) (as so redesignated)—

(i) by striking clause (ii);
(ii) in clause (iii), to read as follows:
''(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;''; and
(iii) by adding at the end the following:
''(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;
''(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;
''(v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;
''(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;
''(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;
''(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and
''(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system.''; and
(2) in paragraph (2)—
(A) in subparagraph (A)—
(i) by striking ''and demonstration''; and
(ii) by striking ''paragraph (1)(A) and activities under section 106'' and inserting ''paragraph (1)''; and
(B) in subparagraph (B), by striking ''and demonstration''.

(b) REPEAL.—Subsection (b) of section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is repealed.

(c) TECHNICAL ASSISTANCE.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(c)) is amended—
(1) by striking ''(c)'' and inserting ''(b)'';
(2) by striking ''The Secretary'' and inserting: ''(1) IN GENERAL.—The Secretary'';
(3) by striking '', through the Center,'';
(4) by inserting ''State and local'' before ''public and nonprofit'';
(5) by inserting ''assessment,'' before ''identification''; and
(6) by adding at the end thereof the following new paragraphs:
''(2) EVALUATION.—Such technical assistance may include an evaluation or identification of—
''(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;
''(B) ways to mitigate psychological trauma to the child victim; and
''(C) effective programs carried out by the States under titles I and II.
''(3) DISSEMINATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—
''(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and
''(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.''.

(d) GRANTS AND CONTRACTS.—Section 105(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(d)) is amended—
(1) by striking ''(d)'' and inserting ''(c)''; and
(2) in paragraph (2), by striking the second sentence.

(e) PEER REVIEW.—Section 105(e) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(e)) is amended—
(1) in the heading preceding paragraph (1), by striking ''(e)'' and inserting ''(d)'';
(2) in paragraph (1)—
(A) in subparagraph (A)—
(i) by striking ''establish a formal'' and inserting '', in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious'';
(ii) by striking ''and contracts''; and
(iii) by adding at the end thereof the following new sentence: ''The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.''; and
(B) in subparagraph (B)—
(i) by striking ''Office of Human Development'' and inserting ''Administration on Children and Families''; and
(ii) by adding at the end thereof the following new sentence: ''The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.'';
(3) in paragraph (2)—
(A) in the matter preceding subparagraph (A), by striking '', contract, or other financial assistance''; and
(B) by adding at the end thereof the following flush sentence:
''The Secretary shall award grants under this section on the basis of competitive review.''; and
(4) in paragraph (3)(B), by striking ''subsection (e)(2)(B)'' each place it appears and inserting ''paragraph (2)(B)''.

(f) TECHNICAL AMENDMENT.—Section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended in the section heading by striking ''of the national center on child abuse and neglect''.

**SEC. 106. GRANTS FOR DEMONSTRATION PROGRAMS.**

Section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended—
(1) in the section heading, by striking ''**OR SERVICE**'';
(2) in subsection (a), to read as follows:
''(a) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may make grants to, and enter into contracts with, public agencies or private nonprofit agencies or organizations (or combinations of such agencies or organizations) for time limited, demonstration programs and projects for the following purposes:
''(1) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations under this section—
''(A) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;
''(B) to improve the recruitment, selection, and training of volunteers serving in public and private nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and
''(C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.
''(2) MUTUAL SUPPORT PROGRAMS.—The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.
''(3) OTHER INNOVATIVE PROGRAMS AND PROJECTS.—
''(A) IN GENERAL.—The Secretary may award grants to public and private nonprofit agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—
''(i) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;
''(ii) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and
''(iii) provides further investigation and intensive intervention where the child's safety is in jeopardy.
''(B) KINSHIP CARE.—The Secretary may award grants to public and private nonprofit entities in not more than 10 States to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.
''(C) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants to entities to assist such entities in establishing and operating safe, family-friendly physical environments—
''(i) for court-ordered supervised visitation between children and abusing parents; and
''(ii) to safely facilitate the exchange of children for visits with noncustodian parents in cases of domestic violence.'';
(3) by striking subsection (b);
(4) by redesignating subsection (c) as subsection (b)
(5) in subsection (b) (as redesignated)—
(A) by striking paragraphs (1) and (2); and
(B) by redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively; and
(6) by adding at the end the following new subsection:
''(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.''.

**SEC. 107. STATE GRANTS FOR PREVENTION AND TREATMENT PROGRAMS.**

Section 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) is amended to read as follows:

**''SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.**

''(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in—
''(1) the intake, assessment, screening, and investigation of reports of abuse and neglect;
''(2)(A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and
''(B) improving legal preparation and representation, including—
''(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and
''(ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;
''(3) case management and delivery of services provided to children and their families;

''(4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;

''(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;

''(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

''(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

''(8) developing, implementing, or operating—

''(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

''(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

''(ii) the parents of such infants; and

''(B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

''(i) existing social and health services;

''(ii) financial assistance; and

''(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

''(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) STATE PLAN.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

''(B) ADDITIONAL REQUIREMENT.—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

''(2) COORDINATION.—A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

''(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

''(i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;

''(ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

''(iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

''(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

''(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to—

''(I) individuals who are the subject of the report;

''(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

''(III) child abuse citizen review panels;

''(IV) child fatality review panels;

''(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

''(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

''(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

''(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

''(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

''(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings—

''(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

''(II) to make recommendations to the court concerning the best interests of the child;

''(x) the establishment of citizen review panels in accordance with subsection (c);

''(xi) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section—

''(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

''(II) by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

''(xii) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

''(I) to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

''(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

''(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

''(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

''(xiii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case by case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

''(B) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

''(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

''(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

''(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions;

''(C) a description of—

''(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

''(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

''(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

''(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.

''(3) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'near fatality' means an act that, as certified by a physician, places the child in serious or critical condition; and

''(B) the term 'serious bodily injury' means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

''(c) CITIZEN REVIEW PANELS.—
''(1) ESTABLISHMENT.—
''(A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.
''(B) EXCEPTIONS.—
''(i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of $175,000 under section 203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.
''(ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.
''(2) MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.
''(3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.
''(4) FUNCTIONS.—
''(A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—
''(i) the State plan under subsection (b);
''(ii) the child protection standards set forth in subsection (b); and
''(iii) any other criteria that the panel considers important to ensure the protection of children, including—
''(I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and
''(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).
''(B) CONFIDENTIALITY.—
''(i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—
''(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and
''(II) shall not make public other information unless authorized by State statute.
''(ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).
''(5) STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—
''(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and
''(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.
''(6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.
''(d) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:
''(1) The number of children who were reported to the State during the year as abused or neglected.
''(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—
''(A) substantiated;
''(B) unsubstantiated; or
''(C) determined to be false.
''(3) Of the number of children described in paragraph (2)—
''(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;
''(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and
''(C) the number that were removed from their families during the year by disposition of the case.
''(4) The number of families that received preventive services from the State during the year.
''(5) The number of deaths in the State during the year resulting from child abuse or neglect.
''(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.
''(7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.
''(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.
''(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.
''(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.
''(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.
''(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.
''(e) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after receiving the State reports under subsection (i), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report and such information available to the Congress and the national clearinghouse for information relating to child abuse.''.

***SEC. 108. REPEAL.***

*Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106b) is repealed.*

***SEC. 109. MISCELLANEOUS REQUIREMENTS.***

*Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended—*
*(1) by striking subsection (c); and*
*(2) by redesignating subsection (d) as subsection (c).*

***SEC. 110. DEFINITIONS.***

*Section 113 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h) is amended—*
*(1) by striking paragraphs (1), (2), (5), and (9);*
*(2)(A) by redesignating paragraphs (3), (4), and (6) through (8) as paragraphs (1) through (5), respectively; and*
*(B) by redesignating paragraph (10) as paragraph (6);*
*(3) in paragraph (2) (as redesignated), to read as follows:*
''(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;''; and
*(4) in paragraph (4)(B) (as redesignated), by inserting '', and in cases of caretaker or interfamilial relationships, statutory rape'' after ''rape''.*

***SEC. 111. AUTHORIZATION OF APPROPRIATIONS.***

*Section 114(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)) is amended to read as follows:*

''(a) IN GENERAL.—
''(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.
''(2) DISCRETIONARY ACTIVITIES.—
''(A) IN GENERAL.—Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this title.
''(B) DEMONSTRATION PROJECTS.—Of the amounts made available for a fiscal year under subparagraph (A), the Secretary make available not more than 40 percent of such amounts to carry out section 106.''.

***SEC. 112. RULE OF CONSTRUCTION.***

*Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:*

***''SEC. 115. RULE OF CONSTRUCTION.***

''(a) IN GENERAL.—Nothing in this Act shall be construed—
''(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and
''(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.
''(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.''.

***SEC. 113. TECHNICAL AND CONFORMING AMENDMENTS.***

*(a) CHILD ABUSE PREVENTION AND TREATMENT ACT.—*
*(1)(A) Sections 104 through 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104 through 5106a), as amended by this subtitle, are redesignated as sections 103 through 106 of such Act, respectively.*
*(B) Sections 109 through 114 of the Child Abuse Prevention and Treatment Act (42 U.S.C 5106c through 5106h), as amended by this subtitle, are redesignated as sections 107 through 112 of such Act, respectively.*
*(C) Section 115 of the Child Abuse Prevention and Treatment Act, as added by section 112 of this Act, is redesignated as section 113 of the Child Abuse Prevention and Treatment Act.*
*(2) Section 107 of the Child Abuse Prevention and Treatment Act (as redesignated) is amended—*
*(A) in subsection (a), by striking ''acting through the Center and'';*
*(B) in subsection (b)(1), by striking ''sections'' and inserting ''section'';*
*(C) in subsection (c)(1)—*
*(i) in the matter preceding subparagraph (A), by inserting a comma after ''maintain''; and*
*(ii) in subparagraph (F), by adding a semicolon at the end; and*
*(D) in subsection (d)(1), by adding ''and'' at the end.*
*(3) Section 110(b) of the Child Abuse Prevention and Treatment Act (as redesignated) is*

*amended by striking ''effectiveness of—'' and all that follows and inserting ''effectiveness of assisted programs in achieving the objectives of section 107.''.*

*(b) VICTIMS OF CRIME ACT OF 1984.—Section 1404A of the Victims of Crime Act of 1984 (42 U.S.C. 10603a) is amended—*

*(1) by striking ''1402(d)(2)(D) and (d)(3).'' and inserting ''1402(d)(2)''; and*

*(2) by striking ''section 4(d)'' and inserting ''section 109''.*

***Subtitle B—Community-Based Family Resource and Support Grants***

***SEC. 121. ESTABLISHMENT OF PROGRAM.***

*Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is amended to read as follows:*

***''TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS***

***''SEC. 201. PURPOSE AND AUTHORITY.***

*''(a) PURPOSE.—It is the purpose of this title—*

*''(1) to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among existing education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State; and*

*''(2) to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect.*

*''(b) AUTHORITY.—The Secretary shall make grants under this title on a formula basis to the entity designated by the State as the lead entity (hereafter referred to in this title as the 'lead entity') under section 202(1) for the purpose of—*

*''(1) developing, operating, expanding and enhancing Statewide networks of community-based, prevention-focused, family resource and support programs that—*

*''(A) offer assistance to families;*

*''(B) provide early, comprehensive support for parents;*

*''(C) promote the development of parenting skills, especially in young parents and parents with very young children;*

*''(D) increase family stability;*

*''(E) improve family access to other formal and informal resources and opportunities for assistance available within communities;*

*''(F) support the additional needs of families with children with disabilities through respite care and other services; and*

*''(G) decrease the risk of homelessness;*

*''(2) fostering the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships both public and private;*

*''(3) financing the start-up, maintenance, expansion, or redesign of specific family resource and support program services (such as respite care services, child abuse and neglect prevention activities, disability services, mental health services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and description of current services required under section 205(a)(3) as an unmet need, and integrated with the network of community-based family resource and support program to the extent practicable given funding levels and community priorities;*

*''(4) maximizing funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, start-up, training and technical assistance, information management, reporting and evaluation costs for establishing, operating, or expanding a Statewide network of community-based, prevention-focused, family resource and support program; and*

*''(5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.*

***''SEC. 202. ELIGIBILITY.***

*''A State shall be eligible for a grant under this title for a fiscal year if—*

*''(1)(A) the chief executive officer of the State has designated a lead entity to administer funds under this title for the purposes identified under the authority of this title, including to develop, implement, operate, enhance or expand a Statewide network of community-based, prevention-focused, family resource and support programs, child abuse and neglect prevention activities and access to respite care services integrated with the Statewide network;*

*''(B) such lead entity is an existing public, quasi-public, or nonprofit private entity (which may be an entity that has not been established pursuant to State legislation, executive order, or any other written authority of the State) with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;*

*''(C) in determining which entity to designate under subparagraph (A), the chief executive officer should give priority consideration equally to a trust fund advisory board of the State or to an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and*

*''(D) in the case of a State that has designated a State trust fund advisory board for purposes of administering funds under this title (as such title was in effect on the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996) and in which one or more entities that leverage Federal, State, and private funds (as described in subparagraph (C)) exist, the chief executive officer shall designate the lead entity only after full consideration of the capacity and expertise of all entities desiring to be designated under subparagraph (A);*

*''(2) the chief executive officer of the State provides assurances that the lead entity will provide or will be responsible for providing—*

*''(A) a network of community-based family resource and support programs composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;*

*''(B) direction to the network through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, and public sector and private nonprofit sector service providers; and*

*''(C) direction and oversight to the network through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and*

*''(3) the chief executive officer of the State provides assurances that the lead entity—*

*''(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the Statewide network of community-based, prevention-focused, family resource and support programs;*

*''(B) has a demonstrated ability to work with State and community-based public and private nonprofit organizations to develop a continuum of preventive, family centered, comprehensive services for children and families through the Statewide network of community-based, prevention-focused, family resource and support programs;*

*''(C) has the capacity to provide operational support (both financial and programmatic) and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and*

*''(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.*

***''SEC. 203. AMOUNT OF GRANT.***

*''(a) RESERVATION.—The Secretary shall reserve 1 percent of the amount appropriated under section 210 for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.*

*''(b) REMAINING AMOUNTS.—*

*''(1) IN GENERAL.—The Secretary shall allot the amount appropriated under section 210 for a fiscal year and remaining after the reservation under subsection (a) among the States as follows:*

*''(A) 70 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the number of children under the age of 18 residing in the State bears to the total number of children under the age of 18 residing in all States (except that no State shall receive less than $175,000 under this subparagraph).*

*''(B) 30 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the State lead agency in the preceding fiscal year bears to the aggregate of the amounts leveraged by all States from private, State, or other non-Federal sources and directed through the lead agency of such States in the preceding fiscal year.*

*''(2) ADDITIONAL REQUIREMENT.—The Secretary shall provide allotments under paragraph (1) to the State lead entity.*

*''(c) ALLOCATION.—Funds allotted to a State under this section—*

*''(1) shall be for a 3-year period; and*

*''(2) shall be provided by the Secretary to the State on an annual basis, as described in subsection (a).*

***''SEC. 204. EXISTING GRANTS.***

*''(a) IN GENERAL.—Notwithstanding the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996, a State or entity that has a grant, contract, or cooperative agreement in effect, on the date of the enactment of such Act under any program described in subsection (b), shall continue to receive funds under such program, subject to the original terms under which such funds were provided under the grant, through the end of the applicable grant cycle.*

*''(b) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:*

*''(1) The Community-Based Family Resource programs under section 201 of this Act, as such section was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.*

*''(2) The Family Support Center programs under subtitle F of title VII of the Stewart B.*

McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.), as such title was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

''(3) The Emergency Child Abuse Prevention Services grant program under section 107A of this Act, as such section was in effect on the day before the date of the enactment of the Human Services Amendments of 1994.

''(4) Programs under the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.

**''SEC. 205. APPLICATION.**

''A grant may not be made to a State under this title unless an application therefore is submitted by the State to the Secretary and such application contains the types of information specified by the Secretary as essential to carrying out the provisions of section 202, including—

''(1) a description of the lead entity that will be responsible for the administration of funds provided under this title and the oversight of programs funded through the Statewide network of community-based, prevention-focused, family resource and support programs which meets the requirements of section 202;

''(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate and how family resource and support services provided by public and private, nonprofit organizations, including those funded by programs consolidated under this Act, will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

''(3) an assurance that an inventory of current family resource programs, respite care, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;

''(4) a budget for the development, operation and expansion of the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will expend in non-Federal funds an amount equal to not less than 20 percent of the amount received under this title (in cash, not in-kind) for activities under this title;

''(5) an assurance that funds received under this title will supplement, not supplant, other State and local public funds designated for the Statewide network of community-based, prevention-focused, family resource and support programs;

''(6) an assurance that the State has the capacity to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

''(7) a description of the criteria that the entity will use to develop, or select and fund, individual community-based, prevention-focused, family resource and support programs as part of network development, expansion or enhancement;

''(8) a description of outreach activities that the entity and the community-based, prevention-focused, family resource and support programs will undertake to maximize the participation of racial and ethnic minorities, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other underserved or underrepresented groups;

''(9) a plan for providing operational support, training and technical assistance to community-based, prevention-focused, family resource and support programs for development, operation, expansion and enhancement activities;

''(10) a description of how the applicant entity's activities and those of the network and its members will be evaluated;

''(11) a description of the actions that the applicant entity will take to advocate systemic changes in State policies, practices, procedures and regulations to improve the delivery of prevention-focused, family resource and support program services to children and families; and

''(13) an assurance that the applicant entity will provide the Secretary with reports at such time and containing such information as the Secretary may require.

**''SEC. 206. LOCAL PROGRAM REQUIREMENTS.**

''(a) IN GENERAL.—Grants made under this title shall be used to develop, implement, operate, expand and enhance community-based, prevention-focused, family resource and support programs that—

''(1) assess community assets and needs through a planning process that involves parents and local public agencies, local nonprofit organizations, and private sector representatives;

''(2) develop a strategy to provide, over time, a continuum of preventive, family centered services to children and families, especially to young parents and parents with young children, through public-private partnerships;

''(3) provide—

''(A) core family resource and support services such as—

''(i) parent education, mutual support and self help, and leadership services;

''(ii) outreach services;

''(iii) community and social service referrals; and

''(iv) follow-up services;

''(B) other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including all forms of respite care services to the extent practicable; and

''(C) access to optional services, including—

''(i) referral to and counseling for adoption services for individuals interested in adopting a child or relinquishing their child for adoption;

''(ii) child care, early childhood development and intervention services;

''(iii) referral to services and supports to meet the additional needs of families with children with disabilities;

''(iv) referral to job readiness services;

''(v) referral to educational services, such as scholastic tutoring, literacy training, and General Educational Degree services;

''(vi) self-sufficiency and life management skills training;

''(vii) community referral services, including early developmental screening of children; and

''(viii) peer counseling;

''(4) develop leadership roles for the meaningful involvement of parents in the development, operation, evaluation, and oversight of the programs and services;

''(5) provide leadership in mobilizing local public and private resources to support the provision of needed family resource and support program services; and

''(6) participate with other community-based, prevention-focused, family resource and support program grantees in the development, operation and expansion of the Statewide network.

''(b) PRIORITY.—In awarding local grants under this title, a lead entity shall give priority to effective community-based programs serving low income communities and those serving young parents or parents with young children, including community-based family resource and support programs.

**''SEC. 207. PERFORMANCE MEASURES.**

''A State receiving a grant under this title, through reports provided to the Secretary—

''(1) shall demonstrate the effective development, operation and expansion of a Statewide network of community-based, prevention-focused, family resource and support programs that meets the requirements of this title;

''(2) shall supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 202;

''(3) shall demonstrate the establishment of new respite care and other specific new family resources services, and the expansion of existing services, to address unmet needs identified by the inventory and description of current services required under section 205(3);

''(4) shall describe the number of families served, including families with children with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of the Statewide network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide network funded under this title;

''(5) shall demonstrate a high level of satisfaction among families who have used the services of the community-based, prevention-focused, family resource and support programs;

''(6) shall demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion and enhancement of the Statewide network of community-based, prevention-focused, family resource and support programs;

''(7) shall describe the results of a peer review process conducted under the State program; and

''(8) shall demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community based, prevention-focused, family resource and support programs.

**''SEC. 208. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.**

''The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the lead entity in the State—

''(1) to create, operate and maintain a peer review process;

''(2) to create, operate and maintain an information clearinghouse;

''(3) to fund a yearly symposium on State system change efforts that result from the operation of the Statewide networks of community-based, prevention-focused, family resource and support programs;

''(4) to create, operate and maintain a computerized communication system between lead entities; and

''(5) to fund State-to-State technical assistance through bi-annual conferences.

**''SEC. 209. DEFINITIONS.**

''For purposes of this title:

''(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' has the same meaning given such term in section 602(a)(2) of the Individuals with Disabilities Education Act.

''(2) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite care services, health and mental health services, employability development and job training, and other social services, including early developmental screening of children, through help lines or other methods.

''(3) FAMILY RESOURCE AND SUPPORT PROGRAM.—The term 'family resource and support program' means a community-based, prevention-focused entity that—

''(A) provides, through direct service, the core services required under this title, including—

''(i) parent education, support and leadership services, together with services characterized by

relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

''(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

''(iii) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

''(iv) community and social services to assist families in obtaining community resources; and

''(v) follow-up services;

''(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies, including all forms of respite care services; and

''(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

''(i) child care, early childhood development and early intervention services;

''(ii) referral to self-sufficiency and life management skills training;

''(iii) referral to education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

''(iv) referral to services providing job readiness skills;

''(v) child abuse and neglect prevention activities;

''(vi) referral to services that families with children with disabilities or special needs may require;

''(vii) community and social service referral, including early developmental screening of children;

''(viii) peer counseling;

''(ix) referral for substance abuse counseling and treatment; and

''(x) help line services.

''(4) OUTREACH SERVICES.—The term 'outreach services' means services provided to assist consumers, through voluntary home visits or other methods, in accessing and participating in family resource and support program activities.

''(5) RESPITE CARE SERVICES.—The term 'respite care services' means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

''(A) are in danger of abuse or neglect;

''(B) have experienced abuse or neglect; or

''(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

**''SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this title, $66,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.''.

### Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

**SEC. 131. REPEAL OF TITLE III.**

Title III of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5118 et seq.) is repealed.

### Subtitle D—Miscellaneous Provisions

**SEC. 141. TABLE OF CONTENTS.**

The table of contents of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended to read as follows:



**SEC. 142. REPEALS OF OTHER LAWS.**

(a) TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986.—The Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

(b) FAMILY SUPPORT CENTERS.—Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.) is repealed.

## TITLE II—AMENDMENTS TO OTHER ACTS

### Subtitle A—Family Violence Prevention and Services Act

**SEC. 201. STATE DEMONSTRATION GRANTS.**

Section 303(e) of the Family Violence Prevention and Services Act (42 U.S.C. 10420(e)) is amended—

(1) by striking ''following local share'' and inserting ''following non-Federal matching local share''; and

(2) by striking ''20 percent'' and all that follows through ''private sources.'' and inserting ''with respect to an entity operating an existing program under this title, not less than 20 percent, and with respect to an entity intending to operate a new program under this title, not less than 35 percent.''.

**SEC. 202. ALLOTMENTS.**

Section 304(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10403(a)(1)) is amended by striking ''$200,000'' and inserting ''$400,000''.

**SEC. 203. AUTHORIZATION OF APPROPRIATIONS.**

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) in subsection (b), by striking ''80'' and inserting ''70''; and

(2) by adding at the end thereof the following new subsections:

''(d) GRANTS FOR STATE COALITIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 10 percent of such amounts shall be used by the Secretary for making grants under section 311.

''(e) NON-SUPPLANTING REQUIREMENT.—Federal funds made available to a State under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of this title.''.

### Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

**SEC. 211. FINDINGS AND PURPOSE.**

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''50 percent between 1985 and 1990'' and inserting ''61 percent between 1986 and 1994''; and

(ii) by striking ''400,000 children at the end of June, 1990'' and inserting ''452,000 as of June 1994'';

(B) in paragraph (5), by striking ''local'' and inserting ''legal''; and

(C) in paragraph (7), to read as follows:

''(7)(A) currently, 40,000 children are free for adoption and awaiting placement;

''(B) such children are typically school aged, in sibling groups, have experienced neglect or abuse, or have a physical, mental, or emotional disability; and

''(C) while the children are of all races, children of color and older children (over the age of 10) are over represented in such group;''; and

(2) in subsection (b)—

(A) by striking ''conditions, by—'' and all that follows through ''Department of Health and Human Services to—'' and inserting ''conditions, by providing a mechanism to—''; and

(B) by redesignating subparagraphs (A) through (C) of paragraph (2), as paragraphs (1) through (3), respectively, and by realigning the margins of such paragraphs accordingly.

**SEC. 212. INFORMATION AND SERVICES.**

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) in subsection (a), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (6), to read as follows:

''(6) study the nature, scope, and effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;'';

(B) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(C) by inserting after paragraph (6), the following new paragraph:

''(7) study the efficacy of States contracting with public or private nonprofit agencies (including community-based and other organizations), or sectarian institutions for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption;''; and

(3) in subsection (d)(2)—

(A) by striking ''Each'' and inserting ''(A) Each'';

(B) by striking ''for each fiscal year'' and inserting ''that describes the manner in which the State will use funds during the 3-fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be''; and

(C) by adding at the end the following new subparagraph:

''(B) The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

''(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

''(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.''.

***SEC. 213. AUTHORIZATION OF APPROPRIATIONS.***

*Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended—*

*(1) in subsection (a), by striking ''$10,000,000'' and all that follows through ''203(c)(1)'' and inserting ''$20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized'';*

*(2) by striking subsection (b); and*

*(3) by redesignating subsection (c) as subsection (b).*

***Subtitle C—Abandoned Infants Assistance Act of 1988***

***SEC. 221. PRIORITY REQUIREMENT.***

*Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by adding at the end the following:*

*''(h) PRIORITY REQUIREMENT.—In making grants under subsection (a), the Secretary shall give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.''.*

***SEC. 222. REAUTHORIZATION.***

*Section 104(a)(1) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking ''$20,000,000'' and all that follows and inserting ''$35,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.''.*

***Subtitle D—Reauthorization of Various Programs***

***SEC. 231. MISSING CHILDREN'S ASSISTANCE ACT.***

*(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—*

*(1) by striking ''To'' and inserting ''(a) IN GENERAL.—To''*

*(2) by striking ''1993, 1994, 1995, and 1996'' and inserting ''1997 through 2001''; and*

*(3) by adding at the end the following new subsection:*

*''(b) EVALUATION.—The Administrator may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.''.*

*(b) SPECIAL STUDY AND REPORT.—Section 409 of the Missing Children's Assistance Act (42 U.S.C. 5778) is repealed.*

***SEC. 232. VICTIMS OF CHILD ABUSE ACT OF 1990.***

*Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—*

*(1) in subsection (a)(2), by striking ''and 1996'' and inserting ''1996, and each of the fiscal years 1997 through 2000''; and*

*(2) in subsection (b)(2), by striking ''and 1996'' and inserting ''1996, and each of the fiscal years 1997 through 2000''.*

Mr. COATS. Mr. President, child abuse is a critical issue facing our Nation. Each year, close to one million children are abused or neglected and as a result, in need of assistance and out of home care.

While these numbers are staggering, we should also be concerned by the nearly 2 million false or unsubstantiated reports of child abuse and neglect that are filed wrongfully and in some cases maliciously. What this means is that case workers, who are already over worked, are conducting 2 million investigations at some level, possibly resulting in inappropriate interventions—including removal of the children from their homes.

Members of the Labor Committee may recall the testimony of Jim Wade who spoke of his 3-year ordeal, in which his daughter was wrongfully removed from his home. I have received many such reports and complaints, and while we should be mindful not to legislate by anecdote, these stories involve real people and are chilling.

I am also reminded of the tragic case of Elisa Izquierdo of Brooklyn, the 6-year-old girl brutally murdered by her mother on the day before Thanksgiving this past year. Elisa was well known to the overburdened case workers who were assigned to monitor her, however it appears that they simply did not have enough time to keep a close watch on Elisa, nor maybe enough training to realize the tremendous seriousness of her situation.

Each of us unfortunately, can share similar stories from our States and communities. Each of us can point to a child whose life ended far too early, and then tragically—at the hands of a loved one.

The legislation that the Senate will shortly vote on, S. 919, will not solve the epidemic of child abuse and neglect. That solution rests with families and communities. But it will better enable caseworkers to do their jobs and protect children who are in serious jeopardy. By focusing on better training and the use of risk assessment procedures S. 919 will help to improve the safety of children and will in significant and positive ways, improve the way we respond to an investigate reports of child abuse and neglect.

First, in order to protect individuals from false reports S. 919 eliminates current law's blanket immunity from prosecution for persons making knowingly false allegations of child abuse or neglect. On good faith reports will be protected by immunity.

Second, in order to ensure citizen participation and public accountability of State and local child protection agencies, we have required each State receiving funds under this act to establish citizen review panels to evaluate the extent to which child protection agencies are effectively discharging their child protection responsibilities and to review the facts surrounding local child fatalities or near fatalities resulting from abuse or neglect.

Third, S. 919 protects children at risk of abuse by eliminating the requirement that States seek to preserve families and reunify children with parents who abuse or neglect them. States would no longer have to pursue reunification with surviving children where a parent was convicted of murder, voluntary manslaughter or felony homicide of another child.

Additionally, States would be required to include murder, voluntary manslaughter, and felony assault as a statutory ground for termination of parental rights. The decision to pursue termination or to seek reunification in these cases would be determined by the State on a case-by-case basis.

Finally, S. 919 includes a new provision requiring States to have procedures for expedited termination of parental rights in cases involving abandoned infants.

These changes in the law have been sorely needed and will result in a more cohesive child protection system, with an enhanced ability to respond to the very serious problems of abuse and neglect.

One of the other important sections of CAPTA is its research component. S. 919 streamlines and better targets limited research dollars into areas with the most promise, in terms of responding to child abuse. Additionally, we have revised CAPTA's research demonstration program to focus on innovative and effective new approaches in the area of child protection. Kinship care is such an approach. S. 919 authorizes the Department of Health and Human Services to conduct a 10-State demonstration of kinship care programs and to report back with recommendations concerning its possible expansion. Kinship care has been shown in several States to be a very effective and compassionate alternative to foster care.

Similar programs in other States have been less successful. The kinship care demonstration will enable us to ascertain where this program works and why and what we need to do to avoid any possible negative consequences.

Finally, we have clarified the definition of child abuse or neglect to include at a minimum, acts which result in death or serious physical or emotional harm or which present an imminent risk of serious harm. This definition provides additional guidance to States and should assist them as they endeavor to protect children from abuse and neglect.

S. 919 also reauthorizes several other important programs: The community and family resource grants which significantly consolidates the community based prevention grant, respite care program, and family resource programs into one cohesive network; reauthorizes The Family Violence Prevention and Services Act which provides assistance to States to help victims of domestic violence; reauthorizes The Adoption Opportunities Act which supports aggressive efforts to strengthen the capacity of States to find permanent homes for children with special needs; The Abandoned Infants Assistance Act which provides for the needs of children who are abandoned, especially those with aids; The Children's Justice Act; The Missing Children's Assistance Act and section 214 of the Victims of Child Abuse Act.

Mr. President, as we are moving toward passage of this legislation I wanted to take the time to thank several colleagues for their tireless efforts: Senator KASSEBAUM, Senator DODD, and Senator KENNEDY. We have worked together over the last year and a half in a truly bi-partisan fashion and I think we have produced a very good product. I would also like to acknowledge the significant contributions of -

their staffs, Kimberly Barnes-O'Connor and Rebecca Jones with Senator KASSEBAUM, Michael Iskowitz and Jeffrey Teitz with Senator KENNEDY, Jane Lowenson and Brook Byers-Goldman with Senator DODD, and Stephanie Monroe and Townsend Lange of my staff. Thank you all for the hard work you have done on this legislation.

Mr. President, at this time I would like to ask unanimous consent that a colloquy between myself and Senator DODD on the issue of medical neglect be inserted into the RECORD as if read.

Mr. DODD. Mr. President, I rise in support of the Child Abuse Prevention and Treatment Act of 1996. I am very pleased that this has been a bipartisan effort. This bill comes at a very critical time. Just last week the results of the National Incidence Study conducted by the National Center on Child Abuse and Neglect showed an alarming increase in the incidence of child abuse and neglect. Since 1986 the number of abused and neglected children has almost doubled. Physical abuse has nearly doubled and sexual abuse has more than doubled. Additionally the study indicates that children from families with incomes below $15,000 are 22 times more likely to be victims of child abuse and neglect than are those children from families with incomes above $30,000.

Mr. President, I am concerned that the welfare reform bill signed into law last month may lead to an increase in cases of child abuse and neglect. That legislation left no safety net for children whose parents had reached their 5-year limit on public assistance. I intend to watch this issue very closely.

The good news is that today we are asking the Senate to consider, by unanimous consent, the reauthorization of the Child Abuse Prevention and Treatment Act, S. 919. First enacted in 1974, this legislation provides, among other things, Federal financial assistance for identifying, preventing, and treating child abuse and neglect. This bill affirms a clear Federal role in addressing prevention and treatment of child abuse. Further, it recognizes the importance of Federal leadership in funding research, training, technical assistance, and data collection to help aid the States to do their jobs better. It also continues support to States to improve child protective service systems.

Finally, I am pleased that the bill reauthorizes and enhances the Family Resource and Support Center Program that I authored in 1990 and expanded in the Human Services Act in 1994. The Family Resource Services are essential to prevention and allow families to meet their needs to avoid problems that propel them into crisis down the road.

I thank Senator COATS for all his hard work and cooperation on the reauthorization of this bill. I am very pleased that this has been a bipartisan effort.

Mr. President, it is my understanding that under CAPTA, States have been allowed to exempt parents from prosecution on grounds of medical neglect if the parent was employing alternative means of healing as part of the parent's religious practice. CAPTA also has required States to have procedures in place to report, investigate and intervene in situations where children are being denied medical care needed to prevent harm.

Mr. COATS. That is correct. The two provisions you have described have caused problems for some States. The Department of Health and Human Services has moved to disqualify certain States from CAPTA funding based on the State's accommodation of the religious treatment in lieu of medical treatment.

Mr. DODD. And it is my further understanding that we have clarified that issue in the Rule of Construction in the bill before us.

Mr. COATS. Yes, we have. After a very lengthy negotiation we have reached a compromise which will both protect children in need of medical intervention while ensuring that the first amendment rights of parents to practice their religion are not infringed upon. Under this bill, no parent or legal guardian is required to provide a child with medical service or treatment against their religious beliefs, nor is any State required to find, or prohibited from finding, abuse or neglect cases where the parent or guardian relied solely or partially upon spiritual means rather than medical treatment in accordance with their religious beliefs.

Mr. DODD. Does the bill address the State's authority to pursue any legal remedies necessary to provide medical care or treatment when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life-threatening conditions?

Mr. COATS. Yes it does. In addition, the bill gives States sole discretion over case-by-case determinations relating to the exercise of authority in this area. No State is foreclosed from considering parents use of treatment by spiritual means. No State is required to prosecute parents in this area. But every State must have in place the authority to intervene to protect children in need. Let me also state that nothing in this bill should be interpreted as discouraging the reporting of suspected incidences of medical neglect to child protection services, where warranted.

Mr. DODD. I also see that a new section has been added that requires the States to include in their State laws, as statutory grounds for the termination of parental rights, convictions of parents for certain specified crimes against children. It also eliminates a Federal mandate that States must seek reunification of the convicted parent with surviving children. Given the crimes that have been specified—murder, voluntary manslaughter, and felony assault—it appears that what we are addressing is a parent who deliberately takes the life or seriously injures his child.

Mr. COATS. That is correct. This section is intended to give the States flexibility in this area by not requiring them to seek to reunify a parent convicted of a serious and violent crime against his child, with that surviving child or other children. States may still seek to reunify the family but will no longer be required to do so by Federal law. Second, the bill provides that these very serious crimes should be grounds in State law for the termination of parental rights. Any decision, however, to terminate parental rights, even in these cases, is entirely a State issue and remains so under this bill.

Mr. DODD. Would States be allowed to consider a parent's motive when deciding to terminate parental rights or to seek reunification of that family? And could this include sincerely held religious beliefs of the parent?

Mr. COATS. Yes. Since this is entirely a matter of State law, States are free to consider whatever mitigating circumstances they would like.

Mr. DODD. Mr. President, it is my understanding that concerns have been raised regarding outreach services that grantees must make to various communities. It is my understanding that when grantees engage in outreach activities, they must ensure that they maximize the participation of racial and ethnic minorities and members of underserved or underrepresented groups. I just want to ascertain that this list envisions inclusion of immigrant communities.

Mr. COATS. That is correct.

Mr. NICKLES. I ask unanimous consent that the Senate concur to the amendment of the House.

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

## WATER DESALINIZATION RESEARCH AND DEVELOPMENT ACT OF 1996

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 811) a bill to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 811) entitled ''An Act to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes'', do pass with the following amendments:

Strike out all after the enacting clause, and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Water Desalination Act of 1996''.*

***SEC. 2. DEFINITIONS.***

*As used in this Act:*

*(1) DESALINATION OR DESALTING.—The terms ''desalination'' or ''desalting'' mean the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes.*

*(2) SALINE WATER.—The term ''saline water'' means sea water, brackish water, and other mineralized or chemically impaired water.*

*(3) UNITED STATES.—The term ''United States'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.*

*(4) USABLE WATER.—The term ''usable water'' means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.*

*(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.*

***SEC. 3. AUTHORIZATION OF RESEARCH AND STUDIES.***

*(a) IN GENERAL.—In order to determine the most cost-effective and technologically efficient means by which usable water can be produced from saline water or water otherwise impaired or contaminated, the Secretary is authorized to award grants and to enter into contracts, to the extent provided in advance in appropriation Acts, to conduct, encourage, and assist in the financing of research to develop processes for converting saline water into water suitable for beneficial uses. Awards of research grants and contracts under this section shall be made on the basis of a competitive, merit-reviewed process. Research and study topics authorized by this section include—*

*(1) investigating desalination processes;*

*(2) ascertaining the optimum mix of investment and operating costs;*

*(3) determining the best designs for different conditions of operation;*

*(4) investigating methods of increasing the economic efficiency of desalination processes through dual-purpose co-facilities with other processes involving the use of water;*

*(5) conducting or contracting for technical work, including the design, construction, and testing of pilot systems and test beds, to develop desalting processes and concepts;*

*(6) studying methods for the recovery of byproducts resulting from desalination to offset the costs of treatment and to reduce environmental impacts from those byproducts; and*

*(7) salinity modeling and toxicity analysis of brine discharges, cost reduction strategies for constructing and operating desalination facilities, and the horticultural effects of desalinated water used for irrigation.*

*(b) PROJECT RECOMMENDATIONS AND REPORTS TO THE CONGRESS.—As soon as practicable and within three years after the date of enactment of this Act, the Secretary shall recommend to Congress desalination demonstration projects or full-scale desalination projects to carry out the purposes of this Act and to further evaluate and implement the results of research and studies conducted under the authority of this section. Recommendations for projects shall be accompanied by reports on the engineering and economic feasibility of proposed projects and their environmental impacts.*

*(c) AUTHORITY TO ENGAGE OTHERS.—In carrying out research and studies authorized in this section, the Secretary may engage the necessary personnel, industrial or engineering firms, Federal laboratories, water resources research and technology institutes, other facilities, and educational institutions suitable to conduct investigations and studies authorized under this section.*

*(d) ALTERNATIVE TECHNOLOGIES.—In carrying out the purposes of this Act, the Secretary shall ensure that at least three separate technologies are evaluated and demonstrated for the purposes of accomplishing desalination.*

***SEC. 4. DESALINATION DEMONSTRATION AND DEVELOPMENT.***

*(a) IN GENERAL.—In order to further demonstrate the feasibility of desalination processes investigated either independently or in research conducted pursuant to section 3, the Secretary shall administer and conduct a demonstration and development program for water desalination and related activities, including the following:*

*(1) DESALINATION PLANTS AND MODULES.—Conduct or contract for technical work, including the design, construction, and testing of plants and modules to develop desalination processes and concepts.*

*(2) BYPRODUCTS.—Study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impacts of those byproducts.*

*(3) ECONOMIC SURVEYS.—Conduct economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalination processes compared to other methods.*

*(b) COOPERATIVE AGREEMENTS.—Federal participation in desalination activities may be conducted through cooperative agreements, including cost-sharing agreements, with non-Federal public utilities and State and local governmental agencies and other entities, in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.*

***SEC. 5. AVAILABILITY OF INFORMATION.***

*All information from studies sponsored or funded under authority of this Act shall be considered public information.*

***SEC. 6. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.***

*The Secretary may—*

*(1) accept technical and administrative assistance from States and public or private agencies in connection with studies, surveys, location, construction, operation, and other work relating to the desalting of water, and*

*(2) enter into contracts or agreements stating the purposes for which the assistance is contributed and providing for the sharing of costs between the Secretary and any such agency.*

***SEC. 7. COST SHARING.***

*The Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act shall not exceed 50 percent of the total cost of the project or research or study activity. A Federal contribution in excess of 25 percent for a project carried out under this Act may not be made unless the Secretary determines that the project is not feasible without such increased Federal contribution. The Secretary shall prescribe appropriate procedures to implement the provisions of this section. Costs of operation, maintenance, repair, and rehabilitation of facilities funded under the authority of this Act shall be non-Federal responsibilities.*

***SEC. 8. AUTHORIZATION OF APPROPRIATIONS.***

*(a) SECTION 3.—There are authorized to be appropriated to carry out section 3 of this Act $5,000,000 per year for fiscal years 1997 through 2002. Of these amounts, up to $1,000,000 in each fiscal year may be awarded to institutions of higher education, including United States-Mexico binational research foundations and inter-university research programs established by the two countries, for research grants without any cost-sharing requirement.*

*(b) SECTION 4.—There are authorized to be appropriated to carry out section 4 of this Act $25,000,000 for fiscal years 1997 through 2002.*

***SEC. 9. CONSULTATION.***

*In carrying out the provisions of this Act, the Secretary shall consult with the heads of other Federal agencies, including the Secretary of the Army, which have experience in conducting desalination research or operating desalination facilities. The authorization provided for in this Act shall not prohibit other agencies from carrying out separately authorized programs for desalination research or operations.*

Mr. NICKLES. I ask unanimous consent that the Senate concur in the amendments of the House, and I move to reconsider and lay on the table that action.

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

## AMENDING THE CLEAN AIR ACT

Mr. NICKLES. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2988 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2988) to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of EPA rules.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be placed at this point in the RECORD.

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

## AMENDMENTS TO THE UNITED STATES-ISRAEL FREE TRADE IMPLEMENTATION ACT

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 404, H.R. 3074.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3074), to amend the United States-Israel Free Trade Area Implementation Act of 1985, to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. TABLE OF CONTENTS.***

*The table of contents is as follows:*

## TITLE I—EXTENSION OF FREE TRADE TO WEST BANK AND GAZA

### SEC. 101. ADDITIONAL PROCLAMATION AUTHORITY.

The United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note) is amended by adding at the end the following new section:

**"SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.**

''(a) ELIMINATION OR MODIFICATIONS OF DUTIES.—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

''(1) that article is wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;

''(2) that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and

''(3) the sum of—

''(A) the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus

''(B) the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone,

is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

''(b) APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.—

''(1) NONQUALIFYING OPERATIONS.—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of determining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

''(A) simple combining or packaging operations, or

''(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

''(2) REQUIREMENTS FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.—For purposes of subsection (a)(1), an article is a 'new or different article of commerce' if it is substantially transformed into an article having a new name, character, or use.

''(3) COST OR VALUE OF MATERIALS.—(A) For purposes of this section, the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

''(i) the manufacturer's actual cost for the materials;

''(ii) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

''(iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and

''(iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

''(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

''(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

''(ii) an amount for profit; and

''(iii) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

''(4) DIRECT COSTS OF PROCESSING OPERATIONS.—(A) For purposes of this section, the 'direct costs of processing operations performed in the West Bank, Gaza Strip, or a qualifying industrial zone' with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

''(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.

''(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

''(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.

''(iv) Costs of inspecting and testing the article.

''(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to—

''(i) profit; and

''(ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

''(5) IMPORTED DIRECTLY.—For purposes of this section—

''(A) articles are 'imported directly' if—

''(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

''(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

''(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

''(i) remain under the control of the customs authority in an intermediate country;

''(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

''(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

''(6) DOCUMENTATION REQUIRED.—An article is eligible for the duty exemption under this section only if—

''(A) the importer certifies that the article meets the conditions for the duty exemption; and

''(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth all pertinent information with respect to the article, including the following:

''(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

''(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

''(iii) A description of any materials used in production of the article which are wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

''(iv) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

''(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

''(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

''(d) TREATMENT OF COST OR VALUE OF MATERIALS.—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

''(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—For purposes of this section, a 'qualifying industrial zone' means any area that—

''(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

''(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

''(3) has been specified by the President as a qualifying industrial zone.''.

## TITLE II—APPROVAL AND IMPLEMENTATION OF OECD SHIPBUILDING AGREEMENT

### Subtitle A—General Provisions

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''OECD Shipbuilding Agreement Act''.

**SEC. 202. APPROVAL OF THE SHIPBUILDING AGREEMENT.**

The Congress approves The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry (hereafter in this title referred to as the ''Shipbuilding Agreement''), a reciprocal trade agreement which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development, and was entered into on December 21, 1994.

**SEC. 203. INJURIOUS PRICING AND COUNTERMEASURES RELATING TO SHIPBUILDING.**

The Tariff Act of 1930 is amended by adding at the end the following new title:

**''TITLE VIII—INJURIOUS PRICING AND COUNTERMEASURES RELATING TO SHIPBUILDING**



**''Subtitle A—Imposition of Injurious Pricing Charge and Countermeasures**

**''SEC. 801. INJURIOUS PRICING CHARGE.**

''(a) BASIS FOR CHARGE.—If—

''(1) the administering authority determines that a foreign vessel has been sold directly or indirectly to one or more United States buyers at less than its fair value, and

''(2) the Commission determines that—

''(A) an industry in the United States—

''(i) is or has been materially injured, or

''(ii) is threatened with material injury, or

''(B) the establishment of an industry in the United States is or has been materially retarded,

by reason of the sale of such vessel, then there shall be imposed upon the foreign producer of the subject vessel an injurious pricing charge, in an amount equal to the amount by which the normal value exceeds the export price for the vessel. For purposes of this subsection and section 805(b)(1), a reference to the sale of a foreign vessel includes the creation or transfer of an ownership interest in the vessel, except for an ownership interest created or acquired solely for the purpose of providing security for a normal commercial loan.

''(b) FOREIGN VESSELS NOT MERCHANDISE.—No foreign vessel may be considered to be, or to be part of, a class or kind of merchandise for purposes of subtitle B of title VII.

**''SEC. 802. PROCEDURES FOR INITIATING AN INJURIOUS PRICING INVESTIGATION.**

''(a) INITIATION BY ADMINISTERING AUTHORITY.—

''(1) GENERAL RULE.—Except in the case in which subsection (d)(6) applies, an injurious pricing investigation shall be initiated whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a charge under section 801(a) exist, and whether a producer described in section 861(17)(C) would meet the criteria of subsection (b)(1)(B) for a petitioner.

''(2) TIME FOR INITIATION BY ADMINISTERING AUTHORITY.—An investigation may only be initiated under paragraph (1) within 6 months after the time the administering authority first knew or should have known of the sale of the vessel. Any period during which an investigation is initiated and pending as described in subsection (d)(6)(A) shall not be included in calculating that 6-month period.

''(b) INITIATION BY PETITION.—

''(1) PETITION REQUIREMENTS.—

''(A) IN GENERAL.—Except in a case in which subsection (d)(6) applies, an injurious pricing proceeding shall be initiated whenever an interested party, as defined in subparagraph (C), (D), (E), or (F) of section 861(17), files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of an injurious pricing charge under section 801(a) and the elements required under subparagraph (B), (C), (D), or (E) of this paragraph, and which is accompanied by information reasonably available to the petitioner supporting those allegations and identifying the transaction concerned.

''(B) PETITIONERS DESCRIBED IN SECTION 861(17)(C).—

''(i) IN GENERAL.—If the petitioner is a producer described in section 861(17)(C), and—

''(I) if the vessel was sold through a broad multiple bid, the petition shall include information indicating that the petitioner was invited to tender a bid on the contract at issue, the petitioner actually did so, and the bid of the petitioner substantially met the delivery date and technical requirements of the bid,

''(II) if the vessel was sold through any bidding process other than a broad multiple bid and the petitioner was invited to tender a bid on the contract at issue, the petition shall include information indicating that the petitioner actually did so and the bid of the petitioner substantially met the delivery date and technical requirements of the bid, or

''(III) except in a case in which the vessel was sold through a broad multiple bid, if there is no invitation to tender a bid, the petition shall include information indicating that the petitioner was capable of building the vessel concerned and, if the petitioner knew or should have known of the proposed purchase, it made demonstrable efforts to conclude a sale with the United States buyer consistent with the delivery date and technical requirements of the buyer.

''(ii) REBUTTABLE PRESUMPTION REGARDING KNOWLEDGE OF PROPOSED PURCHASE.—For purposes of clause (i)(III), there is a rebuttable presumption that the petitioner knew or should have known of the proposed purchase if it is demonstrated that—

''(I) the majority of the producers in the industry have made efforts with the United States buyer to conclude a sale of the subject vessel, or

''(II) general information on the sale was available from brokers, financiers, classification societies, charterers, trade associations, or other entities normally involved in shipbuilding transactions with whom the petitioner had regular contacts or dealings.

''(C) PETITIONERS DESCRIBED IN SECTION 861(17)(D).—If the petitioner is an interested party described in section 861(17)(D), the petition shall include information indicating that members of the union or group of workers described in that section are employed by a producer that meets the requirements of subparagraph (B) of this paragraph.

''(D) PETITIONERS DESCRIBED IN SECTION 861(17)(E).—If the petitioner is an interested party described in section 861(17)(E), the petition shall include information indicating that a member of the association described in that section is a producer that meets the requirements of subparagraph (B) of this paragraph.

''(E) PETITIONERS DESCRIBED IN SECTION 861(17)(F).—If the petitioner is an interested party described in section 861(17)(F), the petition shall include information indicating that a member of the association described in that section meets the requirements of subparagraph (C) or (D) of this paragraph.

''(F) AMENDMENTS.—The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

''(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

''(3) DEADLINE FOR FILING PETITION.—

''(A) DEADLINE.—(i) A petitioner to which paragraph (1)(B)(i) (I) or (II) applies shall file the petition no later than the earlier of—

''(I) 6 months after the time that the petitioner first knew or should have known of the sale of the subject vessel, or

''(II) 6 months after delivery of the subject vessel.

''(ii) A petitioner to which paragraph (1)(B)(i)(III) applies shall—

''(I) file the petition no later than the earlier of 9 months after the time that the petitioner first knew or should have known of the sale of the subject vessel, or 6 months after delivery of the subject vessel, and

''(II) submit to the administering authority a notice of intent to file a petition no later than 6 months after the time that the petitioner first knew or should have known of the sale (unless the petition itself is filed within that 6-month period).

''(B) PRESUMPTION OF KNOWLEDGE.—For purposes of this paragraph, if the existence of the sale, together with general information concerning the vessel, is published in the international trade press, there is a rebuttable presumption that the petitioner knew or should have known of the sale of the vessel from the date of that publication.

''(c) ACTIONS BEFORE INITIATING INVESTIGATIONS.—

''(1) NOTIFICATION OF GOVERNMENTS.—Before initiating an investigation under either subsection (a) or (b), the administering authority shall notify the government of the exporting country of the investigation. In the case of the

*initiation of an investigation under subsection (b), such notification shall include a public version of the petition.*

*''(2) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 861(17) (C), (D), (E), or (F) before the administering authority makes its decision whether to initiate an investigation pursuant to a petition, except for inquiries regarding the status of the administering authority's consideration of the petition or a request for consultation by the government of the exporting country.*

*''(3) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under subsection (b)(1).*

*''(d) PETITION DETERMINATION.—*

*''(1) TIME FOR INITIAL DETERMINATION.—*

*''(A) IN GENERAL.—Within 45 days after the date on which a petition is filed under subsection (b), the administering authority shall, after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition—*

*''(i) alleges the elements necessary for the imposition of an injurious pricing charge under section 801(a) and the elements required under subsection (b)(1) (B), (C), (D), or (E), and contains information reasonably available to the petitioner supporting the allegations; and*

*''(ii) determine if the petition has been filed by or on behalf of the industry.*

*''(B) CALCULATION OF 45-DAY PERIOD.—Any period in which paragraph (6)(A) applies shall not be included in calculating the 45-day period described in subparagraph (A).*

*''(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether the vessel was sold at less than fair value, unless paragraph (6) applies.*

*''(3) NEGATIVE DETERMINATIONS.—If—*

*''(A) the determination under clause (i) or (ii) of paragraph (1)(A) is negative, or*

*''(B) paragraph (6)(B) applies,*

*the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.*

*''(4) DETERMINATION OF INDUSTRY SUPPORT.—*

*''(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the domestic industry, if—*

*''(i) the domestic producers or workers who support the petition collectively account for at least 25 percent of the total capacity of domestic producers capable of producing a like vessel, and*

*''(ii) the domestic producers or workers who support the petition collectively account for more than 50 percent of the total capacity to produce a like vessel of that portion of the domestic industry expressing support for or opposition to the petition.*

*''(B) CERTAIN POSITIONS DISREGARDED.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to the foreign producer or United States buyer of the subject vessel, or the domestic producer is itself the United States buyer, unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an injurious pricing charge.*

*''(C) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total capacity to produce a like vessel—*

*''(i) the administering authority shall poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or*

*''(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.*

*''(D) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 861(17) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.*

*''(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means interested parties as defined in section 861(17) (C), (D), (E), or (F).*

*''(6) PROCEEDINGS BY WTO MEMBERS.—The administering authority shall not initiate an investigation under this section if, with respect to the vessel sale at issue, an antidumping proceeding conducted by a WTO member who is not a Shipbuilding Agreement Party—*

*''(A) has been initiated and has been pending for not more than one year, or*

*''(B) has been completed and resulted in the imposition of antidumping measures or a negative determination with respect to whether the sale was at less than fair value or with respect to injury.*

*''(e) NOTIFICATION TO COMMISSION OF DETERMINATION.—The administering authority shall—*

*''(1) notify the Commission immediately of any determination it makes under subsection (a) or (d), and*

*''(2) if the determination is affirmative, make available to the Commission such information as it may have relating to the matter under investigation, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.*

***''SEC. 803. PRELIMINARY DETERMINATIONS.***

*''(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—*

*''(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 802(d)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—*

*''(A) an industry in the United States—*

*''(i) is or has been materially injured, or*

*''(ii) is threatened with material injury, or*

*''(B) the establishment of an industry in the United States is or has been materially retarded,*

*by reason of the sale of the subject vessel. If the Commission makes a negative determination under this paragraph, the investigation shall be terminated.*

*''(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1) within 90 days after the date on which the petition is filed or, in the case of an investigation initiated under section 802(a), within 90 days after the date on which the Commission receives notice from the administering authority that the investigation has been initiated under such section.*

*''(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—*

*''(1) PERIOD OF INJURIOUS PRICING INVESTIGATION.—*

*''(A) IN GENERAL.—The administering authority shall make a determination, based upon the information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the subject vessel was sold at less than fair value.*

*''(B) COST DATA USED FOR NORMAL VALUE.—If cost data is required to determine normal value on the basis of a sale of a foreign like vessel that has not been delivered on or before the date on which the administering authority initiates the investigation, the administering authority shall make its determination within 160 days after the date of delivery of the foreign like vessel.*

*''(C) NORMAL VALUE BASED ON CONSTRUCTED VALUE.—If normal value is to be determined on the basis of constructed value, the administering authority shall make its determination within 160 days after the date of delivery of the subject vessel.*

*''(D) OTHER CASES.—In cases in which subparagraph (B) or (C) does not apply, the administering authority shall make its determination within 160 days after the date on which the administering authority initiates the investigation under section 802.*

*''(E) AFFIRMATIVE DETERMINATION BY COMMISSION REQUIRED.—In no event shall the administering authority make its determination before an affirmative determination is made by the Commission under subsection (a).*

*''(2) DE MINIMIS INJURIOUS PRICING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any injurious pricing margin that is de minimis. For purposes of the preceding sentence, an injurious pricing margin is de minimis if the administering authority determines that the injurious pricing margin is less than 2 percent of the export price.*

*''(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES OR FOR GOOD CAUSE.—*

*''(1) IN GENERAL.—If—*

*''(A) the administering authority concludes that the parties concerned are cooperating and determines that—*

*''(i) the case is extraordinarily complicated by reason of—*

*''(I) the novelty of the issues presented, or*

*''(II) the nature and extent of the information required, and*

*''(ii) additional time is necessary to make the preliminary determination, or*

*''(B) a party to the investigation requests an extension and demonstrates good cause for the extension,*

*then the administering authority may postpone the time for making its preliminary determination.*

*''(2) LENGTH OF POSTPONEMENT.—The preliminary determination may be postponed under paragraph (1)(A) or (B) until not later than the 190th day after—*

*''(A) the date of delivery of the foreign like vessel, if subsection (b)(1)(B) applies,*

*''(B) the date of delivery of the subject vessel, if subsection (b)(1)(C) applies, or*

*''(C) the date on which the administering authority initiates an investigation under section 802, in a case in which subsection (b)(1)(D) applies.*

*''(3) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b)(1), if it intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.*

*''(d) EFFECT OF DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority shall—*

*''(1) determine an estimated injurious pricing margin, and*

*''(2) make available to the Commission all information upon which its determination was*

based and which the Commission considers relevant to its injury determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the administering authority.

''(e) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.

**"SEC. 804. TERMINATION OR SUSPENSION OF INVESTIGATION.**

''(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner.

''(2) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 803(b).

''(b) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 802(a) after providing notice of such termination to all parties to the investigation.

''(c) ALTERNATE EQUIVALENT REMEDY.—The criteria set forth in subparagraphs (A) through (D) of section 806(e)(1) shall apply to any agreement that forms the basis for termination of an investigation under subsection (a) or (b).

''(d) PROCEEDINGS BY WTO MEMBERS.—

''(1) SUSPENSION OF INVESTIGATION.—The administering authority and the Commission shall suspend an investigation under this section if a WTO member that is not a Shipbuilding Agreement Party initiates an antidumping proceeding described in section 861(30)(A) with respect to the sale of the subject vessel.

''(2) TERMINATION OF INVESTIGATION.—If an antidumping proceeding described in paragraph (1) is concluded by—

''(A) the imposition of antidumping measures, or

''(B) a negative determination with respect to whether the sale is at less than fair value or with respect to injury,

the administering authority and the Commission shall terminate the investigation under this section.

''(3) CONTINUATION OF INVESTIGATION.—(A) If such a proceeding—

''(i) is concluded by a result other than a result described in paragraph (2), or

''(ii) is not concluded within one year from the date of the initiation of the proceeding,

then the administering authority and the Commission shall terminate the suspension and continue the investigation. The period in which the investigation was suspended shall not be included in calculating deadlines applicable with respect to the investigation.

''(B) Notwithstanding subparagraph (A)(ii), if the proceeding is concluded by a result described in paragraph (2)(A), the administering authority and the Commission shall terminate the investigation under this section.

**"SEC. 805. FINAL DETERMINATIONS.**

''(a) DETERMINATIONS BY ADMINISTERING AUTHORITY.—

''(1) IN GENERAL.—Within 75 days after the date of its preliminary determination under section 803(b), the administering authority shall make a final determination of whether the vessel which is the subject of the investigation has been sold in the United States at less than its fair value.

''(2) EXTENSION OF PERIOD FOR DETERMINATION.—

''(A) GENERAL RULE.—The administering authority may postpone making the final determination under paragraph (1) until not later than 290 days after—

''(i) the date of delivery of the foreign like vessel, in an investigation to which section 803(b)(1)(B) applies,

''(ii) the date of delivery of the subject vessel, in an investigation to which section 803(b)(1)(C) applies, or

''(iii) the date on which the administering authority initiates the investigation under section 802, in an investigation to which section 803(b)(1)(D) applies.

''(B) REQUEST REQUIRED.—The administering authority may apply subparagraph (A) if a request in writing is made by—

''(i) the producer of the subject vessel, in a proceeding in which the preliminary determination by the administering authority under section 803(b) was affirmative, or

''(ii) the petitioner, in a proceeding in which the preliminary determination by the administering authority under section 803(b) was negative.

''(3) DE MINIMIS INJURIOUS PRICING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any injurious pricing margin that is de minimis as defined in section 803(b)(2).

''(b) FINAL DETERMINATION BY COMMISSION.—

''(1) IN GENERAL.—The Commission shall make a final determination of whether—

''(A) an industry in the United States—

''(i) is or has been materially injured, or

''(ii) is threatened with material injury, or

''(B) the establishment of an industry in the United States is or has been materially retarded, by reason of the sale of the vessel with respect to which the administering authority has made an affirmative determination under subsection (a)(1).

''(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 803(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

''(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 803(b), or

''(B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

''(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 803(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

''(c) EFFECT OF FINAL DETERMINATIONS.—

''(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then the administering authority shall—

''(A) make available to the Commission all information upon which such determination was based and which the Commission considers relevant to its determination, under such procedures as the administering authority and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information as to which confidential treatment has been given by the administering authority, and

''(B) calculate an injurious pricing charge in an amount equal to the amount by which the normal value exceeds the export price of the subject vessel.

''(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an injurious pricing order under section 806. If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination.

''(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

''(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

**"SEC. 806. IMPOSITION AND COLLECTION OF INJURIOUS PRICING CHARGE.**

''(a) IN GENERAL.—Within 7 days after being notified by the Commission of an affirmative determination under section 805(b), the administering authority shall publish an order imposing an injurious pricing charge on the foreign producer of the subject vessel which—

''(1) directs the foreign producer of the subject vessel to pay to the Secretary of the Treasury, or the designee of the Secretary, within 180 days from the date of publication of the order, an injurious pricing charge in an amount equal to the amount by which the normal value exceeds the export price of the subject vessel,

''(2) includes the identity and location of the foreign producer and a description of the subject vessel, in such detail as the administering authority deems necessary, and

''(3) informs the foreign producer that—

''(A) failure to pay the injurious pricing charge in a timely fashion may result in the imposition of countermeasures with respect to that producer under section 807,

''(B) payment made after the deadline described in paragraph (1) shall be subject to interest charges at the Commercial Interest Reference Rate (CIRR), and

''(C) the foreign producer may request an extension of the due date for payment under subsection (b).

''(b) EXTENSION OF DUE DATE FOR PAYMENT IN EXTRAORDINARY CIRCUMSTANCES.—

''(1) EXTENSION.—Upon request, the administering authority may amend the order under subsection (a) to set a due date for payment or payments later than the date that is 180 days from the date of publication of the order, if the administering authority determines that full payment in 180 days would render the producer insolvent or would be incompatible with a judicially supervised reorganization. When an extended payment schedule provides for a series of partial payments, the administering authority

*shall specify the circumstances under which default on one or more payments will result in the imposition of countermeasures.*

*''(2) INTEREST CHARGES.—If a request is granted under paragraph (1), payments made after the date that is 180 days from the publication of the order shall be subject to interest charges at the CIRR.*

*''(c) NOTIFICATION OF ORDER.—The administering authority shall deliver a copy of the order requesting payment to the foreign producer of the subject vessel and to an appropriate representative of the government of the exporting country.*

*''(d) REVOCATION OF ORDER.—The administering authority—*

*''(1) may revoke an injurious pricing order if the administering authority determines that producers accounting for substantially all of the capacity to produce a domestic like vessel have expressed a lack of interest in the order, and*

*''(2) shall revoke an injurious pricing order—*

*''(A) if the sale of the vessel that was the subject of the injurious pricing determination is voided,*

*''(B) if the injurious pricing charge is paid in full, including any interest accrued for late payment,*

*''(C) upon full implementation of an alternative equivalent remedy described in subsection (e), or*

*''(D) if, with respect to the vessel sale that was at issue in the investigation that resulted in the injurious pricing order, an antidumping proceeding conducted by a WTO member who is not a Shipbuilding Agreement Party has been completed and resulted in the imposition of antidumping measures.*

*''(e) ALTERNATIVE EQUIVALENT REMEDY.—*

*''(1) AGREEMENT FOR ALTERNATE REMEDY.—The administering authority may suspend an injurious pricing order if the administering authority enters into an agreement with the foreign producer subject to the order on an alternative equivalent remedy, that the administering authority determines—*

*''(A) is at least as effective a remedy as the injurious pricing charge,*

*''(B) is in the public interest,*

*''(C) can be effectively monitored and enforced, and*

*''(D) is otherwise consistent with the domestic law and international obligations of the United States.*

*''(2) PRIOR CONSULTATIONS AND SUBMISSION OF COMMENTS.—Before entering into an agreement under paragraph (1), the administering authority shall consult with the industry, and provide for the submission of comments by interested parties, with respect to the agreement.*

*''(3) MATERIAL VIOLATIONS OF AGREEMENT.—If the injurious pricing order has been suspended under paragraph (1), and the administering authority determines that the foreign producer concerned has materially violated the terms of the agreement under paragraph (1), the administering authority shall terminate the suspension.*

***''SEC. 807. IMPOSITION OF COUNTERMEASURES.***

*''(a) GENERAL RULE.—*

*''(1) ISSUANCE OF ORDER IMPOSING COUNTERMEASURES.—Unless an injurious pricing order is revoked or suspended under section 806 (d) or (e), the administering authority shall issue an order imposing countermeasures.*

*''(2) CONTENTS OF ORDER.—The countermeasure order shall—*

*''(A) state that, as provided in section 468, a permit to lade or unlade passengers or merchandise may not be issued with respect to vessels contracted to be built by the foreign producer of the vessel with respect to which an injurious pricing order was issued under section 806, and*

*''(B) specify the scope and duration of the prohibition on the issuance of a permit to lade or unlade passengers or merchandise.*

*''(b) NOTICE OF INTENT TO IMPOSE COUNTERMEASURES.—*

*''(1) GENERAL RULE.—The administering authority shall issue a notice of intent to impose countermeasures not later than 30 days before the expiration of the time for payment specified in the injurious pricing order (or extended payment provided for under section 806(b)), and shall publish the notice in the Federal Register within 7 days after issuing the notice.*

*''(2) ELEMENTS OF THE NOTICE OF INTENT.—The notice of intent shall contain at least the following elements:*

*''(A) SCOPE.—A permit to lade or unlade passengers or merchandise may not be issued with respect to any vessel—*

*''(i) built by the foreign producer subject to the proposed countermeasures, and*

*''(ii) with respect to which the material terms of sale are established within a period of 4 consecutive years beginning on the date that is 30 days after publication in the Federal Register of the notice of intent described in paragraph (1).*

*''(B) DURATION.—For each vessel described in subparagraph (A), a permit to lade or unlade passengers or merchandise may not be issued for a period of 4 years after the date of delivery of the vessel.*

*''(c) DETERMINATION TO IMPOSE COUNTERMEASURES; ORDER.—*

*''(1) GENERAL RULE.—The administering authority shall, within the time specified in paragraph (2), issue a determination and order imposing countermeasures.*

*''(2) TIME FOR DETERMINATION.—The determination shall be issued within 90 days after the date on which the notice of intent to impose countermeasures under subsection (b) is published in the Federal Register. The administering authority shall publish the determination, and the order described in paragraph (4), in the Federal Register within 7 days after issuing the final determination, and shall provide a copy of the determination and order to the Customs Service.*

*''(3) CONTENT OF THE DETERMINATION.—In the determination imposing countermeasures, the administering authority shall determine whether, in light of all of the circumstances, an interested party has demonstrated that the scope or duration of the countermeasures described in subsection (b)(2) should be narrower or shorter than the scope or duration set forth in the notice of intent to impose countermeasures.*

*''(4) ORDER.—At the same time it issues its determination, the administering authority shall issue an order imposing countermeasures, consistent with its determination under paragraph (1).*

*''(d) ADMINISTRATIVE REVIEW OF DETERMINATION TO IMPOSE COUNTERMEASURES.—*

*''(1) REQUEST FOR REVIEW.—Each year, in the anniversary month of the issuance of the order imposing countermeasures under subsection (c), the administering authority shall publish in the Federal Register a notice providing that interested parties may request—*

*''(A) a review of the scope or duration of the countermeasures determined under subsection (c)(3), and*

*''(B) a hearing in connection with such a review.*

*''(2) REVIEW.—If a proper request has been received under paragraph (1), the administering authority shall—*

*''(A) publish notice of initiation of a review in the Federal Register not later than 15 days after the end of the anniversary month of the issuance of the order imposing countermeasures, and*

*''(B) review and determine whether the requesting party has demonstrated that the scope or duration of the countermeasures is excessive in light of all of the circumstances.*

*''(3) TIME FOR REVIEW.—The administering authority shall make its determination under paragraph (2)(B) within 90 days after the date on which the notice of initiation of the review is published. If the determination under paragraph (2)(B) is affirmative, the administering authority shall amend the order accordingly. The administering authority shall promptly publish the determination and any amendment to the order in the Federal Register, and shall provide a copy of any amended order to the Customs Service. In extraordinary circumstances, the administering authority may extend the time for its determination under paragraph (2)(B) to not later than 150 days after the date on which the notice of initiation of the review is published.*

*''(e) EXTENSION OF COUNTERMEASURES.—*

*''(1) REQUEST FOR EXTENSION.—Within the time described in paragraph (2), an interested party may file with the administering authority a request that the scope or duration of countermeasures be extended.*

*''(2) DEADLINE FOR REQUEST FOR EXTENSION.—*

*''(A) REQUEST FOR EXTENSION BEYOND 4 YEARS.—If the request seeks an extension that would cause the scope or duration of countermeasures to exceed 4 years, including any prior extensions, the request for extension under paragraph (1) shall be filed not earlier than the date that is 15 months, and not later than the date that is 12 months, before the date that marks the end of the period that specifies the vessels that fall within the scope of the order by virtue of the establishment of material terms of sale within that period.*

*''(B) OTHER REQUESTS.—If the request seeks an extension under paragraph (1) other than one described in subparagraph (A), the request shall be filed not earlier than the date that is 6 months, and not later than a date that is 3 months, before the date that marks the end of the period referred to in subparagraph (A).*

*''(3) DETERMINATION.—*

*''(A) NOTICE OF REQUEST FOR EXTENSION.—If a proper request has been received under paragraph (1), the administering authority shall publish notice of initiation of an extension proceeding in the Federal Register not later than 15 days after the applicable deadline in paragraph (2) for requesting the extension.*

*''(B) PROCEDURES.—*

*''(i) REQUESTS FOR EXTENSION BEYOND 4 YEARS.—If paragraph (2)(A) applies to the request, the administering authority shall consult with the Trade Representative under paragraph (4).*

*''(ii) OTHER REQUESTS.—If paragraph (2)(B) applies to the request, the administering authority shall determine, within 90 days after the date on which the notice of initiation of the proceeding is published, whether the requesting party has demonstrated that the scope or duration of the countermeasures is inadequate in light of all of the circumstances. If the administering authority determines that an extension is warranted, it shall amend the countermeasure order accordingly. The administering authority shall promptly publish the determination and any amendment to the order in the Federal Register, and shall provide a copy of any amended order to the Customs Service.*

*''(4) CONSULTATION WITH TRADE REPRESENTATIVE.—If paragraph (3)(B)(i) applies, the administering authority shall consult with the Trade Representative concerning whether it would be appropriate to request establishment of a dispute settlement panel under the Shipbuilding Agreement for the purpose of seeking authorization to extend the scope or duration of countermeasures for a period in excess of 4 years.*

*''(5) DECISION NOT TO REQUEST PANEL.—If, based on consultations under paragraph (4), the Trade Representative decides not to request establishment of a panel, the Trade Representative shall inform the party requesting the extension of the countermeasures of the reasons for its decision in writing. The decision shall not be subject to judicial review.*

*''(6) PANEL PROCEEDINGS.—If, based on consultations under paragraph (4), the Trade Representative requests the establishment of a panel under the Shipbuilding Agreement to authorize an extension of the period of countermeasures,*

*and the panel authorizes such an extension, the administering authority shall promptly amend the countermeasure order. The administering authority shall publish notice of the amendment in the Federal Register.*

*''(f) LIST OF VESSELS SUBJECT TO COUNTERMEASURES.—*

*''(1) GENERAL RULE.—At least once during each 12-month period beginning on the anniversary date of a determination to impose countermeasures under this section, the administering authority shall publish in the Federal Register a list of all delivered vessels subject to countermeasures under the determination.*

*''(2) CONTENT OF LIST.—The list under paragraph (1) shall include the following information for each vessel, to the extent the information is available:*

*''(A) The name and general description of the vessel.*

*''(B) The vessel identification number.*

*''(C) The shipyard where the vessel was constructed.*

*''(D) The last-known registry of the vessel.*

*''(E) The name and address of the last-known owner of the vessel.*

*''(F) The delivery date of the vessel.*

*''(G) The remaining duration of countermeasures on the vessel.*

*''(H) Any other identifying information available.*

*''(3) AMENDMENT OF LIST.—-The administering authority may amend the list from time to time to reflect new information that comes to its attention and shall publish any amendments in the Federal Register.*

*''(4) SERVICE OF LIST AND AMENDMENTS.—*

*''(A) SERVICE OF LIST.—The administering authority shall serve a copy of the list described in paragraph (1) on—*

*''(i) the petitioner under section 802(b),*

*''(ii) the United States Customs Service,*

*''(iii) the Secretariat of the Organization for Economic Cooperation and Development,*

*''(iv) the owners of vessels on the list,*

*''(v) the shipyards on the list, and*

*''(vi) the government of the country in which a shipyard on the list is located.*

*''(B) SERVICE OF AMENDMENTS.—The administering authority shall serve a copy of any amendments to the list under paragraph (3) or subsection (g)(3) on—*

*''(i) the parties listed in clauses (i), (ii), and (iii) of subparagraph (A), and*

*''(ii) if the amendment affects their interests, the parties listed in clauses (iv), (v), and (vi) of subparagraph (A).*

*''(g) ADMINISTRATIVE REVIEW OF LIST OF VESSELS SUBJECT TO COUNTERMEASURES.—*

*''(1) REQUEST FOR REVIEW.—*

*''(A) IN GENERAL.—An interested party may request in writing a review of the list described in subsection (f)(1), including any amendments thereto, to determine whether—*

*''(i) a vessel included in the list does not fall within the scope of the applicable countermeasure order and should be deleted, or*

*''(ii) a vessel not included in the list falls within the scope of the applicable countermeasure order and should be added.*

*''(B) TIME FOR MAKING REQUEST.—Any request seeking a determination described in subparagraph (A)(i) shall be made within 90 days after the date of publication of the applicable list.*

*''(2) REVIEW.—If a proper request for review has been received, the administering authority shall—*

*''(A) publish notice of initiation of a review in the Federal Register—*

*''(i) not later than 15 days after the request is received, or*

*''(ii) if the request seeks a determination described in paragraph (1)(A)(i), not later than 15 days after the deadline described in paragraph (1)(B), and*

*''(B) review and determine whether the requesting party has demonstrated that—*

*''(i) a vessel included in the list does not qualify for such inclusion, or*

*''(ii) a vessel not included in the list qualifies for inclusion.*

*''(3) TIME FOR DETERMINATION.—The administering authority shall make its determination under paragraph (2)(B) within 90 days after the date on which the notice of initiation of such review is published. If the administering authority determines that a vessel should be added or deleted from the list, the administering authority shall amend the list accordingly. The administering authority shall promptly publish in the Federal Register the determination and any such amendment to the list.*

*''(h) EXPIRATION OF COUNTERMEASURES.—Upon expiration of a countermeasure order imposed under this section, the administering authority shall promptly publish a notice of the expiration in the Federal Register.*

*''(i) SUSPENSION OR TERMINATION OF PROCEEDINGS OR COUNTERMEASURES; TEMPORARY REDUCTION OF COUNTERMEASURES.—*

*''(1) IF INJURIOUS PRICING ORDER REVOKED OR SUSPENDED.—If an injurious pricing order has been revoked or suspended under section 806(d) or (e), the administering authority shall, as appropriate, suspend or terminate proceedings under this section with respect to that order, or suspend or revoke a countermeasure order issued with respect to that injurious pricing order.*

*''(2) IF PAYMENT DATE AMENDED.—*

*''(A) SUSPENSION OR MODIFICATION OF DEADLINE.—Subject to subparagraph (C), if the payment date under an injurious pricing order is amended under section 845, the administering authority shall, as appropriate, suspend proceedings or modify deadlines under this section, or suspend or amend a countermeasure order issued with respect to that injurious pricing order.*

*''(B) DATE FOR APPLICATION OF COUNTERMEASURE.—In taking action under subparagraph (A), the administering authority shall ensure that countermeasures are not applied before the date that is 30 days after publication in the Federal Register of the amended payment date.*

*''(C) REINSTITUTION OF PROCEEDINGS.—If—*

*''(i) a countermeasure order is issued under subsection (c) before an amendment is made under section 845 to the payment date of the injurious pricing order to which the countermeasure order applies, and*

*''(ii) the administering authority determines that the period of time between the original payment date and the amended payment date is significant for purposes of determining the appropriate scope or duration of countermeasures,*

*the administering authority may, in lieu of acting under subparagraph (A), reinstitute proceedings under subsection (c) for purposes of issuing a new determination under that subsection.*

*''(j) COMMENT AND HEARING.—In the course of any proceeding under subsection (c), (d), (e), or (g), the administering authority—*

*''(1) shall solicit comments from interested parties, and*

*''(2)(A) in a proceeding under subsection (c), (d), or (e), upon the request of an interested party, shall hold a hearing in accordance with section 841(b) in connection with that proceeding, or*

*''(B) in a proceeding under subsection (g), upon the request of an interested party, may hold a hearing in accordance with section 841(b) in connection with that proceeding.*

***''SEC. 808. INJURIOUS PRICING PETITIONS BY THIRD COUNTRIES.***

*''(a) FILING OF PETITION.—The government of a Shipbuilding Agreement Party may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—*

*''(1) a vessel from another Shipbuilding Agreement Party has been sold directly or indirectly to one or more United States buyers at less than fair value, and*

*''(2) an industry, in the petitioning country, producing or capable of producing a like vessel is materially injured by reason of such sale.*

*''(b) INITIATION.—The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the Parties Group under the Shipbuilding Agreement, shall determine whether to initiate an investigation described in subsection (a).*

*''(c) DETERMINATIONS.—Upon initiation of an investigation under subsection (a), the Trade Representative shall request the following determinations be made in accordance with substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:*

*''(1) SALE AT LESS THAN FAIR VALUE.—The administering authority shall determine whether the subject vessel has been sold at less than fair value.*

*''(2) INJURY TO INDUSTRY.—The Commission shall determine whether an industry in the petitioning country is or has been materially injured by reason of the sale of the subject vessel in the United States.*

*''(d) PUBLIC COMMENT.—An opportunity for public comment shall be provided, as appropriate—*

*''(1) by the Trade Representative, in making the determinations required by subsection (b), and*

*''(2) by the administering authority and the Commission, in making the determinations required by subsection (c).*

*''(e) ISSUANCE OF ORDER.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), the administering authority shall—*

*''(1) order an injurious pricing charge in accordance with section 806, and*

*''(2) make such determinations and take such other actions as are required by sections 806 and 807, as if affirmative determinations had been made under subsections (a) and (b) of section 805.*

*''(f) REVIEWS OF DETERMINATIONS.—For purposes of review under section 516B, if an order is issued under subsection (e)—*

*''(1) the final determinations of the administering authority and the Commission under subsection (c) shall be treated as final determinations made under section 805, and*

*''(2) determinations of the administering authority under subsection (e)(2) shall be treated as determinations made under section 806 or 807, as the case may be.*

*''(g) ACCESS TO INFORMATION.—Section 843 shall apply to investigations under this section, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.*

***''Subtitle B—Special Rules***

***''SEC. 821. EXPORT PRICE.***

*''(a) EXPORT PRICE.—For purposes of this title, the term 'export price' means the price at which the subject vessel is first sold (or agreed to be sold) by or for the account of the foreign producer of the subject vessel to an unaffiliated United States buyer. The term 'sold (or agreed to be sold) by or for the account of the foreign producer' includes any transfer of an ownership interest, including by way of lease or long-term bareboat charter, in conjunction with the original transfer from the producer, either directly or indirectly, to a United States buyer.*

*''(b) ADJUSTMENTS TO EXPORT PRICE.—The price used to establish export price shall be—*

*''(1) increased by the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject vessel, and*

''(2) reduced by—

''(A) the amount, if any, included in such price, attributable to any additional costs, charges, or expenses which are incident to bringing the subject vessel from the shipyard in the exporting country to the place of delivery,

''(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject vessel, and

''(C) all other expenses incidental to placing the vessel in condition for delivery to the buyer.

**''SEC. 822. NORMAL VALUE.**

''(a) DETERMINATION.—In determining under this title whether a subject vessel has been sold at less than fair value, a fair comparison shall be made between the export price and normal value of the subject vessel. In order to achieve a fair comparison with the export price, normal value shall be determined as follows:

''(1) DETERMINATION OF NORMAL VALUE.—

''(A) IN GENERAL.—The normal value of the subject vessel shall be the price described in subparagraph (B), at a time reasonably corresponding to the time of the sale used to determine the export price under section 821(a).

''(B) PRICE.—The price referred to in subparagraph (A) is—

''(i) the price at which a foreign like vessel is first sold in the exporting country, in the ordinary course of trade and, to the extent practicable, at the same level of trade, or

''(ii) in a case to which subparagraph (C) applies, the price at which a foreign like vessel is so sold for consumption in a country other than the exporting country or the United States, if—

''(I) such price is representative, and

''(II) the administering authority does not determine that the particular market situation in such other country prevents a proper comparison with the export price.

''(C) THIRD COUNTRY SALES.—This subparagraph applies when—

''(i) a foreign like vessel is not sold in the exporting country as described in subparagraph (B)(i), or

''(ii) the particular market situation in the exporting country does not permit a proper comparison with the export price.

''(D) CONTEMPORANEOUS SALE.—For purposes of subparagraph (A), 'a time reasonably corresponding to the time of the sale' means within 3 months before or after the sale of the subject vessel or, in the absence of such sales, such longer period as the administering authority determines would be appropriate.

''(2) FICTITIOUS MARKETS.—No pretended sale, and no sale intended to establish a fictitious market, shall be taken into account in determining normal value.

''(3) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the normal value of the subject vessel cannot be determined under paragraph (1)(B) or (1)(C), then the normal value of the subject vessel shall be the constructed value of that vessel, as determined under subsection (e).

''(4) INDIRECT SALES.—If a foreign like vessel is sold through an affiliated party, the price at which the foreign like vessel is sold by such affiliated party may be used in determining normal value.

''(5) ADJUSTMENTS.—The price described in paragraph (1)(B) shall be—

''(A) reduced by—

''(i) the amount, if any, included in the price described in paragraph (1)(B), attributable to any costs, charges, and expenses incident to bringing the foreign like vessel from the shipyard to the place of delivery to the purchaser,

''(ii) the amount of any taxes imposed directly upon the foreign like vessel or components thereof which have been rebated, or which have not been collected, on the subject vessel, but only to the extent that such taxes are added to or included in the price of the foreign like vessel, and

''(iii) the amount of all other expenses incidental to placing the foreign like vessel in condition for delivery to the buyer, and

''(B) increased or decreased by the amount of any difference (or lack thereof) between the export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise provided under this section) that is established to the satisfaction of the administering authority to be wholly or partly due to—

''(i) physical differences between the subject vessel and the vessel used in determining normal value, or

''(ii) other differences in the circumstances of sale.

''(6) ADJUSTMENTS FOR LEVEL OF TRADE.—The price described in paragraph (1)(B) shall also be increased or decreased to make due allowance for any difference (or lack thereof) between the export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise made under this section) that is shown to be wholly or partly due to a difference in level of trade between the export price and normal value, if the difference in level of trade—

''(A) involves the performance of different selling activities, and

''(B) is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.

In a case described in the preceding sentence, the amount of the adjustment shall be based on the price differences between the two levels of trade in the country in which normal value is determined.

''(7) ADJUSTMENTS TO CONSTRUCTED VALUE.—Constructed value as determined under subsection (e) may be adjusted, as appropriate, pursuant to this subsection.

''(b) SALES AT LESS THAN COST OF PRODUCTION.—

''(1) DETERMINATION; SALES DISREGARDED.—Whenever the administering authority has reasonable grounds to believe or suspect that the sale of the foreign like vessel under consideration for the determination of normal value has been made at a price which represents less than the cost of production of the foreign like vessel, the administering authority shall determine whether, in fact, such sale was made at less than the cost of production. If the administering authority determines that the sale was made at less than the cost of production and was not at a price which permits recovery of all costs within 5 years, such sale may be disregarded in the determination of normal value. Whenever such a sale is disregarded, normal value shall be based on another sale of a foreign like vessel in the ordinary course of trade. If no sales made in the ordinary course of trade remain, the normal value shall be based on the constructed value of the subject vessel.

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

''(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—There are reasonable grounds to believe or suspect that the sale of a foreign like vessel was made at a price that is less than the cost of production of the vessel, if an interested party described in subparagraph (C), (D), (E), or (F) of section 861(17) provides information, based upon observed prices or constructed prices or costs, that the sale of the foreign like vessel under consideration for the determination of normal value has been made at a price which represents less than the cost of production of the vessel.

''(B) RECOVERY OF COSTS.—If the price is below the cost of production at the time of sale but is above the weighted average cost of production for the period of investigation, such price shall be considered to provide for recovery of costs within 5 years.

''(3) CALCULATION OF COST OF PRODUCTION.—For purposes of this section, the cost of production shall be an amount equal to the sum of—

''(A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like vessel, during a period which would ordinarily permit the production of that vessel in the ordinary course of business, and

''(B) an amount for selling, general, and administrative expenses based on actual data pertaining to the production and sale of the foreign like vessel by the producer in question.

For purposes of subparagraph (A), if the normal value is based on the price of the foreign like vessel sold in a country other than the exporting country, the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or on their disposition which are remitted or refunded upon exportation.

''(c) NONMARKET ECONOMY COUNTRIES.—

''(1) IN GENERAL.—If—

''(A) the subject vessel is produced in a nonmarket economy country, and

''(B) the administering authority finds that available information does not permit the normal value of the subject vessel to be determined under subsection (a),

the administering authority shall determine the normal value of the subject vessel on the basis of the value of the factors of production utilized in producing the vessel and to which shall be added an amount for general expenses and profit plus the cost of expenses incidental to placing the vessel in a condition for delivery to the buyer. Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

''(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the normal value of the subject vessel under paragraph (1), the administering authority shall determine the normal value on the basis of the price at which a vessel that is—

''(A) comparable to the subject vessel, and

''(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

''(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing the vessel include, but are not limited to—

''(A) hours of labor required,

''(B) quantities of raw materials employed,

''(C) amounts of energy and other utilities consumed, and

''(D) representative capital cost, including depreciation.

''(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

''(A) at a level of economic development comparable to that of the nonmarket economy country, and

''(B) significant producers of comparable vessels.

''(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

''(1) the subject vessel was produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of a foreign like vessel which are located in another country or countries,

''(2) subsection (a)(1)(C) applies, and

''(3) the normal value of a foreign like vessel produced in one or more of the facilities outside the exporting country is higher than the normal value of the foreign like vessel produced in the facilities located in the exporting country,

the administering authority shall determine the normal value of the subject vessel by reference to the normal value at which a foreign like vessel is sold from one or more facilities outside the exporting country. The administering authority, in making any determination under this subsection, shall make adjustments for the difference between the costs of production (including taxes, labor, materials, and overhead) of the foreign like vessel produced in facilities outside the exporting country and costs of production of the foreign like vessel produced in facilities in the exporting country, if such differences are demonstrated to its satisfaction.

''(e) CONSTRUCTED VALUE.—

''(1) IN GENERAL.—For purposes of this title, the constructed value of a subject vessel shall be an amount equal to the sum of—

''(A) the cost of materials and fabrication or other processing of any kind employed in producing the subject vessel, during a period which would ordinarily permit the production of the vessel in the ordinary course of business, and

''(B)(i) the actual amounts incurred and realized by the foreign producer of the subject vessel for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like vessel, in the ordinary course of trade, in the domestic market of the country of origin of the subject vessel, or

''(ii) if actual data are not available with respect to the amounts described in clause (i), then—

''(I) the actual amounts incurred and realized by the foreign producer of the subject vessel for selling, general, and administrative expenses, and for profits, in connection with the production and sale of the same general category of vessel in the domestic market of the country of origin of the subject vessel,

''(II) the weighted average of the actual amounts incurred and realized by producers in the country of origin of the subject vessel (other than the producer of the subject vessel) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like vessel, in the ordinary course of trade, in the domestic market, or

''(III) if data are not available under subclause (I) or (II), the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by foreign producers (other than the producer of the subject vessel) in connection with the sale of vessels in the same general category of vessel as the subject vessel in the domestic market of the country of origin of the subject vessel.

For purposes of this paragraph, the profit shall be based on the average profit realized over a reasonable period of time before and after the sale of the subject vessel and shall reflect a reasonable profit at the time of such sale. For purposes of the preceding sentence, a 'reasonable period of time' shall not, except where otherwise appropriate, exceed 6 months before, or 6 months after, the sale of the subject vessel. In calculating profit under this paragraph, any distortion which would result in other than a profit which is reasonable at the time of the sale shall be eliminated.

''(2) COSTS AND PROFITS BASED ON OTHER REASONABLE METHODS.—When costs and profits are determined under paragraph (1)(B)(ii)(III), such determination shall, except where otherwise appropriate, be based on appropriate export sales by the producer of the subject vessel or, absent such sales, to export sales by other producers of a foreign like vessel or the same general category of vessel as the subject vessel in the country of origin of the subject vessel.

''(3) COSTS OF MATERIALS.—For purposes of paragraph (1)(A), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject vessel produced from such materials.

''(f) SPECIAL RULES FOR CALCULATION OF COST OF PRODUCTION AND FOR CALCULATION OF CONSTRUCTED VALUE.—For purposes of subsections (b) and (e)—

''(1) COSTS.—

''(A) IN GENERAL.—Costs shall normally be calculated based on the records of the foreign producer of the subject vessel, if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the vessel. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the foreign producer on a timely basis, if such allocations have been historically used by the foreign producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.

''(B) NONRECURRING COSTS.—Costs shall be adjusted appropriately for those nonrecurring costs that benefit current or future production, or both.

''(C) STARTUP COSTS.—

''(i) IN GENERAL.—Costs shall be adjusted appropriately for circumstances in which costs incurred during the time period covered by the investigation are affected by startup operations.

''(ii) STARTUP OPERATIONS.—Adjustments shall be made for startup operations only where—

''(I) a producer is using new production facilities or producing a new type of vessel that requires substantial additional investment, and

''(II) production levels are limited by technical factors associated with the initial phase of commercial production.

For purposes of subclause (II), the initial phase of commercial production ends at the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

''(iii) ADJUSTMENT FOR STARTUP OPERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the vessel at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation under this title, the administering authority shall use the most recent cost of production data that it reasonably can obtain, analyze, and verify without delaying the timely completion of the investigation.

For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is characteristic of the vessel, the producer, or the industry is achieved.

''(D) COSTS DUE TO EXTRAORDINARY CIRCUMSTANCES NOT INCLUDED.—Costs shall not include actual costs which are due to extraordinary circumstances (including, but not limited to, labor disputes, fire, and natural disasters) and which are significantly over the cost increase which the shipbuilder could have reasonably anticipated and taken into account at the time of sale.

''(2) TRANSACTIONS DISREGARDED.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of a like vessel in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

''(3) MAJOR INPUT RULE.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the subject vessel, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2).

**''SEC. 823. CURRENCY CONVERSION.**

''(a) IN GENERAL.—In an injurious pricing proceeding under this title, the administering authority shall convert foreign currencies into United States dollars using the exchange rate in effect on the date of sale of the subject vessel, except that if it is established that a currency transaction on forward markets is directly linked to a sale under consideration, the exchange rate specified with respect to such foreign currency in the forward sale agreement shall be used to convert the foreign currency.

''(b) DATE OF SALE.—For purposes of this section, 'date of sale' means the date of the contract of sale or, where appropriate, the date on which the material terms of sale are otherwise established. If the material terms of sale are significantly changed after such date, the date of sale is the date of such change. In the case of such a change in the date of sale, the administering authority shall make appropriate adjustments to take into account any unreasonable effect on the injurious pricing margin due only to fluctuations in the exchange rate between the original date of sale and the new date of sale.

**''Subtitle C—Procedures**

**''SEC. 841. HEARINGS.**

''(a) UPON REQUEST.—The administering authority and the Commission shall each hold a hearing in the course of an investigation under this title, upon the request of any party to the investigation, before making a final determination under section 805.

''(b) PROCEDURES.—Any hearing required or permitted under this title shall be conducted after notice published in the Federal Register, and a transcript of the hearing shall be prepared and made available to the public. The hearing shall not be subject to the provisions of subchapter II of chapter 5 of title 5, United States Code, or to section 702 of such title.

**''SEC. 842. DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.**

''(a) IN GENERAL.—If—

''(1) necessary information is not available on the record, or

''(2) an interested party or any other person—

''(A) withholds information that has been requested by the administering authority or the Commission under this title,

''(B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (b)(1) and (d) of section 844,

''(C) significantly impedes a proceeding under this title, or

''(D) provides such information but the information cannot be verified as provided in section 844(g),

the administering authority and the Commission shall, subject to section 844(c), use the facts otherwise available in reaching the applicable determination under this title.

''(b) ADVERSE INFERENCES.—If the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from—

''(1) the petition, or

''(2) any other information placed on the record.

''(c) CORROBORATION OF SECONDARY INFORMATION.—When the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation under this title, the administering authority and the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.

**''SEC. 843. ACCESS TO INFORMATION.**

''(a) INFORMATION GENERALLY MADE AVAILABLE.—

''(1) PROGRESS OF INVESTIGATION REPORTS.—The administering authority and the Commission shall, from time to time upon request, inform the parties to an investigation under this title of the progress of that investigation.

''(2) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

''(A) interested parties or other persons providing factual information in connection with a proceeding under this title, and

''(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding,

if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.

''(3) SUMMARIES; NONPROPRIETARY SUBMISSIONS.—The administering authority and the Commission shall disclose—

''(A) any proprietary information received in the course of a proceeding under this title if it is disclosed in a form which cannot be associated with, or otherwise be used to identify, operations of a particular person, and

''(B) any information submitted in connection with a proceeding which is not designated as proprietary by the person submitting it.

''(4) MAINTENANCE OF PUBLIC RECORD.—The administering authority and the Commission shall maintain and make available for public inspection and copying a record of all information which is obtained by the administering authority or the Commission, as the case may be, in a proceeding under this title to the extent that public disclosure of the information is not prohibited under this chapter or exempt from disclosure under section 552 of title 5, United States Code.

''(b) PROPRIETARY INFORMATION.—

''(1) PROPRIETARY STATUS MAINTAINED.—

''(A) IN GENERAL.—Except as provided in subsection (a)(4) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information, other than—

''(i) to an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted or any other proceeding under this title covering the same subject vessel, or

''(ii) to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title.

''(B) ADDITIONAL REQUIREMENTS.—The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

''(i) either—

''(I) a nonproprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

''(II) a statement that the information is not susceptible to summary, accompanied by a statement of the reasons in support of the contention, and

''(ii) either—

''(I) a statement which permits the administering authority or the Commission to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

''(II) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.

''(2) UNWARRANTED DESIGNATION.—If the administering authority or the Commission determines, on the basis of the nature and extent of the information or its availability from public sources, that designation of any information as proprietary is unwarranted, then it shall notify the person who submitted it and ask for an explanation of the reasons for the designation. Unless that person persuades the administering authority or the Commission that the designation is warranted, or withdraws the designation, the administering authority or the Commission, as the case may be, shall return it to the party submitting it. In a case in which the administering authority or the Commission returns the information to the person submitting it, the person may thereafter submit other material concerning the subject matter of the returned information if the submission is made within the time otherwise provided for submitting such material.

''(c) LIMITED DISCLOSURE OF CERTAIN PROPRIETARY INFORMATION UNDER PROTECTIVE ORDER.—

''(1) DISCLOSURE BY ADMINISTERING AUTHORITY OR COMMISSION.—

''(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding under this title (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to all interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during the proceeding. Customer names (other than the name of the United States buyer of the subject vessel) obtained during any investigation which requires a determination under section 805(b) may not be disclosed by the administering authority under protective order until either an order is published under section 806(a) as a result of the investigation or the investigation is suspended or terminated. The Commission may delay disclosure of customer names (other than the name of the United States buyer of the subject vessel) under protective order during any such investigation until a reasonable time before any hearing provided under section 841 is held.

''(B) PROTECTIVE ORDER.—The protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and the Commission determine to be appropriate, including disbarment from practice before the agency.

''(C) TIME LIMITATIONS ON DETERMINATIONS.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

''(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 803(a)) after the date on which the information is submitted, or

''(ii) if—

''(I) the person that submitted the information raises objection to its release, or

''(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 803(a)) after the date on which the information is submitted.

''(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

''(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date, and

''(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

''(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.

''(2) DISCLOSURE UNDER COURT ORDER.—If the administering authority or the Commission denies a request for information under paragraph (1), then application may be made to the United States Court of International Trade for an order directing the administering authority or the Commission, as the case may be, to make the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that—

''(A) the administering authority or the Commission has denied access to the information under subsection (b)(1),

''(B) the person on whose behalf the information is requested is an interested party who is a party to the investigation in connection with which the information was obtained or developed, and

''(C) the party which submitted the information to which the request relates has been notified, in advance of the hearing, of the request made under this section and of its right to appear and be heard.

''(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective

order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order, except that a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

''(e) INFORMATION RELATING TO VIOLATIONS OF PROTECTIVE ORDERS AND SANCTIONS.—The administering authority and the Commission may withhold from disclosure any correspondence, private letters of reprimand, settlement agreements, and documents and files compiled in relation to investigations and actions involving a violation or possible violation of a protective order issued under subsection (c), and such information shall be treated as information described in section 552(b)(3) of title 5, United States Code.

''(f) OPPORTUNITY FOR COMMENT BY VESSEL BUYERS.—The administering authority and the Commission shall provide an opportunity for buyers of subject vessels to submit relevant information to the administering authority concerning a sale at less than fair value or countermeasures, and to the Commission concerning material injury by reason of the sale of a vessel at less than fair value.

''(g) PUBLICATION OF DETERMINATIONS; REQUIREMENTS FOR FINAL DETERMINATIONS.—

''(1) IN GENERAL.—Whenever the administering authority makes a determination under section 802 whether to initiate an investigation, or the administering authority or the Commission makes a preliminary determination under section 803, a final determination under section 805, a determination under subsection (b), (c), (d), (e)(3)(B)(ii), (g), or (i) of section 807, or a determination to suspend an investigation under this title, the administering authority or the Commission, as the case may be, shall publish the facts and conclusions supporting that determination, and shall publish notice of that determination in the Federal Register.

''(2) CONTENTS OF NOTICE OR DETERMINATION.—The notice or determination published under paragraph (1) shall include, to the extent applicable—

''(A) in the case of a determination of the administering authority—

''(i) the names of the United States buyer and the foreign producer, and the country of origin of the subject vessel,

''(ii) a description sufficient to identify the subject vessel (including type, purpose, and size),

''(iii) with respect to an injurious pricing charge, the injurious pricing margin established and a full explanation of the methodology used in establishing such margin,

''(iv) with respect to countermeasures, the scope and duration of countermeasures and, if applicable, any changes thereto, and

''(v) the primary reasons for the determination, and

''(B) in the case of a determination of the Commission—

''(i) considerations relevant to the determination of injury, and

''(ii) the primary reasons for the determination.

''(3) ADDITIONAL REQUIREMENTS FOR FINAL DETERMINATIONS.—In addition to the requirements set forth in paragraph (2)—

''(A) the administering authority shall include in a final determination under section 805 or 807(c) an explanation of the basis for its determination that addresses relevant arguments, made by interested parties who are parties to the investigation, concerning the establishment of the injurious pricing charge with respect to which the determination is made, and

''(B) the Commission shall include in a final determination of injury an explanation of the basis for its determination that addresses relevant arguments that are made by interested parties who are parties to the investigation concerning the effects and impact on the industry of the sale of the subject vessel.

**''SEC. 844. CONDUCT OF INVESTIGATIONS.**

''(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

''(b) DIFFICULTIES IN MEETING REQUIREMENTS.—

''(1) NOTIFICATION BY INTERESTED PARTY.—If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

''(2) ASSISTANCE TO INTERESTED PARTIES.—The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

''(c) DEFICIENT SUBMISSIONS.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title. If that person submits further information in response to such deficiency and either—

''(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

''(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (d), disregard all or part of the original and subsequent responses.

''(d) USE OF CERTAIN INFORMATION.—In reaching a determination under section 803, 805, or 807, the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission if—

''(1) the information is submitted by the deadline established for its submission,

''(2) the information can be verified,

''(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

''(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

''(5) the information can be used without undue difficulties.

''(e) NONACCEPTANCE OF SUBMISSIONS.—If the administering authority or the Commission declines to accept into the record any information submitted in an investigation under this title, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

''(f) PUBLIC COMMENT ON INFORMATION.—Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this title shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 805 or 807, shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

''(g) VERIFICATION.—The administering authority shall verify all information relied upon in making a final determination under section 805.

**''SEC. 845. ADMINISTRATIVE ACTION FOLLOWING SHIPBUILDING AGREEMENT PANEL REPORTS.**

''(a) ACTION BY UNITED STATES INTERNATIONAL TRADE COMMISSION.—

''(1) ADVISORY REPORT.—If a dispute settlement panel under the Shipbuilding Agreement finds in a report that an action by the Commission in connection with a particular proceeding under this title is not in conformity with the obligations of the United States under the Shipbuilding Agreement, the Trade Representative may request the Commission to issue an advisory report on whether this title permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel concerning those obligations. The Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such request.

''(2) TIME LIMITS FOR REPORT.—The Commission shall transmit its report under paragraph (1) to the Trade Representative within 30 calendar days after the Trade Representative requests the report.

''(3) CONSULTATIONS ON REQUEST FOR COMMISSION DETERMINATION.—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representatives shall consult with the congressional committees listed in paragraph (1) concerning the matter.

''(4) COMMISSION DETERMINATION.—Notwithstanding any other provision of this title, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel. The Commission shall issue its determination not later than 120 calendar days after the request from the Trade Representative is made.

''(5) CONSULTATIONS ON IMPLEMENTATION OF COMMISSION DETERMINATION.—The Trade Representative shall consult with the congressional committees listed in paragraph (1) before the Commission's determination under paragraph (4) is implemented.

''(6) REVOCATION OF ORDER.—If, by virtue of the Commission's determination under paragraph (4), an injurious pricing order is no longer supported by an affirmative Commission

*determination under this title, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the injurious pricing order.*

*''(b) ACTION BY ADMINISTERING AUTHORITY.—*

*''(1) CONSULTATIONS WITH ADMINISTERING AUTHORITY AND CONGRESSIONAL COMMITTEES.—Promptly after a report or other determination by a dispute settlement panel under the Shipbuilding Agreement is issued that contains findings that—*

*''(A) an action by the administering authority in a proceeding under this title is not in conformity with the obligations of the United States under the Shipbuilding Agreement,*

*''(B) the due date for payment of an injurious pricing charge contained in an order issued under section 806 should be amended,*

*''(C) countermeasures provided for in an order issued under section 807 should be provisionally suspended or reduced pending the final decision of the panel, or*

*''(D) the scope or duration of countermeasures imposed under section 807 should be narrowed or shortened,*

*the Trade Representative shall consult with the administering authority and the congressional committees listed in subsection (a)(1) on the matter.*

*''(2) DETERMINATION BY ADMINISTERING AUTHORITY.—Notwithstanding any other provision of this title, the administering authority shall, in response to a written request from the Trade Representative, issue a determination, or an amendment to or suspension of an injurious pricing or countermeasure order, as the case may be, in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel.*

*''(3) TIME LIMITS FOR DETERMINATIONS.—The administering authority shall issue its determination, amendment, or suspension under paragraph (2)—*

*''(A) with respect to a matter described in subparagraph (A) of paragraph (1), within 180 calendar days after the request from the Trade Representative is made, and*

*''(B) with respect to a matter described in subparagraph (B), (C), or (D) of paragraph (1), within 15 calendar days after the request from the Trade Representative is made.*

*''(4) CONSULTATIONS BEFORE IMPLEMENTATION.—Before the administering authority implements any determination, amendment, or suspension under paragraph (2), the Trade Representative shall consult with the administering authority and the congressional committees listed in subsection (a)(1) with respect to such determination, amendment, or suspension.*

*''(5) IMPLEMENTATION OF DETERMINATION.—The Trade Representative may, after consulting with the administering authority and the congressional committees under paragraph (4), direct the administering authority to implement, in whole or in part, the determination, amendment, or suspension made under paragraph (2). The administering authority shall publish notice of such implementation in the Federal Register.*

*''(c) OPPORTUNITY FOR COMMENT BY INTERESTED PARTIES.—Before issuing a determination, amendment, or suspension, the administering authority, in a matter described in subsection (b)(1)(A), or the Commission, in a matter described in subsection (a)(1), as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.*

***''Subtitle D—Definitions***

***''SEC. 861. DEFINITIONS.***

*''For purposes of this title:*

*''(1) ADMINISTERING AUTHORITY.—The term 'administering authority' means the Secretary of Commerce, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under this title are transferred by law.*

*''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.*

*''(3) COUNTRY.—The term 'country' means a foreign country, a political subdivision, dependent territory, or possession of a foreign country and, except as provided in paragraph (16)(E)(iii), may not include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.*

*''(4) INDUSTRY.—*

*''(A) IN GENERAL.—Except as used in section 808, the term 'industry' means the producers as a whole of a domestic like vessel, or those producers whose collective capability to produce a domestic like vessel constitutes a major proportion of the total domestic capability to produce a domestic like vessel.*

*''(B) PRODUCER.—A 'producer' of a domestic like vessel includes an entity that is producing the domestic like vessel and an entity with the capability to produce the domestic like vessel.*

*''(C) CAPABILITY TO PRODUCE A DOMESTIC LIKE VESSEL.—A producer has the 'capability to produce a domestic like vessel' if it is capable of producing a domestic like vessel with its present facilities or could adapt its facilities in a timely manner to produce a domestic like vessel.*

*''(D) RELATED PARTIES.—(i) In an investigation under this title, if a producer of a domestic like vessel and the foreign producer, seller (other than the foreign producer), or United States buyer of the subject vessel are related parties, or if a producer of a domestic like vessel is also a United States buyer of the subject vessel, the domestic producer may, in appropriate circumstances, be excluded from the industry.*

*''(ii) For purposes of clause (i), a domestic producer and the foreign producer, seller, or United States buyer shall be considered to be related parties, if—*

*''(I) the domestic producer directly or indirectly controls the foreign producer, seller, or United States buyer,*

*''(II) the foreign producer, seller, or United States buyer directly or indirectly controls the domestic producer,*

*''(III) a third party directly or indirectly controls the domestic producer and the foreign producer, seller, or United States buyer, or*

*''(IV) the domestic producer and the foreign producer, seller, or United States buyer directly or indirectly control a third party and there is reason to believe that the relationship causes the domestic producer to act differently than a nonrelated producer.*

*For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.*

*''(E) PRODUCT LINES.—In an investigation under this title, the effect of the sale of the subject vessel shall be assessed in relation to the United States production (or production capability) of a domestic like vessel if available data permit the separate identification of production (or production capability) in terms of such criteria as the production process or the producer's profits. If the domestic production (or production capability) of a domestic like vessel has no separate identity in terms of such criteria, then the effect of the sale of the subject vessel shall be assessed by the examination of the production (or production capability) of the narrowest group or range of vessels, which includes a domestic like vessel, for which the necessary information can be provided.*

*''(5) BUYER.—The term 'buyer' means any person who acquires an ownership interest in a vessel, including by way of lease or long-term bareboat charter, in conjunction with the original transfer from the producer, either directly or indirectly, including an individual or company which owns or controls a buyer. There may be more than one buyer of any one vessel.*

*''(6) UNITED STATES BUYER.—The term 'United States buyer' means a buyer that is any of the following:*

*''(A) A United States citizen.*

*''(B) A juridical entity, including any corporation, company, association, or other organization, that is legally constituted under the laws and regulations of the United States or a political subdivision thereof, regardless of whether the entity is organized for pecuniary gain, privately or government owned, or organized with limited or unlimited liability.*

*''(C) A juridical entity that is owned or controlled by nationals or entities described in subparagraphs (A) and (B). For the purposes of this subparagraph—*

*''(i) the term 'own' means having more than a 50 percent interest, and*

*''(ii) the term 'control' means the actual ability to have substantial influence on corporate behavior, and control is presumed to exist where there is at least a 25 percent interest.*

*If ownership of a company is established under clause (i), other control is presumed not to exist unless it is otherwise established.*

*''(7) OWNERSHIP INTEREST.—An 'ownership interest' in a vessel includes any contractual or proprietary interest which allows the beneficiary or beneficiaries of such interest to take advantage of the operation of the vessel in a manner substantially comparable to the way in which an owner may benefit from the operation of the vessel. In determining whether such substantial comparability exists, the administering authority shall consider—*

*''(A) the terms and circumstances of the transaction which conveys the interest,*

*''(B) commercial practice within the industry,*

*''(C) whether the vessel subject to the transaction is integrated into the operations of the beneficiary or beneficiaries, and*

*''(D) whether in practice there is a likelihood that the beneficiary or beneficiaries of such interests will take advantage of and the risk for the operation of the vessel for a significant part of the life-time of the vessel.*

*''(8) VESSEL.—*

*''(A) IN GENERAL.—Except as otherwise specifically provided under international agreements, the term 'vessel' means—*

*''(i) a self-propelled seagoing vessel of 100 gross tons or more used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredgers), and*

*''(ii) a tug of 365 kilowatts or more,*

*that is produced in a Shipbuilding Agreement Party or a country that is not a Shipbuilding Agreement Party and not a WTO member.*

*''(B) EXCLUSIONS.—The term 'vessel' does not include—*

*''(i) any fishing vessel destined for the fishing fleet of the country in which the vessel is built,*

*''(ii) any military vessel, and*

*''(iii) any vessel sold before the date that the Shipbuilding Agreement enters into force with respect to the United States, except that any vessel sold after December 21, 1994, for delivery more than 5 years after the date of the contract of sale shall be a 'vessel' for purposes of this title unless the shipbuilder demonstrates to the administering authority that the extended delivery date was for normal commercial reasons and not to avoid applicability of this title.*

*''(C) SELF-PROPELLED SEAGOING VESSEL.—A vessel is 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.*

*''(D) MILITARY VESSEL.—A 'military vessel' is a vessel which, according to its basic structural characteristics and ability, is intended to be used exclusively for military purposes.*

*''(9) LIKE VESSEL.—The term 'like vessel' means a vessel of the same type, same purpose,*

*and approximate size as the subject vessel and possessing characteristics closely resembling those of the subject vessel.*

*''(10) DOMESTIC LIKE VESSEL.—The term 'domestic like vessel' means a like vessel produced in the United States.*

*''(11) FOREIGN LIKE VESSEL.—Except as used in section 822(e)(1)(B)(ii)(II), the term 'foreign like vessel' means a like vessel produced by the foreign producer of the subject vessel for sale in the producer's domestic market or in a third country.*

*''(12) SAME GENERAL CATEGORY OF VESSEL.—The term 'same general category of vessel' means a vessel of the same type and purpose as the subject vessel, but of a significantly different size.*

*''(13) SUBJECT VESSEL.—The term 'subject vessel' means a vessel subject to investigation under section 801 or 808.*

*''(14) FOREIGN PRODUCER.—The term 'foreign producer' means the producer or producers of the subject vessel.*

*''(15) EXPORTING COUNTRY.—The term 'exporting country' means the country in which the subject vessel was built.*

*''(16) MATERIAL INJURY.—*

*''(A) IN GENERAL.—The term 'material injury' means harm which is not inconsequential, immaterial, or unimportant.*

*''(B) SALE AND CONSEQUENT IMPACT.—In making determinations under sections 803(a) and 805(b), the Commission in each case—*

*''(i) shall consider—*

*''(I) the sale of the subject vessel,*

*''(II) the effect of the sale of the subject vessel on prices in the United States for a domestic like vessel, and*

*''(III) the impact of the sale of the subject vessel on domestic producers of a domestic like vessel, but only in the context of production operations within the United States, and*

*''(ii) may consider such other economic factors as are relevant to the determination regarding whether there is or has been material injury by reason of the sale of the subject vessel.*

*In the notification required under section 805(d), the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination.*

*''(C) EVALUATION OF RELEVANT FACTORS.—For purposes of subparagraph (B)—*

*''(i) SALE OF THE SUBJECT VESSEL.—In evaluating the sale of the subject vessel, the Commission shall consider whether the sale, either in absolute terms or relative to production or demand in the United States, in terms of either volume or value, is or has been significant.*

*''(ii) PRICE.—In evaluating the effect of the sale of the subject vessel on prices, the Commission shall consider whether—*

*''(I) there has been significant price underselling of the subject vessel as compared with the price of a domestic like vessel, and*

*''(II) the effect of the sale of the subject vessel otherwise depresses or has depressed prices to a significant degree or prevents or has prevented price increases, which otherwise would have occurred, to a significant degree.*

*''(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—*

*''(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,*

*''(II) factors affecting domestic prices, including with regard to sales,*

*''(III) actual and potential negative effects on cash flow, employment, wages, growth, ability to raise capital, and investment,*

*''(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of a domestic like vessel, and*

*''(V) the magnitude of the injurious pricing margin.*

*The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.*

*''(D) STANDARD FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.*

*''(E) THREAT OF MATERIAL INJURY.—*

*''(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of the sale of the subject vessel, the Commission shall consider, among other relevant economic factors—*

*''(I) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased sales of a foreign like vessel to United States buyers, taking into account the availability of other export markets to absorb any additional exports,*

*''(II) whether the sale of a foreign like vessel or other factors indicate the likelihood of significant additional sales to United States buyers,*

*''(III) whether sale of the subject vessel or sale of a foreign like vessel by the foreign producer are at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further sales,*

*''(IV) the potential for product-shifting if production facilities in the exporting country, which can presently be used to produce a foreign like vessel or could be adapted in a timely manner to produce a foreign like vessel, are currently being used to produce other types of vessels,*

*''(V) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of a domestic like vessel, and*

*''(VI) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of the sale of the subject vessel.*

*''(ii) BASIS FOR DETERMINATION.—The Commission shall consider the factors set forth in clause (i) as a whole. The presence or absence of any factor which the Commission is required to consider under clause (i) shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.*

*''(iii) EFFECT OF INJURIOUS PRICING IN THIRD-COUNTRY MARKETS.—*

*''(I) IN GENERAL.—The Commission shall consider whether injurious pricing in the markets of foreign countries (as evidenced by injurious pricing findings or injurious pricing remedies of other Shipbuilding Agreement Parties, or antidumping determinations of, or measures imposed by, other countries, against a like vessel produced by the producer under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign producer or United States buyer concerning this issue.*

*''(II) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities as a whole shall be treated as a single foreign country.*

*''(F) CUMULATION FOR DETERMINING MATERIAL INJURY.—*

*''(i) IN GENERAL.—For purposes of clauses (i) and (ii) of subparagraph (C), and subject to clause (ii) of this subparagraph, the Commission shall cumulatively assess the effects of sales of foreign like vessels from all foreign producers with respect to which—*

*''(I) petitions were filed under section 802(b) on the same day,*

*''(II) investigations were initiated under section 802(a) on the same day, or*

*''(III) petitions were filed under section 802(b) and investigations were initiated under section 802(a) on the same day,*

*if, with respect to such vessels, the foreign producers compete with each other and with producers of a domestic like vessel in the United States market.*

*''(ii) EXCEPTIONS.—The Commission shall not cumulatively assess the effects of sales under clause (i)—*

*''(I) with respect to which the administering authority has made a preliminary negative determination, unless the administering authority subsequently made a final affirmative determination with respect to those sales before the Commission's final determination is made, or*

*''(II) from any producer with respect to which the investigation has been terminated.*

*''(iii) RECORDS IN FINAL INVESTIGATIONS.—In each final determination in which it cumulatively assesses the effects of sales under clause (i), the Commission may make its determinations based on the record compiled in the first investigation in which it makes a final determination, except that when the administering authority issues its final determination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent investigation to submit comments concerning the significance of the administering authority's final determination, and shall include such comments and the administering authority's final determination in the record for the subsequent investigation.*

*''(G) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent practicable and subject to subparagraph (F)(ii), for purposes of clause (i) (II) and (III) of subparagraph (E), the Commission may cumulatively assess the effects of sales of like vessels from all countries with respect to which—*

*''(i) petitions were filed under section 802(b) on the same day,*

*''(ii) investigations were initiated under section 802(a) on the same day, or*

*''(iii) petitions were filed under section 802(b) and investigations were initiated under section 802(a) on the same day,*

*if, with respect to such vessels, the foreign producers compete with each other and with producers of a domestic like vessel in the United States market.*

*''(17) INTERESTED PARTY.—The term 'interested party' means, in a proceeding under this title—*

*''(A)(i) the foreign producer, seller (other than the foreign producer), and the United States buyer of the subject vessel, or*

*''(ii) a trade or business association a majority of the members of which are the foreign producer, seller, or United States buyer of the subject vessel,*

*''(B) the government of the country in which the subject vessel is produced or manufactured,*

*''(C) a producer that is a member of an industry,*

*''(D) a certified union or recognized union or group of workers which is representative of an industry,*

*''(E) a trade or business association a majority of whose members are producers in an industry,*

*''(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E), and*

*''(G) for purposes of section 807, a purchaser who, after the effective date of an order issued under that section, entered into a contract of sale with the foreign producer that is subject to the order.*

''(18) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—If the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination. For the purpose of applying this paragraph when the issue before the Commission is to determine whether there is or has been—

''(A) material injury to an industry in the United States,

''(B) threat of material injury to such an industry, or

''(C) material retardation of the establishment of an industry in the United States,

by reason of the sale of the subject vessel, an affirmative vote on any of the issues shall be treated as a vote that the determination should be affirmative.

''(19) ORDINARY COURSE OF TRADE.—The term 'ordinary course of trade' means the conditions and practices which, for a reasonable time before the sale of the subject vessel, have been normal in the shipbuilding industry with respect to a like vessel. The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

''(A) Sales disregarded under section 822(b)(1).

''(B) Transactions disregarded under section 822(f)(2).

''(20) NONMARKET ECONOMY COUNTRY.—

''(A) IN GENERAL.—The term 'nonmarket economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of vessels in such country do not reflect the fair value of the vessels.

''(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

''(i) the extent to which the currency of the foreign country is convertible into the currency of other countries,

''(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

''(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

''(iv) the extent of government ownership or control of the means of production,

''(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

''(vi) such other factors as the administering authority considers appropriate.

''(C) DETERMINATION IN EFFECT.—

''(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

''(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

''(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle A.

''(21) SHIPBUILDING AGREEMENT.—The term 'Shipbuilding Agreement' means The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, resulting from negotiations under the auspices of the Organization for Economic Cooperation and Development, and entered into on December 21, 1994.

''(22) SHIPBUILDING AGREEMENT PARTY.—The term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a Party to the Shipbuilding Agreement, and with respect to which the United States applies the Shipbuilding Agreement.

''(23) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement defined in section 2(9) of the Uruguay Round Agreements Act.

''(24) WTO MEMBER.—The term 'WTO member' means a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO Agreement.

''(25) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.

''(26) AFFILIATED PERSONS.—The following persons shall be considered to be 'affiliated' or 'affiliated persons':

''(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

''(B) Any officer or director of an organization and such organization.

''(C) Partners.

''(D) Employer and employee.

''(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization, and such organization.

''(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

''(G) Any person who controls any other person, and such other person.

For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

''(27) INJURIOUS PRICING.—The term 'injurious pricing' refers to the sale of a vessel at less than fair value.

''(28) INJURIOUS PRICING MARGIN.—

''(A) IN GENERAL.—The term 'injurious pricing margin' means the amount by which the normal value exceeds the export price of the subject vessel.

''(B) MAGNITUDE OF THE INJURIOUS PRICING MARGIN.—The magnitude of the injurious pricing margin used by the Commission shall be—

''(i) in making a preliminary determination under section 803(a) in an investigation (including any investigation in which the Commission cumulatively assesses the effect of sales under paragraph (16)(F)(i)), the injurious pricing margin or margins published by the administering authority in its notice of initiation of the investigation; and

''(ii) in making a final determination under section 805(b), the injurious pricing margin or margins most recently published by the administering authority before the closing of the Commission's administrative record.

''(29) COMMERCIAL INTEREST REFERENCE RATE.—The term 'Commercial Interest Reference Rate' or 'CIRR' means an interest rate that the administering authority determines to be consistent with Annex III, and appendices and notes thereto, of the Understanding on Export Credits for Ships, resulting from negotiations under the auspices of the Organization for Economic Cooperation, and entered into on December 21, 1994.

''(30) ANTIDUMPING.—

''(A) WTO MEMBERS.—In the case of a WTO member, the term 'antidumping' refers to action taken pursuant to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

''(B) OTHER CASES.—In the case of any country that is not a WTO member, the term 'antidumping' refers to action taken by the country against the sale of a vessel at less than fair value that is comparable to action described in subparagraph (A).

''(31) BROAD MULTIPLE BID.—The term 'broad multiple bid' means a bid in which the proposed buyer extends an invitation to bid to at least all the producers in the industry known by the buyer to be capable of building the subject vessel.''.

**SEC. 204. ENFORCEMENT OF COUNTERMEASURES.**

Part II of title IV of the Tariff Act of 1930 is amended by adding at the end the following:

**''SEC. 468. SHIPBUILDING AGREEMENT COUNTERMEASURES.**

''(a) IN GENERAL.—Notwithstanding any other provision of law, upon receiving from the Secretary of Commerce a list of vessels subject to countermeasures under section 807, the Customs Service shall deny any request for a permit to lade or unlade passengers, merchandise, or baggage from or onto those vessels so listed.

''(b) EXCEPTIONS.—Subsection (a) shall not be applied to deny a permit for the following:

''(1) To unlade any United States citizen or permanent legal resident alien from a vessel included in the list described in subsection (a), or to unlade any refugee or any alien who would otherwise be eligible to apply for asylum and withholding of deportation under the Immigration and Nationality Act.

''(2) To lade or unlade any crewmember of such vessel.

''(3) To lade or unlade coal and other fuel supplies (for the operation of the listed vessel), ships' stores, sea stores, and the legitimate equipment of such vessel.

''(4) To lade or unlade supplies for the use or sale on such vessel.

''(5) To lade or unlade such other merchandise, baggage, or passenger as the Customs Service shall determine necessary to protect the immediate health, safety, or welfare of a human being.

''(c) CORRECTION OF MINISTERIAL OR CLERICAL ERRORS.—

''(1) PETITION FOR CORRECTION.—If the master of any vessel whose application for a permit to lade or unlade has been denied under this section believes that such denial resulted from a ministerial or clerical error, not amounting to a mistake of law, committed by any Customs officer, the master may petition the Customs Service for correction of such error, as provided by regulation.

''(2) INAPPLICABILITY OF SECTIONS 514 AND 520.—Notwithstanding paragraph (1), imposition of countermeasures under this section shall not be deemed an exclusion or other protestable decision under section 514, and shall not be subject to correction under section 520.

''(3) PETITIONS SEEKING ADMINISTRATIVE REVIEW.—Any petition seeking administrative review of any matter regarding the Secretary of Commerce's decision to list a vessel under section 807 must be brought under that section.

''(d) PENALTIES.—In addition to any other provision of law, the Customs Service may impose a civil penalty of not to exceed $10,000 against the master of any vessel—

''(1) who submits false information in requesting any permit to lade or unlade; or

''(2) who attempts to, or actually does, lade or unlade in violation of any denial of such permit under this section.''.

**SEC. 205. JUDICIAL REVIEW IN INJURIOUS PRICING AND COUNTERMEASURE PROCEEDINGS.**

(a) JUDICIAL REVIEW.—Part III of title IV of the Tariff Act of 1930 is amended by inserting after section 516A the following:

**''SEC. 516B. JUDICIAL REVIEW IN INJURIOUS PRICING AND COUNTERMEASURE PROCEEDINGS.**

''(a) REVIEW OF DETERMINATION.—

''(1) IN GENERAL.—Within 30 days after the date of publication in the Federal Register of—

''(A)(i) a determination by the administering authority under section 802(c) not to initiate an investigation,

''(ii) a negative determination by the Commission under section 803(a) as to whether there is or has been reasonable indication of material injury, threat of material injury, or material retardation,

''(iii) a determination by the administering authority to suspend or revoke an injurious pricing order under section 806 (d) or (e),

''(iv) a determination by the administering authority under section 807(c),

''(v) a determination by the administering authority in a review under section 807(d),

''(vi) a determination by the administering authority concerning whether to extend the scope or duration of a countermeasure order under section 807(e)(3)(B)(ii),

''(vii) a determination by the administering authority to amend a countermeasure order under section 807(e)(6),

''(viii) a determination by the administering authority in a review under section 807(g),

''(ix) a determination by the administering authority under section 807(i) to terminate proceedings, or to amend or revoke a countermeasure order,

''(x) a determination by the administering authority under section 845(b), with respect to a matter described in paragraph (1)(D) of that section, or

''(B)(i) an injurious pricing order based on a determination described in subparagraph (A) of paragraph (2),

''(ii) notice of a determination described in subparagraph (B) of paragraph (2),

''(iii) notice of implementation of a determination described in subparagraph (C) of paragraph (2), or

''(iv) notice of revocation of an injurious pricing order based on a determination described in subparagraph (D) of paragraph (2),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

''(2) REVIEWABLE DETERMINATIONS.—The determinations referred to in paragraph (1)(B) are—

''(A) a final affirmative determination by the administering authority or by the Commission under section 805, including any negative part of such a determination (other than a part referred to in subparagraph (B)),

''(B) a final negative determination by the administering authority or the Commission under section 805,

''(C) a determination by the administering authority under section 845(b), with respect to a matter described in paragraph (1)(A) of that section, and

''(D) a determination by the Commission under section 845(a) that results in the revocation of an injurious pricing order.

''(3) EXCEPTION.—Notwithstanding the 30-day limitation imposed by paragraph (1) with regard to an order described in paragraph (1)(B)(i), a final affirmative determination by the administering authority under section 805 may be contested by commencing an action, in accordance with the provisions of paragraph (1), within 30 days after the date of publication in the Federal Register of a final negative determination by the Commission under section 805.

''(4) PROCEDURES AND FEES.—The procedures and fees set forth in chapter 169 of title 28, United States Code, apply to an action under this section.

''(b) STANDARDS OF REVIEW.—

''(1) REMEDY.—The court shall hold unlawful any determination, finding, or conclusion found—

''(A) in an action brought under subparagraph (A) of subsection (a)(1), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

''(B) in an action brought under subparagraph (B) of subsection (a)(1), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

''(2) RECORD FOR REVIEW.—

''(A) IN GENERAL.—For purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

''(i) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 843(a)(2); and

''(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

''(B) CONFIDENTIAL OR PRIVILEGED MATERIAL.—The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

''(c) STANDING.—Any interested party who was a party to the proceeding under title VIII shall have the right to appear and be heard as a party in interest before the United States Court of International Trade in an action under this section. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, and within the time prescribed by rules of the court.

''(d) DEFINITIONS.—For purposes of this section:

''(1) ADMINISTERING AUTHORITY.—The term 'administering authority' has the meaning given that term in section 861(1).

''(2) COMMISSION.—The term 'Commission' means the United States International Trade Commission.

''(3) INTERESTED PARTY.—The term 'interested party' means any person described in section 861(17).''.

(b) CONFORMING AMENDMENTS.—

(1) JURISDICTION OF THE COURT.—Section 1581(c) of title 28, United States Code, is amended by inserting ''or 516B'' after ''section 516A''.

(2) RELIEF.—Section 2643 of title 28, United States Code, is amended—

(A) in subsection (c)(1) by striking ''and (5)'' and inserting ''(5), and (6)''; and

(B) in subsection (c) by adding at the end the following new paragraph:

''(6) In any civil action under section 516B of the Tariff Act of 1930, the Court of International Trade may not issue injunctions or any other form of equitable relief, except with regard to implementation of a countermeasure order under section 468 of that Act, upon a proper showing that such relief is warranted.''.

### Subtitle B—Other Provisions

#### SEC. 211. EQUIPMENT AND REPAIR OF VESSELS.

Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466), is amended by adding at the end the following new subsection:

''(i) The duty imposed by subsection (a) shall not apply with respect to activities occurring in a Shipbuilding Agreement Party, as defined in section 861(22), with respect to—

''(1) self-propelled seagoing vessels of 100 gross tons or more that are used for transportation of goods or persons or for performance of a specialized service (including, but not limited to, ice breakers and dredges), and

''(2) tugs of 365 kilowatts or more.

A vessel shall be considered 'self-propelled seagoing' if its permanent propulsion and steering provide it all the characteristics of self-navigability in the high seas.''.

#### SEC. 212. EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.

No person other than the United States—

(1) shall have any cause of action or defense under the Shipbuilding Agreement or by virtue of congressional approval of the agreement, or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, the District of Columbia, any State, any political subdivision of a State, or any territory or possession of the United States on the ground that such action or inaction is inconsistent with such agreement.

#### SEC. 213. IMPLEMENTING REGULATIONS.

After the date of the enactment of this title, the heads of agencies with functions under this title and the amendments made by this title may issue such regulations as may be necessary to ensure that this title is appropriately implemented on the date the Shipbuilding Agreement enters into force with respect to the United States.

#### SEC. 214. AMENDMENTS TO THE MERCHANT MARINE ACT, 1936.

The Merchant Marine Act, 1936, is amended as follows:

(1) Section 511(a)(2) (46 App. U.S.C. 1161(a)(2)) is amended by inserting after ''1939,'' the following: ''or, if the vessel is a Shipbuilding Agreement vessel, constructed in a Shipbuilding Agreement Party, but only with regard to moneys deposited, on or after the date on which the Shipbuilding Trade Agreement Act takes effect, into a construction reserve fund established under subsection (b)''.

(2) Section 601(a) (46 App. U.S.C. 1171(a)) is amended by striking '', and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date;'' and inserting ''and that such vessel or vessels were built in the United States, or, if the vessel or vessels are Shipbuilding Agreement vessels, in a Shipbuilding Agreement Party;''.

(3) Section 606(6) (46 App. U.S.C. 1176(6)) is amended by inserting ''or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party or in the United States,'' before '', except in an emergency.''.

(4) Section 607 (46 App. U.S.C. 1177) is amended as follows:

(A) Subsection (a) is amended by inserting ''or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party,'' after ''built in the United States''.

(B) Subsection (k) is amended as follows:

(i) Paragraph (1) is amended by striking subparagraph (A) and inserting the following:

''(A)(i) constructed in the United States and, if reconstructed, reconstructed in the United States or in a Shipbuilding Agreement Party, or

''(ii) that is a Shipbuilding Agreement vessel and is constructed in a Shipbuilding Agreement Party and, if reconstructed, is reconstructed in a Shipbuilding Agreement Party or in the United States,''.

(ii) Paragraph (2)(A) is amended to read as follows:

''(A)(i) constructed in the United States and, if reconstructed, reconstructed in the United States or in a Shipbuilding Agreement Party, or

''(ii) that is a Shipbuilding Agreement vessel and is constructed in a Shipbuilding Agreement Party and, if reconstructed, is reconstructed in a Shipbuilding Agreement Party or in the United States, but only with regard to moneys deposited into the fund on or after the date on which the Shipbuilding Trade Agreement Act takes effect.''.

(5) Section 610 (46 App. U.S.C. 1180) is amended by striking ''shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date,'' and inserting ''shall be built in the United States or, if the vessel is a Shipbuilding Agreement vessel, in a Shipbuilding Agreement Party,''.

(6) Section 901(b)(1) (46 App. U.S.C. 1241(b)(1)) is amended by striking the third sentence and inserting the following:

''For purposes of this section, the term 'privately owned United States-flag commercial vessels' shall be deemed to include—

''(A) any privately owned United States-flag commercial vessel constructed in the United

States, and if rebuilt, rebuilt in the United States or in a Shipbuilding Agreement Party on or after the date on which the Shipbuilding Trade Agreement Act takes effect, and

''(B) any privately owned vessel constructed in a Shipbuilding Agreement Party on or after the date on which the Shipbuilding Trade Agreement Act takes effect, and if rebuilt, rebuilt in a Shipbuilding Agreement Party or in the United States, that is documented pursuant to chapter 121 of title 46, United States Code.

The term 'privately owned United States-flag commercial vessels' shall also be deemed to include any cargo vessel that so qualified pursuant to section 615 of this Act or this paragraph before the date on which the Shipbuilding Trade Agreement Act takes effect. The term 'privately owned United States-flag commercial vessels' shall not be deemed to include any liquid bulk cargo vessel that does not meet the requirements of section 3703a of title 46, United States Code.''.

(7) Section 905 (46 App. U.S.C. 1244) is amended by adding at the end the following:

''(h) The term 'Shipbuilding Agreement' means the Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry, which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development, and was entered into on December 21, 1994.

''(i) The term 'Shipbuilding Agreement Party' means a state or separate customs territory that is a Party to the Shipbuilding Agreement, and with respect to which the United States applies the Shipbuilding Agreement.

''(j) The term 'Shipbuilding Agreement vessel' means a vessel to which the Secretary determines Article 2.1 of the Shipbuilding Agreement applies.

''(k) The term 'Export Credit Understanding' means the Understanding on Export Credits for Ships which resulted from negotiations under the auspices of the Organization for Economic Cooperation and Development and was entered into on December 21, 1994.

''(l) The term 'Export Credit Understanding vessel' means a vessel to which the Secretary determines the Export Credit Understanding applies.''.

(8) Section 1104A (46 App. U.S.C. 1274) is amended as follows:

(A) Paragraph (5) of subsection (b) is amended to read as follows:

''(5) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percent per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary, except that, with respect to Export Credit Understanding vessels, and Shipbuilding Agreement vessels, the obligations shall bear interest at a rate the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be;''.

(B) Subsection (i) is amended to read as follows:

''(i)(1) Except as provided in paragraph (2), the Secretary may not, with respect to—

''(A) the general 75 percent or less limitation contained in subsection (b)(2),

''(B) the 87½ percent or less limitation contained in the 1st, 2nd, 4th, or 5th proviso to subsection (b)(2) or in section 1112(b), or

''(C) the 80 percent or less limitation in the 3rd proviso to such subsection,

establish by rule, regulation, or procedure any percentage within any such limitation that is, or is intended to be, applied uniformly to all guarantees or commitments to guarantee made under this section that are subject to the limitation.

''(2) With respect to Export Credit Understanding vessels and Shipbuilding Agreement vessels, the Secretary may establish by rule, regulation, or procedure a uniform percentage that the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be.''.

(C) Section 1104B(b) (46 App. U.S.C. 1274a(b)) is amended by striking the period at the end and inserting the following:

'', except that, with respect to Export Credit Understanding vessels and Shipbuilding Agreement vessels, the Secretary may establish by rule, regulation, or procedure a uniform percentage that the Secretary determines to be consistent with obligations of the United States under the Export Credit Understanding or the Shipbuilding Agreement, as the case may be.''.

### Subtitle C—Effective Date

**SEC. 221. EFFECTIVE DATE.**

This title and the amendments made by this title take effect on the date that the Shipbuilding Agreement enters into force with respect to the United States.

## TITLE III—GENERALIZED SYSTEM OF PREFERENCES

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''GSP Renewal Act of 1996''.

**SEC. 302. GENERALIZED SYSTEM OF PREFERENCES.**

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

### ''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

**''SEC. 501. AUTHORITY TO EXTEND PREFERENCES.**

''The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

''(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

''(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

''(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

''(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

**''SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.**

''(a) AUTHORITY TO DESIGNATE COUNTRIES.—

''(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

''(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

''(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

''(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

''(A) Australia.

''(B) Canada.

''(C) European Union member states.

''(D) Iceland.

''(E) Japan.

''(F) Monaco.

''(G) New Zealand.

''(H) Norway.

''(I) Switzerland.

''(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

''(A) Such country is a Communist country, unless—

''(i) the products of such country receive nondiscriminatory treatment,

''(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

''(iii) such country is not dominated or controlled by international communism.

''(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

''(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

''(ii) to cause serious disruption of the world economy.

''(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

''(D)(i) Such country—

''(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

''(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

''(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

''(ii) This clause applies if the President determines that—

''(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

''(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

''(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

''(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

''(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

''(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

''(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

''(1) an expression by such country of its desire to be so designated;

''(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

''(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

''(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

''(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

''(6) the extent to which such country has taken action to—

''(A) reduce trade distorting investment practices and policies (including export performance requirements); and

''(B) reduce or eliminate barriers to trade in services; and

''(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

''(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

''(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

''(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

''(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

''(f) CONGRESSIONAL NOTIFICATION.—

''(1) NOTIFICATION OF DESIGNATION.—

''(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

''(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

''(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

**''SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.**

''(a) ELIGIBLE ARTICLES.—

''(1) DESIGNATION.—

''(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

''(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

''(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

''(2) RULE OF ORIGIN.—

''(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

''(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

''(ii) the sum of—

''(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

''(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

''(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

''(i) simple combining or packaging operations, or

''(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

''(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

''(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

''(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

''(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

''(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

''(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

''(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

''(C) Import-sensitive electronic articles.

''(D) Import-sensitive steel articles.

''(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

''(F) Import-sensitive semimanufactured and manufactured glass products.

''(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

''(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

''(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

''(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

''(2) COMPETITIVE NEED LIMITATION.—

''(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

''(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

''(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

''(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

''(I) for 1996, $75,000,000, and

''(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

''(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

''(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

''(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

''(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

''(F) DE MINIMIS WAIVERS.—

''(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

''(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

''(I) for calendar year 1996, $13,000,000, and

''(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

''(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

''(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

''(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

''(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

''(C) publishes the determination described in subparagraph (B) in the Federal Register.

''(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

''(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

''(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

''(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

''(A) there has been a historical preferential trade relationship between the United States and such country,

''(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

''(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

''(4) LIMITATIONS ON WAIVERS.—

''(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

''(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

''(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

''(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

''(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

''(i) entered duty-free under this title during such calendar year; and

''(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

''(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

''(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

''(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

**''SEC. 504. REVIEW AND REPORT TO CONGRESS.**

''The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

**''SEC. 505. DATE OF TERMINATION.**

''No duty-free treatment provided under this title shall remain in effect after May 12, 1997.

**''SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.**

''The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

**''SEC. 507. DEFINITIONS.**

''For purposes of this title:

''(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

''(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

''(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

''(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

''(A) the right of association;

''(B) the right to organize and bargain collectively;

''(C) a prohibition on the use of any form of forced or compulsory labor;

''(D) a minimum age for the employment of children; and

''(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

''(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).''.

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

''Sec. 501. Authority to extend preferences.
''Sec. 502. Designation of beneficiary developing countries.
''Sec. 503. Designation of eligible articles.
''Sec. 504. Review and report to Congress.
''Sec. 505. Date of termination.
''Sec. 506. Agricultural exports of beneficiary developing countries.
''Sec. 507. Definitions.''.

**SEC. 303. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this title apply to articles entered on or after October 1, 1996.

(b) RETROACTIVE APPLICATION.—

*(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (c)—*

*(A) any article that was entered—*

*(i) after July 31, 1995, and*

*(ii) before January 1, 1996, and*

*to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and*

*(B) any article that was entered—*

*(i) after December 31, 1995, and*

*(ii) before October 1, 1996, and*

*to which duty-free treatment under title V of the Trade Act of 1974 (as amended by this title) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.*

*(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.*

*(3) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.*

*(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—*

*(1) to locate the entry; or*

*(2) to reconstruct the entry if it cannot be located.*

***SEC. 304. CONFORMING AMENDMENTS.***

*(a) TRADE LAWS.—*

*(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—*

*(A) in paragraph (1), by striking ''(19 U.S.C. 2463(a), 2464(c)(3))'' and inserting ''(as in effect on July 31, 1995)''; and*

*(B) in paragraph (2), by striking ''(19 U.S.C. 2464(c)(1))'' and inserting the following: ''(as in effect on July 31, 1995)''.*

*(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.*

*(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.*

*(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking ''sections 503(b) and 504(c)'' and inserting ''subsections (a), (c), and (d) of section 503''.*

*(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking ''502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))'' and inserting ''502(f)(2) of the Trade Act of 1974''.*

*(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking ''502(a)(4)'' and inserting ''507(4)''.*

*(b) OTHER LAWS.—*

*(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''within the meaning of section 502'' and inserting ''under title V''.*

*(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.*

*(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—*

*(A) in paragraph (1) by striking ''502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))'' and inserting ''507(4) of the Trade Act of 1974'';*

*(B) in paragraph (2) by striking ''505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))'' and inserting ''504 of the Trade Act of 1974''; and*

*(C) in paragraph (4) by striking ''502(a)(4)'' and inserting ''507(4)''.*

*(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p–4p(a)(1)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.*

*(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended in subsections (a)(5)(F) (v) and (n)(1)(C) by striking ''503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))'' and inserting ''503(b)(3) of the Trade Act of 1974''.*

## *TITLE IV—REVENUE OFFSETS*

***SEC. 400. AMENDMENT OF 1986 CODE.***

*Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.*

### *Subtitle A—Foreign Trust Tax Compliance*

***SEC. 401. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.***

*(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:*

***''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.***

*''(a) NOTICE OF CERTAIN EVENTS.—*

*''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).*

*''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—*

*''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and*

*''(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.*

*''(3) REPORTABLE EVENT.—For purposes of this subsection—*

*''(A) IN GENERAL.—The term 'reportable event' means—*

*''(i) the creation of any foreign trust by a United States person,*

*''(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and*

*''(iii) the death of a citizen or resident of the United States if—*

*''(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or*

*''(II) any portion of a foreign trust was included in the gross estate of the decedent.*

*''(B) EXCEPTIONS.—*

*''(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.*

*''(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—*

*''(I) described in section 402(b), 404(a)(4), or 404A, or*

*''(II) determined by the Secretary to be described in section 501(c)(3).*

*''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—*

*''(A) the grantor in the case of the creation of an inter vivos trust,*

*''(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and*

*''(C) the executor of the decedent's estate in any other case.*

*''(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—*

*''(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—*

*''(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and*

*''(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.*

*''(2) TRUSTS NOT HAVING UNITED STATES AGENT.—*

*''(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.*

*''(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—*

*''(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or*

*''(ii) any summons by the Secretary for such records or testimony.*

*The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.*

*''(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.*

*''(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—*

*''(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—*

*''(A) the name of such trust,*

*''(B) the aggregate amount of the distributions so received from such trust during such taxable year, and*

*''(C) such other information as the Secretary may prescribe.*

*''(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—*

*''(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To*

*the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).*

*''(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.*

*''(d) SPECIAL RULES.—*

*''(1) DETERMINATION OF WHETHER UNITED STATES PERSON MAKES TRANSFER OR RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.*

*''(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.*

*''(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.*

*''(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''.*

*(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:*

***''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.***

*''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—*

*''(1) is not filed on or before the time provided in such section, or*

*''(2) does not include all the information required pursuant to such section or includes incorrect information,*

*the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.*

*''(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—*

*''(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and*

*''(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.*

*''(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—*

*''(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),*

*''(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and*

*''(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).*

*''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.*

*''(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''.*

*(c) CONFORMING AMENDMENTS.—*

*(1) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting '', or'', and by inserting after subparagraph (T) the following new subparagraph:*

*''(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).''.*

*(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:*

*''Sec. 6048. Information with respect to certain foreign trusts.''.*

*(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:*

*''Sec. 6677. Failure to file information with respect to certain foreign trusts.''.*

*(d) EFFECTIVE DATES.—*

*(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.*

*(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.*

*(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.*

***SEC. 402. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.***

*(a) IN GENERAL.—Section 1494 is amended by adding at the end the following new subsection:*

*''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a notice under section 6048(a).''.*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.*

***SEC. 403. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.***

*(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—*

*(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:*

*''(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.''.*

*(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:*

*''(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—*

*''(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—*

*''(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and*

*''(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).*

*''(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.*

*''(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—*

*''(i) the trust,*

*''(ii) any grantor or beneficiary of the trust, and*

*''(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.''.*

*(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking ''section 404(a)(4) or 404A'' and inserting ''section 6048(a)(3)(B)(ii)''.*

*(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:*

*''(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—*

*''(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.*

*''(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.*

*''(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).*

*''(5) OUTBOUND TRUST MIGRATIONS.—If—*

*''(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and*

*''(B) such trust becomes a foreign trust while such individual is alive,*

*then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.''.*

*(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:*

*''(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.''.*

*(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:*

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

**SEC. 404. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.**

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

''(2) EXCEPTIONS.—

''(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any portion of a trust if—

''(i) the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

''(ii) the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

''(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

''(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

''(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

''(B) paragraph (1) shall not apply for purposes of applying section 1296.

''(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

''(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

''(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

''(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary or any member of such beneficiary's family (within the meaning of section 267(c)(4)) has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.''.

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting ''subsection (f) and'' before ''sections 674''.

(b) CREDIT FOR CERTAIN TAXES.—

(1) Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.''.

(2) Paragraph (5) of section 901(b) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.''.

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

''(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''.

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

**SEC. 405. INFORMATION REPORTING REGARDING FOREIGN GIFTS.**

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

**''SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.**

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Notice of large gifts received from foreign persons.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

**SEC. 406. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.**

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

''(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

''(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

''(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

''(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

''(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

''(i) the undistributed net income for such year, and

''(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

''(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

''(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

''(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

''(A) by using an interest rate of 6 percent, and

''(B) without compounding until January 1, 1996.''.

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''.

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

''(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

''(A) any grantor or beneficiary of such trust who is a United States person, or

''(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

''(B) RELATED PERSON.—

''(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

''(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

''(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

''(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

''(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''.

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting '', 643(i),'' before ''or 1274'' each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities made after September 19, 1995.

***SEC. 407. RESIDENCE OF TRUSTS, ETC.***

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking ''and'' at the end of subparagraph (C) and by striking subparagraph (D) and by inserting the following new subparagraphs:

''(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

''(E) any trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

''(ii) one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''.

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—

''(A) FOREIGN ESTATE.—The term 'foreign estate' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

''(B) FOREIGN TRUST.—The term 'foreign trust' means any trust other than a trust described in subparagraph (E) of paragraph (30).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

***Subtitle B—International Shipping Income Disclosure***

***SEC. 411. PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL SHIPPING INCOME IS NOT INCLUDIBLE IN GROSS INCOME.***

(a) IN GENERAL.—Section 883 is amended by adding at the end the following new subsection:

''(d) PENALTIES FOR FAILURE TO DISCLOSE POSITION THAT CERTAIN INTERNATIONAL SHIPPING INCOME IS NOT INCLUDIBLE IN GROSS INCOME.—

''(1) IN GENERAL.—A taxpayer who, with respect to any tax imposed by this title, takes the position that any of its gross income derived from the international operation of a ship or ships is not includible in gross income by reason of subsection (a)(1) or section 872(b)(1) (or by reason of any applicable treaty) shall be entitled to such treatment only if such position is disclosed (in such manner as the Secretary may prescribe) on the return of tax for such tax (or any statement attached to such return).

''(2) ADDITIONAL PENALTIES FOR FAILING TO DISCLOSE POSITION.—If a taxpayer fails to meet the requirement of paragraph (1) with respect to any taxable year—

''(A) the amount of the income from the international operation of a ship or ships—

''(i) which is from sources without the United States, and

''(ii) which is attributable to a fixed place of business in the United States,

shall be treated for purposes of this title as effectively connected with the conduct of a trade or business within the United States, and

''(B) no deductions or credits shall be allowed which are attributable to income from the international operation of a ship or ships.

''(3) REASONABLE CAUSE EXCEPTION.—This subsection shall not apply to a failure to disclose a position if it is shown that such failure is due to reasonable cause and not due to willful neglect.''

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 872(b) is amended by striking ''Gross income'' and inserting ''Except as provided in section 883(d), gross income''.

(2) Paragraph (1) of section 883(a) is amended by striking ''Gross income'' and inserting ''Except as provided in subsection (d), gross income''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the later of—

(A) December 31, 1996, or

(B) the date that the Shipbuilding Agreement enters into force with respect to the United States.

(2) COORDINATION WITH TREATIES.—The amendments made by this section shall not apply in any case where their application would be contrary to any treaty obligation of the United States.

(d) INFORMATION TO BE PROVIDED BY CUSTOMS SERVICE.—The United States Custom Service shall provide the Secretary of the Treasury or his delegate with such information as may be specified by such Secretary in order to enable such Secretary to determine whether ships which are not registered in the United States are engaged in transportation to or from the United States.

Mr. NICKLES. Mr. President, I ask unanimous consent the committee amendment be considered not agreed to; the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, the amendment to the title be considered tabled, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The committee amendment was rejected.

The bill (H.R. 3074) was deemed read for a third time, and passed.

## MEASURE READ THE FIRST TIME—H.R. 3452

Mr. NICKLES. Mr. President, I understand H.R. 3452 has arrived from the House. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 3452) to make certain laws applicable to the Executive Office of the President, and for other purposes.

Mr. NICKLES. I now ask for its second reading and would object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. The bill will remain at the desk pending its second reading on the next legislative day.

## PROVIDING FOR THE SAFETY OF JOURNEYMEN BOXERS

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate immediately proceed to consideration of H.R. 4167, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4167) to provide for the safety of journeymen boxers, and for other purposes.

Mr. NICKLES. Mr. President, I ask unanimous consent the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 4167) was deemed read for a third time, and passed.

## FALSE STATEMENTS ACCOUNTABILITY ACT OF 1996

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (H.R. 3166) to amend title 18, United States Code, with respect to the crime of false statement in a Government matter.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate to the bill (H.R. 3166) entitled ''An Act to amend title 18, United States Code, with respect to the crime of false statement in a Government matter'', with the following House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''False Statements Accountability Act of 1996''.*

***SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.***

*Section 1001 of title 18, United States Code, is amended to read as follows:*

***''§1001. Statements or entries generally***

*''(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—*

*''(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;*

*''(2) makes any materially false, fictitious, or fraudulent statement or representation; or*

*''(3) makes or uses any false writing or document knowing the same to contain any materially false fictitious or fraudulent statement or entry;*

*shall be fined under this title or imprisoned nor more than 5 years, or both.*

*''(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.*

*''(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—*

*''(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or*

*''(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.''.*

***SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.***

*Section 1515 of title 18, United States Code, is amended—*

*(1) by redesignating subsection (b) as subsection (c); and*

*(2) by inserting after subsection (a) the following new subsection:*

*''(b) As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.''.*

***SEC. 4. ENFORCING SENATE SUBPOENA.***

*Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking ''Federal Government acting within his official capacity'' and inserting ''executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government''.*

***SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.***

*Section 6005 of title 18, United States Code, is amended—*

*(1) in subsection (a), by inserting ''or ancillary to'' after ''any proceeding before''; and*

*(2) in subsection (b)—*

*(A) in paragraphs (1) and (2), by inserting ''or ancillary to'' after ''a proceeding before'' each place that term appears; and*

*(B) in paragraph (3), by adding a period at the end.*

Mr. SPECTER. Mr. President, I am pleased that the Senate is taking final action to enact the False Statements Accountability Act of 1996, legislation to overturn the Supreme Court's 1995 decision in Hubbard versus United States and restore the prohibition on making false statements to Congress.

The bill before us is in substance identical to the bill that passed the Senate on July 25, 1996, except in one respect. I do not want to reiterate all that I said at that time, so I will address at this time only the one substantive difference between the bill passed by the Senate and the current compromise we will vote on today.

As passed, the Senate bill provided blanket application to prohibit any false statement made to Congress or any component of Congress, including individual members and their offices. The coverage provided by the House bill was much narrower in scope. The trick was to reconcile the two approaches. Through detailed negotiations and the good faith of all concerned, we have been able to produce this compromise legislation, which restores the applicability of section 1001 of title 18 of the United States Code to the areas in which Congress most needs it.

First, the compromise covers false statements made in all administrative matters. This includes claims for payment, vouchers, and contracting proposals. The provision also covers all employment related matters, such as submitting a phony resume or making false claims before the Office of Compliance or Office of Fair Employment Practices. Also covered are all documents required by law, rule, or regulation to be submitted to Congress. This crucial provision will cover all filings under the Ethics in Government Act and the Lobbying Disclosure Act and provides a real deterrent to false filings under these two laws, among others. For this reason alone, this bill is one of the most important congressional reforms we will have taken during this Congress.

The compromise also applies the prohibition on false statements to an investigation or review conducted by any committee, subcommittee, commission, or office of the Congress. This provision will prohibit knowing and willful material false statements to entities like the General Accounting Office and the Congressional Budget Office. False statements to the Capitol Police will also be covered.

The greatest difficulty was in formulating the scope of the applicability of the false statement prohibition to committees and subcommittees of each House of Congress. Only committee or subcommittee investigations or reviews conducted pursuant to the authority of the particular committee or subcommittee, meaning within its jurisdiction, will receive the protection of section 1001, and then only so long as the investigation or review is conducted in a manner consistent with the rules of the House or Senate, as relevant. This provision will allow each House to determine for itself whether to limit the circumstances in which committee or subcommittee investigations or reviews will be covered by section 1001. We do not intend, however, for the Senate to need to change its rules before false statements made to a committee or subcommittee conducting a review of a policy within its jurisdiction be punishable under this act.

In having the bill cover any investigation, we intend to cover formal investigations conducted pursuant to the rules of particular committees of the Senate, many of which have specific rules covering investigations. Thus, an investigation will be a more formal inquiry into a particular matter within

the jurisdiction of a committee or subcommittee. Included in the definition of investigation are ancillary proceedings, such as depositions, and formal steps employed by certain committees that are a necessary prelude to an investigation, such as a preliminary inquiry and initial review employed by the Select Committee on Ethics.

The application of the bill to any review by a committee or subcommittee is broader. Under Rule XXVI (8) of the Standing Rules of the Senate, each committee ''shall review * * * on a continuing basis the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the legislative jurisdiction of that committee.'' By using review in this law, we intend to cover all such review conducted by committees and subcommittees of the Senate. Often, we refer to such reviews as oversight. The sponsors of the bill, who include the chairman and former chairman of the Committee on Governmental Affairs, and the chairman and former chairman of the Permanent Subcommittee on Investigations, among others, intend that the term ''review'' be read broadly to cover all committee oversight and inquiries into the current operation of federal law and policy, compliance with Federal law, or proposals to improve Federal law, policy, or administration. In addition, we intend to capture within the meaning of review matters within committee jurisdiction that are not directly legislative, such as confirmation proceedings.

We chose to limit the act to committees and subcommittees, and their staff, because these are the entities through which Congress conducts its inquiries and oversight; these are the entities that hold hearings; these are the entities that can issue and enforce legal process; these are the entities charged with developing legislation for consideration by each House of Congress. Thus, section 1001 will not apply to statements made to individual members not acting as part of a committee or subcommittee investigation or review. This restriction should alleviate any concern that constituents exercising their right to petition Congress would fear prosecution for inadvertent or minor misstatements. No first amendment rights will be chilled by this bill. Nor will the bill apply to the statement of opinion or argument, as only knowing and willful false statements of fact are meant to be covered.

This is an important bill. I am pleased that enough Members of both Houses saw the need to act quickly on this legislation, which I believe to be absolutely necessary to protect the constitutional interests of the Congress. I want to thank my colleagues and cosponsors, in particular Senator LEVIN, the lead cosponsor, for their efforts. I also want to thank Representative Bill Martini, sponsor of the House companion, for pushing so hard to get this done, and Chairman BILL MCCOLLUM of the House Subcommittee on Crime, and his staff, Paul McNulty and Dan Bryant, for working so hard to reach agreement on this bill.

Mr. LEVIN. Mr. President, as a sponsor of S. 1734, the Senate-passed version of this legislation, I am pleased to join Senator SPECTER in urging passage of this bill. The House passed this bill, which restores criminal penalties for knowing, willful, material false statements made to a Federal court or Congress, by rollcall vote without a single vote in opposition. I hope we can pass it here by unanimous consent.

For 40 years, title 18 United States Code, section 1001 has been a mainstay of our legal system, by criminalizing intentional false statements to the Federal Government. In 1955, the Supreme Court interpreted title 18 United States Code, section 1001 to prohibit knowing, willful, material false statements not only to the executive branch, but also to the judicial and legislative branches. Last year the Supreme Court, in Hubbard versus United States, reversed this precedent and held that Section 1001 prohibits false statements only to the executive branch, and not to the judiciary or legislative branches.

The Supreme Court based its decision on the wording of the statute which doesn't explicitly reference either the courts or Congress. The Court noted in Hubbard that it had failed to find in the statute's legislative history ''any indication that Congress even considered whether, section 1001, might apply outside the Executive Branch.''

The obvious result of the Hubbard decision has been to reduce parity among the three branches. And the new interbranch distinctions are difficult to justify, since there is no logical reason why the criminal status of a willful, material false statement should depend upon which branch of the Federal Government received it.

Senator SPECTER and I each introduced bills last year to supply that missing statutory reference. This year, we joined forces, along with a number of our colleagues, and introduced S. 1734. It was passed by the Senate on July 26 of this year with the support of the administration. We then worked out our differences with the House, and that's how we are able to bring this final product before the Senate. I want to associate myself with the remarks of Senator SPECTER in describing the differences between H.R. 3166 and S. 1734.

Provisions to bar false statements and compel testimony have been on the Federal statute books for 40 years or more. Recent court decisions and events have eroded the usefulness of some of these provisions as they apply to the courts and Congress. The bill before you is a bipartisan effort to redress some of the imbalances that have arisen among the branches in these areas. It rests on the premise that the courts and Congress ought to be treated as coequal to the executive branch when it comes to prohibitions on false statements.

I want to thank Senator SPECTER and his staff, Richard Hertling, for their dedication to this legislation. We have been able to solve problems that arose because of the truly bipartisan approach we had to this bill. I also want to thank Senator HATCH, chairman of the Judiciary Committee, for recognizing the significance of this legislation and acting promptly on it in committee to get it to the Senate floor, and I want to thank the Members in the House, Congressmen MARTINI, MCCOLLUM and HYDE, without whose assistance this bill wouldn't be at this point. I also want to thank Morgan Frankel and Mike Davidson. Morgan is currently Deputy Senate Legal Counsel and Mike recently left as Senate Legal Counsel. Their experience with the work of the Senate was valuable in working through a number of technical issues. I particularly want to thank Elise Bean of my staff who is as capable as they come and simply an excellent lawyer.

Mr. President, I urge my colleagues to join Senator SPECTER, myself, and our cosponsors in sending this bill to the President for his signature.

Mr. ROTH. Mr. President, I rise today to indicate my full support for this bill, which returns to the Federal false statements statute, 18 U.S.C. §1001, the simple but vital proposition that lying to Congress is as unacceptable as lying to any other part of the Government.

This legislation has enormous practical importance for the oversight and investigative work performed by the Senate. As the past chairman of the Governmental Affairs Committee and the current chairman of the Permanent Subcommittee on Investigations, I have chaired many oversight hearings and conducted numerous investigations that have probed the efficacy of Federal Government programs and initiatives. Oftentimes, the Committee and Subcommittee's work has uncovered serious problems, sometimes of a criminal dimension. In the best of circumstances, gathering facts that may not reflect well on an agency, or a program, or an individual is difficult. Willful deceit out of the mouths of witnesses or in the documents they provide to Congress can make that job nearly impossible.

Until Hubbard was decided last year, the threat of criminal sanctions under §1001 was a powerful deterrent to such deceit, and it was the source of appropriate punishment for those who lie to Congress. We need to return §1001 to Congress' investigative and oversight arsenal, and this legislation will do just that. That being the primary effect of the legislation, it also works well-crafted and necessary changes to other aspects of Congress's ability to investigate, and I support those as well.

Many years ago, Woodrow Wilson wrote, ''Unless Congress have and use

every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct.'' It is for this fundamental reason—that Congress must be able to scrutinize accurately the matters before it—that I am proud to co-sponsor this legislation and urge my colleagues to support it.

Mr. BRYAN. Mr. President, today the Senate has agreed to pass a very important bill, the False Statements Penalty Restoration Act (H.R. 3166).

When Congress originally enacted the False Statements Act, the Federal perjury statute, 18 U.S.C. Sec. 1001, to impose felony criminal penalties on an individual who knowingly and willfully makes a false or fraudulent statement, it thought it had created a criminal law that applied to all three branches of Government, including Congress. And since 1955, when the U.S. Supreme Court specifically held that the statute applied to all three branches, this was the law of the land.

However, in 1995, the U.S. Supreme Court held that the statute did not apply to the judiciary branch, thus creating uncertainty about whether false statements made to Congress and by Members of Congress were now covered by the law.

To our constituents, it once again appeared that Members of Congress were a special class to which a particular law did not apply—and that may have been the case.

Since the 1995 Supreme Court decision, indictments charging individuals with making knowing and willful false statements on financial disclosure forms and other reports have been dismissed. This situation must not be allowed to continue for one day more.

Today's legislation makes clear that Congress is indeed subject to this important law, as it should be. It returns us to where the law was for the last 40 years.

As a former chair and vice chair of the Ethics Committee, I know this legislation has particular significance. Without this legislation, there are currently no sanctions for deliberately filing false information in connection with these Federal reporting documents. To ensure the integrity of these reporting requirements, this bill must be enacted so it is very clear there are penalties for knowing and willful violations.

This legislation also addresses needed clarification in the obstruction of justice statute, 18 U.S.C. Sec. 1505. This law makes it a Federal offense to impede or obstruct an investigation of a congressional committee. In 1991, the D.C. District Circuit Court of Appeals held, however, that the statute did not clearly prohibit an individual from personally lying to or obstructing Congress in its investigations.

Again, I know first hand from my Senate Ethics Committee experience how this court interpretation risks impairing the ability of the Ethics Committee, and other congressional investigations to maintain any integrity in its proceedings. If a person can lie, or induce another to lie for him without worry of being prosecuted for such action, of what consequence would be any congressional investigation.

This legislation corrects the 1991 Supreme Court decision. Any individual who tries to impede a congressional or other governmental investigation, regardless of whether the individual acts on his own, or through the actions of another individual is going to be penalized—period.

I am pleased to support this legislation to remedy these ambiguities in our statutes, and ensure the integrity of Congress' investigations, and the Federal reporting requirements. For the American public, this bill also ensures that no member of Congress is above the law.

The following is a more detailed explanation of the changes this legislation will make, and its particular impact on the work of the Senate Ethics Committee, and other congressional investigations.

The Federal perjury statute, 18 U.S.C. Sec. 1621, punishes knowing false and material testimony, only if given under oath, such as in formal committee hearings and depositions. The Ethics Committee necessarily uses a variety of other, less formal fact-gathering techniques in the conduct of its initial examinations of complaints and preliminary inquiries, in order to determine whether there are sufficient grounds to warrant receipt of formal testimony through depositions and hearings.

It is critical to the Ethics Committee's ability to fulfill its responsibility to the Senate to investigate allegations of misconduct, and to the subjects of allegations to investigate fairly, that the committee's preliminary judgments about potential wrongdoing be based on the most accurate information possible. The availability of a criminal sanction under section 1001 for knowing false and material statements to the committee is an important safeguard to preserve the quality of the committee's investigative functions.

The absence of section 1001 liability may push the Ethics Committee to initiate formal proceedings more often, and earlier, than it would otherwise, just to ensure it receives truthful information. This premature heightening of ethics inquiries risks imposing unwarranted and unfair injury to subjects' reputations and unnecessary expense to the Senate.

This bill would restore the applicability of section 1001 to false material statements to congressional committees during inquiries.

Individuals who have knowingly filed false financial disclosure statements have in the past been convicted of violating the false statements statute, 18 U.S.C. Sec. 1001. Following the U.S. Supreme Court's reinterpretation of section 1001 last year, executive branch officials are still subject to punishment for false statements under section 1001, but congressional filers cannot be punished under section 1001 for identical misconduct. While congressional filers may potentially remain subject to sanction under other criminal code provisions, the applicability of these other provisions is untested and uncertain. Members of Congress and their staffs should not receive any possibility of special treatment, but should face the same criminal sanction for their false financial disclosures as other government officials.

In addition, the Senate Code of Official Conduct and Federal law require the filing of a number of other reports and disclosure forms under various circumstances. These include reports of the acceptance of gifts from foreign governments, disclosure of employees' reimbursed travel expenses and authorization for such reimbursement, reports of designations of charitable contributions by registered lobbyists or foreign agents in lieu of honoraria, and reports of contributions to and expenditures from legal expense funds, among other matters for which reports or disclosure is required.

Without section 1001, there are currently no sanctions for deliberately filing false information in connection with any of these reporting requirements. For these disclosure and reporting requirements to fulfill the purpose for which they were established, there need to be clear penalties for willful violations of the rules by the filing of false reports.

The obstruction of justice statute, 18 U.S.C. Sec. 1505, makes it a Federal offense corruptly to impede or obstruct an investigation of a congressional committee. Historically, this provision has served to safeguard the integrity of congressional inquiries by providing a penalty for individuals who seek to obstruct a proper inquiry. In 1991, the D.C. Circuit Court of Appeals decision in the Poindexter case seriously eroded the protection of section 1505 by holding that, as applied to conduct undertaken by an individual witness him/herself, rather than through another individual, the law was unconstitutionally vague to be applied.

For a committee like the Senate Ethics Committee, which has the task of finding facts in sensitive and complicated cases involving potential misconduct of Senators, this narrowed interpretation raises serious risks of impairing the integrity of the committee's proceedings. In the case involving former Senator Bob Packwood, the Ethics Committee noted in its report that ''the committee is specifically empowered to obtain evidence from Members and others who are the subject of

committee inquiry, and it is entitled to rely on the integrity of such evidence. Indeed, the entire process is compromised and rendered wholly without value if persons subject to the committee's inquiry, or witnesses in an inquiry, are allowed to jeopardize the integrity of evidence coming before the committee.'' [Report at pages 142–43].

For many years, it has been understood that an individual who acts with improper or corrupt purpose to obstruct a committee or other Government investigation, whether by false or misleading testimony, the deliberate destruction or alteration of documents, or other nefarious means, commits wrongdoing subject to punishment under 18 U.S.C. section 1505. Now, after the Poindexter decision, a serious question exists whether an individual who engages in conduct to obstruct an investigation personally, rather than by persuading someone else to do so, may be called to account for such unacceptable conduct under section 1505.

It is my firm conviction that Congress has already acted legislatively through the present language of section 1505 to criminalize this conduct. However, since at least one court was apparently unclear on what Congress had in mind, it is important that we provide explicit guidance in the law so clear that no confusion will arise in the future.

This bill would correct the court's nonsensical interpretation of section 1505 by making clear that the statute prohibits witnesses from engaging with improper purpose in any of the variety of means by which individuals may seek to impede a congressional or other governmental investigation, whether doing so personally or through another individual, and whether by making false or misleading statements or withholding, concealing, altering, or destroying documents sought by congressional committees and other investigative bodies.

The Senate subpoena enforcement statute, 28 U.S.C. section 1365, provides the mechanism for Senate committees to go to court to seek assistance from the court in enforcing compliance with a subpoena of the committee. This system, which was enacted in 1978, permits a committee seeking necessary testimony or documents to apply to court, with the Senate's authorization, so that the witness may present his/her privilege or other basis not to comply with the Senate subpoena. If the court sustains the committee's position, it may order the witness to comply with the subpoena and thereby enable the committee to obtain the information it needs in a timely and fair manner.

Over the past 20 years, the availability of this system has proven extremely beneficial to Senate committees, including the Ethics Committee. The Ethics Committee utilized this process to obtain a judicial ruling on Senator Packwood's objections to providing portions of his diaries to the committee. In that case, the courts upheld the committee's position and Senator Packwood was ordered to turn over his diary materials, subject to the masking of privileged and personal information, which the committee respected. The process worked well and enabled the committee to obtain the evidence it needed to complete its responsibilities to the Senate and the public.

An ambiguity in the current statute, however, periodically threatens the ability of this salutary system to work to resolve controversies between Senate committees and witnesses. When the enforcement law was enacted, an exception was carved out for privilege assertions by the executive branch, so that the courts would not be called on to resolve disputes between the two political branches of Government. The drafting of that exception left some unfortunate doubt, however, as to its applicability when a witness who happened to be employed by the Federal Government was asserting a personal privilege or objection to a Senate subpoena, not a governmental privilege. The law was never intended to exclude such cases from judicial resolution and there is no good reason for so doing.

The ambiguity has created questions in some cases as to whether or not the Senate could utilize the civil enforcement mechanism to obtain judicial assistance with one of its committees' subpoenas. Even in the example, I described involving Senator Packwood, a question could have arisen whether, because he was a Senator, and, therefore, a Government officer, the exception precluded judicial enforcement of the Ethics Committee subpoena. Senator Packwood did not make such an argument, and the court did accept jurisdiction over the case.

However, the mere possibility of such a jurisdictional issue's arising creates an impediment to the swift and sure resolution of disputes over the entitlement of Senate committees to information they need. In the context of an important and sensitive ethics investigation, the risk of such a situation arising in the midst of an investigation is unacceptable. This bill would clarify section 1365 to make clear that the Senate may authorize committees to go to court to resolve subpoena disputes, whether with private individuals or Government employees, as long as the witness is raising a personal privilege or objection, rather than governmental privilege.

The final clarification in the bill involves the congressional immunity statute, 18 U.S.C. section 6005. Senate committees have power to confer use immunity, by vote of two-thirds of their membership, to compel witnesses to testify notwithstanding an assertion of Fifth Amendment privilege. Committees properly immunize witnesses very sparingly, only when they determine that receiving the testimony is necessary to the committee's task and that the possible adverse effect on future criminal prosecution is tolerable. Following the D.C. Circuit's decision in the North case, in particular, committees are on notice that conferral of use immunity to receive testimony in public hearings subject to television broadcast may have a dramatic impact on the ability of a prosecution to obtain a conviction for criminal wrongdoing. Since the North decision, Senate committees have proceeded exceedingly cautiously before agreeing to grant use immunity to a witness.

There are occasions, nonetheless, when immunity is appropriate and necessary to receive testimony from an essential witness. In such circumstances, committees have properly conferred use immunity. This has happened in the Senate on a total of 10 occasions since the North decision. All but 1 of these instances—that is, 9 times out of the 10—were in the context of Ethics Committee investigations, when immunity was necessary to obtain information about allegations of wrongdoing by a Senator.

One of the tools that the Ethics Committee has used in these instances in order to help make sure that there are not adverse repercussions on criminal prosecutions is its authority to receive the immunized testimony in private session, as in staff depositions. Indeed, eight of the nine witnesses who were immunized for testimony at staff depositions, not at public hearings. This procedure enables the Committee to receive information that it needs, but to do so in a forum that does not run the risk of spreading a witness' immunized testimony across the nation's television screens.

Unfortunately, the technical drafting of the immunity statute has apparently left a question in some people's minds as to whether the Senate's immunity poser extends to authorized staff depositions, or only to committee hearings. This was raised as a serious problem in the Iran-Contra investigation and any committee that ever seeks to receive testimony under immunity in a deposition runs the risk of the issue being raised there to block the testimony. The Ethics Committee is the committee that bears the greatest chance of facing this impediment in the future.

Accordingly, this bill contains a very simple, but important, amendment to make clear that the congressional immunity statute covers ancillary proceedings, like staff depositions, as well as committee hearings. Immunity still would be conferred only on a two-thirds vote of the full committee, and would be done so sparingly. However, with this change, there will be no questions that committees would be able to compel immunized testimony at staff depositions, rather than being forced to receive the testimony in a committee hearing, where it could possibly later taint a criminal prosecution.

Mr. NICKLES. I ask unanimous consent the Senate concur in the House amendment to the Senate amendments.

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

## ORDERS FOR SATURDAY, SEPTEMBER 28, 1996

Mr. NICKLES. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Saturday, September 28; further, immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business, with statements limited to 5 minutes each.

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

## PROGRAM

Mr. NICKLES. Following morning business on Saturday, the Senate will be awaiting House action on an omnibus appropriations bill, if produced from negotiations. The Senate may also be asked to turn to consideration of any other items cleared for action. Rollcall votes are therefore possible throughout the day on Saturday. The leadership will attempt to give adequate notice to Members in the event that rollcall votes prove to be necessary.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. NICKLES. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:54 p.m., adjourned until Saturday, September 28, 1996, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 27, 1996:

### NATIONAL MEDIATION BOARD

MAGDALENA G. JACOBSEN, OF OREGON, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1999. (REAPPOINTMENT)

### IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

BRIAN C. CONROY
RONALD J. MAGOON
ARLYN R. MADSEN, JR.
CHRIS J. THORNTON
KEITH F. CHRISTENSEN
DOUGLAS W. ANDERSON
TIMOTHY J. CUSTER
NATHALIE DREYFUS
SCOTT A. KITCHEN
KURT A. CLASON
JACK W. NIEMIEC
GREGORY W. MARTIN
RHONDA F. GADSDEN
NONA M. SMITH
GLEN B. FREEMAN
WILLIAM H. RYPKA
ROBERT C. LAFEAN
GERALD F. SHATINSKY
THOMAS J. CURLEY III
STEVEN M. HADLEY
JEROME R. CROOKS, JR.
JOHN F. EATON, JR.
CHARLES A. HOWARD
DAVID H. DOLLOFF
MARK A. HERNANDEZ
STEPHEN E. MAXWELL
ROBERT E. ASHTON
DAVID W. LUNT
ABRAHAM L. BOUGHNER
WILLIAM J. MILNE
GLENN F. GRAHL, JR.
GREGORY W. BLANDFORD
ANNE L. BURKHARDT
DOUGLAS C. LOWE
THOMAS M. MIELE
EDDIE JACKSON III
ANTHONY T. FURST
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LARRY A. RAMIREZ
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BENJAMINE A. EVANS
GWYN R. JOHNSON
TRACY L. SLACK
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THOMAS C. HASTING, JR.
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SAMUEL L. HART
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TIMOTHY E. KARGES
ROCKY S. LEE
DAVID SELF
RANDY C.TALLEY
JOHN D. GALLAGHER
ROBERT M. CAMILLUCCI
ROBERT G. GARROTT
CHRISTOPHER B. ADAIR
GREGORY W. JOHNSON
ERIC C. JONES
SCOT A. MEMMOTT
JOHN R. LUSSIER
GREGORY P. HITCHEN
MELVIN W. BOUBOULIS
RICHARD W. SANDERS
MELISSA BERT
JASON B. JOHNSON
ANITA K. ABBOTT
RAYMOND W. PULVER
VERNE B. GIFFORD
STUART M. MERRILL
SCOTT N. DECKER
JOSEPH E. VORBACH
PETER W. GAUTIER
KEVIN E. LUNDAY
MATTHEW T. RUCKERT
BRIAN R. BEZIO
CHRISTOPHER M. SMITH
CHRISTINE L. MACMILLIAN
ANTHONY J. VOGT
JOANNA M. NUNAN
JAMES A. CULLINAN
JOSEPH SEGALLA
DONALD R. SCOPEL
JOHN J. PLUNKETT
GWEN L. KEENAN
CHRISTOPHER M. RODRIGUEZ
RICHARD J. RAKSNIS
PATRICK P. O'SHAUGHNESSY
MARC A. GRAY
ANTHONY POPIEL
GRAHAM S. STOWE
MATTHEW L. MURTHA
CHRISTOPHER P. CALHOUN
JAMES M. CASH
KYLE G. ANDERSON
DWIGHT T. MATHERS
JONATHAN P. MILKEY
PAULINE F. COOK
MATTHEW J. SZIGETY
ROBERT J. TARANTINO
RUSSEL C. LABODA
JOHN E. HARDING
ANDREW P. KIMOS
CRAIG S. SWIRBLISS
JOHN T. DAVIS
JOHN J. ARENSTAM
ANTHONY R. GENTILELLA
JOHN M. FITZGERALD
JOHN G. TURNER
KIRK D. JOHNSON
RAMONCITO R. MARIANO
DAVID R. BIRD
LEIGH A. ARCHBOLD
WILLIAM B. BREWER
DANA G. DOHERTY
WILLIAM G. KELLY

THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

MONICA L. LOMBARDI
MICHAEL E. TOUSLEY
LATICIA J. ARGENTI
THOMAS F. LENNON
SLOAN A. TYLER
DONALD A. LACHANCE II
KAREN E. LLOYD

### IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF COLONEL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTIONS 618 AND 628 OF TITLE 10, UNITED STATES CODE:

TODD H. GRIFFIS, 2756

# EXTENSIONS OF REMARKS

## GPO—A NETWORK READY FOR THE FUTURE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. HOYER. Mr. Speaker, I rise today to recognize the work conducted by a very important and often forgotten office which serves Congress each and every day. The Government Printing Office [GPO] has seen vast changes in its 136 years of service to the Congress and was recently acknowledged for its ability to reach toward the future in the much respected trade publication In-Plant Graphics.

I would like to share this article with my colleagues and the public, as I believe it aptly captures the breadth of the work conducted by the GPO and addresses the great resource the GPO is to the Government. The Government Printing Office and the employees who do the work stand ready and prepared to deal with the challenges they face ahead, but more importantly, the GPO stands ready to meet its mission of doing the Government's printing in a timely and cost-effective manner.

GPO: NETWORKED, MODERNIZED, AND READY FOR THE FUTURE

(As the king of all in-plants, the 136-year-old Government Printing Office is a slimmer, more modern version of its former self—but challenges still remain)

(By Bob Neubauer)

As darkness wraps itself tightly around the nation's capital, the keyboard operators at the Government Printing Office (GPO) glance anxiously from their computer terminals toward the U.S. Capitol dome, visible through their windows.

Atop the dome glows a light. When it's on, Congress is in session. When Congress is in session, every detail of its proceedings is being transcribed and delivered to the folks in this room to be input into the Congressional Record database.

When the light goes out, it means the end is in sight, and soon their frenzied keyboarding will be over for another day.

Sometimes the light stays on for a long, long time. That's the nature of life at the GPO. The 9-to-5 life is not part of the deal. Long after the dome light goes dark and the Record database has been compiled, prepress and press workers are wide awake, hustling to convert this digital data to plates and get the Record printed and delivered to Congress by 9 a.m.

And with the average Record comprising more than 200 pages—about the same amount of type as four to six metropolitan daily newspapers—this is a daunting task indeed.

The GPO has been handling congressional printing since 1860, after experiments with contract printing failed miserably. Much has changed.

Today, under the leadership of Public Printer Michael DiMario, up to 80 percent of the GPO's work is procured from the private sector, leaving only complex, time- and security-critical work like the Record to be printed at the GPO's downtown Washington, D.C., headquarters.

With three buildings containing almost 35 acres of floor space, the GPO is a massive operation. It generates $800 million a year and employs 3,830 people. In addition to printing for Congress, the GPO also handles most executive branch printing.

A HEAVY LOAD

Some examples of the GPO's workload are:

The Federal Register, a daily publication that contains about 200 pages and has a press run of 23,000.

The U.S. Budget, which is produced under tight security and updated up until the last minute.

Daily business calendars for the House of Representatives and Senate. They are about 16 pages long at the beginning of a session and more than 200 pages by the end.

The President's annual economic report, a 400-page publication.

U.S. passports are also produced under tight security.

But with more than 10,000 copies required by 9 a.m. every morning that Congress is in session—even when sessions stretch through the night to the following day—the Congressional Record takes top priority among the jobs printed by the GPO.

The Record is also available online on the World Wide Web (http://www.access.gpo.gov) within an hour from the time the final page is sent to the pressroom. So far, users have downloaded an average of 2 million documents per month from 58 databases, which include the Record, the Register and other documents.

''We're able to make electronic products available to everyone,'' remarks DiMario. In addition to offering Web, modem and telnet availability of documents, he says, the GPO runs the Federal Depository Library program, making government publications available through a network of 1,400 libraries across the country.

Most of the work that goes into the Record, acknowledges Robert Schwenk, superintendent of the electronic photocomposition division, involves generating the electronic database. Tasks such as keyboarding, proofing, revising, assembling and electronic composing make up about two thirds of the cost of producing the Record.

Printing is done on a trio of new Rockwell web presses that were designed especially for the GPO. They can robotically handle all bundles and automatically strap them. When the webs aren't being used for the Record, the Register is keeping them busy.

There is always plenty of work to be done at the GPO to keep the equipment in action, and priorities change constantly throughout the day. Jobs are occasionally even pulled off of presses so that more important ones can be done.

''The work has to be done to meet, first and foremost, legislative, congressional priorities,'' notes GPO Staff Assistant Andrew Sherman—even if that means wasting part of a job and throwing the schedule off.

GPO employees, DiMario observes, have adapted well to this environment and are a hard-working lot.

''They really do believe they're doing important work to serve the public,'' he says. ''They're very proud of the products they produce.''

The GPO employs a vast assortment of digital and traditional graphic arts technologies—an intriguing mix of old and new. Hand binding and page-end marbling of some books, along with hand-set type for gold stamping, contrast sharply with the GPO's fiber-optic connections to Capitol Hill, CD recorders and computers numbering into the hundreds.

The GPO receives Senate proceedings via fiber-optic transmission from Capitol Hill for up to half of the Senate portion of the Record. Drafts of new legislation are received digitally from the House and Senate Legislative Counsel's office. About 80 percent of the Register is transmitted to the GPO by laser beam from the Office of the Federal Register.

''We're a 20th-century agency moving into the 21st,'' comments DiMario. The GPO is constantly exploring alternate methods of document dissemination, like CD–ROM and multi-media, depending on the needs of customers.

''We're attempting to be the multimedia producer of government publications, and we're restructuring the agency along those lines,'' DiMario continues. ''That does not diminish the value of in-plant production of paper products, although we recognize that in time that need is going to go down.''

THE PUSH TO PRIVATIZE

Though the GPO's high-tech capabilities may be impressive, certain government factions, caught up in the privatization fervor, see them as extravagant and are gunning to close the GPO, calling it wasteful. They believe that government printing should be contracted out to the private sector, supposedly saving the government millions.

It's not that easy, Sherman cautions.

''We have expressed skepticism that a similar capability exists in the private sector,'' he notes.

First of all, the GPO already outsources up to 80 percent of its printing. What is retained could not easily be handled by an outside supplier. Producing the Record, for example—with page counts fluctuating from 10 to a record 1,912 pages, and source material arriving in many different forms, including handwritten notes—by 9 a.m. every day, would be a challenge for even the largest printer.

The GPO is staffed to handle those heavy workloads but has enough other work, such as bills or hearings, to keep employees busy when the Record is smaller. Could a private printer keep a sizable staff on hand just to be prepared for the busy times?

If the Record were contracted out, the printer would also be responsible for converting the data and making it available on the Web each day. And with so much data coming in from Congress via fiber-optic connections, private sector printers would have to equip themselves with the same technologies and be provided with access to Congress' network.

In fact, with so much sharing of information between the Record and various bills, reports and other government databases, private contractors would require access to numerous currently secure government networks. The security of other documents, such as the Budget of the United States and the President's annual Economic Report, would also be put to a test.

Sherman points out that the GPO has already been busy scrutinizing itself and cutting back on printing to save money. Between 10,000 and 12,000 copies of the Record are now being produced, compared with 18,000 a year ago. Many GPO regional plants have been or are about to be closed. Since February 1993 the GPO has slashed its work force by about 900 positions, saving $45 million annually.

SERVICE STILL TAKES PRIORITY

Though the GPO continues to be a target of well-meaning legislators, Sherman stresses that the organization's main interest is serving the public, not merely fighting for survival.

''Our job is to help everyone perform the mission of getting printing requirements performed as cost effectively and in as timely a manner as possible—and granting public access,'' he notes. ''If people have got ways to do that mission better, we want to cooperate with them.

''In some cases legislation is offered without a great deal of research being put into what the possible consequences will be,'' he continues. ''Our job is to point out those consequences.''

Sherman advises government in-plant managers who are facing similar scrutiny to be open and cooperative with their challengers. Make sure to be recognized as a knowledgeable printing authority, not merely a scared manager fighting for his or her job. Carefully analyze all proposals.

''If something looks good and looks like it's going to work, than get behind it,'' he advises. On the other hand, if the proposal is flawed, ''don't be afraid to characterize the effects as you really see them.'' Still, he adds, be prepared to make changes that may seem painful at first, but that may prove smart later on.

In addition to challenges from pro-privatization forces, the GPO faces other possible roadblocks. A Justice Department opinion released in May said that the GPO's printing of executive branch documents is unconstitutional. Yet the public printer, head of the GPO, is appointed by the President, chief of the executive branch. And an April White House memo directed executive departments and agencies to ''make maximum use of the capabilities and expertise of the Government Printing Office in handling your agency's printing and duplicating procurements.'' The effects of the Justice Department's opinion are still unclear.

So for the time being, the work is still flowing in, keeping the GPO's presses and other equipment in high gear.

And as long as that light in the Capitol dome keeps shining and Congress keeps meeting, Sherman and his coworkers intend to throw themselves full-force into the task of getting the government's printing done on time and as inexpensively as possible.

## POINTS TO CONSIDER

## HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. KINGSTON. Mr. Speaker, I'm submitting the following, written by Nadra Enzi. These appeared in the Savannah Newspress and certainly make strong points for our society and government to consider.

[From the Savannah Morning News, Aug. 31, 1996]

(By Nadra Enzi)

ORDINARY CITIZENS COMBAT RACIST GRAFFITI

Editor: On May 22, while walking through Myers Park, an excited group of black girls called me over to its beautiful gazebo.

Puzzled, I strolled toward them and was treated to what they saw: intricate (not run-of-the-mill) white supremacist symbols, slogans and generally racist statements literally covered the gazebo's floor, railing and support beams.

Satisfied that adult attention was brought into the matter, they left, leaving me with a particularly golden opportunity to take action against an act of hate speech perpetrated in the heart of my historically predominant black community.

Given the gazebo's proximity to a nearby black church, I immediately walked there, wondering if this graffiti was connected to the black church burning campaign occurring nationally.

After showing its three occupants the scene, one of them, retired high school principal Richard Mole, called the police.

A unit arrived and its lone officer, also black, was so disturbed by what he saw that goose bumps raised on his arms.

Contacting his supervisor, who personally inspected the scene, including a note left behind, we were told that an investigation would be launched.

The next morning I called the city's Leisure Services Department, which referred my complaint to the direct of Park and Trees.

He personally called and told me that he'd have a crew there to photograph and remove the graffiti later that morning (which he did).

Later, a white male teen was arrested at the nearby McDonald's for defacing its men's room in the same fashion.

It is the personal responsibility of myself and every person of goodwill to ensure that this sort of criminal receives the maximum punishment possible. Otherwise, the crime receives a (pun intended) hoodwink and a high-five.

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[From the Savannah Morning News]

AFRICAN-AMERICANS SHOULD SHED GROUP-THINK

(By Nadra Enzi)

African-Americans have been a unit of forced cohesion in this country. Slavery forced different tribal ethnicities to become a corporate entity and this entity's evolution has led to the national community existing today.

We face the frankly exciting opportunity to advance beyond the once-necessary group-think that was the hallmark of much of our past strategy. This opportunity, however, is not being welcomed with open arms by certain segments of our community.

It is worth mentioning that the very phrase ''individualism'' is often considered to be synonymous with greed and ethnic disloyalty.

This misperception is used by those entrenched interests (the civil Reich establishment, street corner revolutionaries, social program profiteers and others) who benefit from our current thinking.

It is also worth noting that not all civil rights advocates, black nationalists, program workers and others fall into this group. In fact, the rank and file in their number should not be considered as blindly approving of the antics from on high.

Our community, even now, is not the monolith that the above-mentioned interests market us as being. For instance, their continued demonization of U.S. Supreme Court Justice Clarence Thomas is a prime example of their thought policing at its worst.

Because his views and judicial decisions differ from theirs, he is openly and crudely denounced as not being a ''brother,'' or, it seems, is undeserving of basic respect.

Is their vision of a ''community'' a ''black space'' (to quote Cornel West), where differing ideas are condemned without even a moment's consideration? It doesn't seem too liberating or much improvement from the strictures of the plantation and Jim Crow America.

Justice Thomas is a prime example of how fanatical, anti-individualists can place someone in exile for the heresy of thinking differently. It is hard to believe that people who trumpet freedom all the time would deny it so callously.

Recently, a black Prince George's County, Md., school board member nearly succeeded in barring Justice Thomas from addressing an honors ceremony at an area school. This contemptible act should serve as a textbook case in how low the monolith-pushers have sunk!

Individualism is one of the best options available to us as we progress past yesterday's artificially imposed limitations. Each of us is a committee of one whose mission is to develop his potential and contribute those competencies to the cause we hear so much about.

If liberation is truly the song we strive to sing, then individualism must be one its stanzas. It is not treasonous to diverge from the group. In fact, advancement comes from generating new ways of addressing reality.

One definition of insanity is doing the same thing and expecting different results. Obviously, this isn't the best course to choose on the eve of a new century and millennium.

The anti-individualists, in their crusade against this perspective, try to ghettoize individualism as belonging exclusively to black conservatives. In this way, they attempt to limit its impact to the relatively few but growing members of that philosophy.

Individualist tendencies exist among people of every class in black society. Not being a Republican or a conservative is not an automatic admission that one is anti-individualist. It is an outlook gloriously independent of other affiliations.

One becomes an individualist simply by choosing so. This choice is the result of reason, instead of emotion.

After declaring yourself one, watch the shouting and name calling erupt from the other side and please remember that, sadly, one of the difficult propositions for many white and black people to accept is the sight of a black person who thinks for himself.

Individualism can be the new middle-ground that joins homeboys, Buppies, hoochie mamas, nationalists, patriots, and every other identifiable community subset in the common cause of freeing what is best and original within each one of us without waiting for any self-appointed ''massuh'' to give his unasked-for approval.

After all, if I can dictate your development, then I essentially own you. Is trading white slavemasters and discriminators for black ones really an improvement?

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[From the Savanah Morning News]

AFRICAN-AMERICAN VOTERS MUST HAVE A BIG TENT

(By Nadra Enzi)

Editor: There is an aching need for African-Americans to rid ourselves of the truly stupid notion that one's community membership can legitimately questioned if one commits the unpardonale offense of not being a Democrat.

It seems as if we are not free to exercise differing opinions and entertain alternative political affiliations in pursuit of the same goals.

Recently, the mayor of Savannah (a black Democrat) was quoted in your newspaper as having said, ''Colin Powell is the most dangerous African-American in the nation.''

One hopes this was an error on the part of the reporter, If not, it is yet another reminder of how vicious the anti-diversity attitude is among some of us.

Would the names of icons like Frederick Douglass, Jesse Owens, Jackie Robinson, Zora Neale Hurston or even Sir Charles Barkley need to be stricken from the hearts and minds of admiring African-Americans because they are (gasp!) Republicans?

If so, then former NAACP Executive Director Benjamin Hooks would have to be striken from the record of his organization, because he too is a Republican.

One can only wonder how far the anti-diversity klan will go in its unholy war against those of use who choose not to ride the donkey in the future. What is so criminal about now following liberal policies whose good intentions have been outstripped by an unsocial program plantation that nutates motivation into increasingly depressing, even dangerous, directions?

The inner city has been the testing ground for schemes whose damage to health human potential rivals even the programs of the Austrian paperhanger and Karl Marx's stepchildren.

Essentially, paying poor women to have more fatherless children and providing endless excuses for community criminals whose lethal adventures in the ''hood amass body counts that would be unacceptable in other communities are far from being acceptable measures of one's ''blackness.''

Still, the anti-diversity klan feels that those who do not embrace these hideous initiatives are somehow threats to the well-being of all African-Americans.

Their treatment of Supreme Court Justice Clarence Thomas is their monument to intolerance. His being a virtual exile among the leadership class of our community is nothing short of tragic.

We are only four years away from a new century and milleium and this type of ''thinking'' serves as an anchor on our aspirations. Black Republicans, independents and every other kind of political creature are facts of life that these controllers will have to accept.

We have to have a ''big tent'' approach in our community if we our to achieve the objectives we claim are so important. Otherwise, the finger pointing and the shouting will be drowned out by the increasing volumes of triggers being pulled and hands that should be literate hopelessly scribbling on sheets of paper that threaten to become arrest reports if this trend is not ended.

Is being blindly loyal to any political party really worth losing everything that we found so hard to attain?

## IN HONOR OF THE RIVER VALE-SPONSORED AMERICAN LEGION BASEBALL TEAM: INTERNATIONAL AMBASSADORS OF OUR NATIONAL PASTIME

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a special group of young men who have distinguished themselves through their exceptional achievements on the baseball diamond. Through their outstanding exhibition of athletic performance and sportsmanship, these individuals serve as reminders of what can be accomplished when people work together for a mutual goal.

Baseball has long been the national pastime. Although the sport has provided enjoyment to those who had played it intramurally, the earliest organized game took place in what is now my district on June 19, 1846 on the Elysian Fields in Hoboken. From the first pitch, it was obvious that this new sport would have a tremendously positive effect on all future participants. This can be seen in the young men who took part in the International Baseball Tournament in Breda, Holland.

The multi-national celebration of baseball took place from August 18 to 26. The River Vale American Legion team was the only American team to participate in the tournament. Other countries which competed in the week-long activity included Russia, Italy, France, Germany and Holland, the host country. While in Holland, the players lived with native families, toured various cities and attended a number of social functions.

The group of 12 young men who successfully represented the United States included: Steven Batista, Michael Della Donna, Seth Jason Testa, Craig De Vincenzo, Luke Frezza, Mathew Kent, Michael Wren, Scott Clark, Michael Russini, Russell Romano, Thomas Lamanowicz, and Thomas King. Each athlete earned the respect of his peers. Joseph Pistone and Thomas De Vincenzo coached them to their undefeated, 10–0, tournament-winning record.

I am certain that my colleagues will join me in recognizing the outstanding efforts of the River Vale American Legion baseball team. The cause of mutual cooperation and understanding among people in the United States and Europe was greatly enhanced by their participation. These young men will long be remembered as international ambassadors of our national pastime.

## TRIBUTE TO HONOR MRS. MARIA THOMSON OF WOODHAVEN, NY, BY PLACING HER NAME IN THE CONGRESSIONAL RECORD

### HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to an unselfish and dedicated citizen of Woodhaven, NY, Mrs. Maria Thomson. As a president of the Woodhaven Residents' Block Association, and a member of the Community Board No. 9, Mrs. Thomson's volunteer efforts have been commendable. In addition to her prior achievements, Mrs. Thomson is the chairperson of the 102d Precinct Community Council, a founding member of the Woodhaven Residents' Security Patrol, and a graduate of the Civilian Academy of the New York City Police Department.

For nearly 20 years, Mrs. Thomson has labored tirelessly to improve the quality of life for the Woodhaven residents. As the executive director of the Greater Woodhaven Development Corporation and the Woodhaven Business Improvement District, Maria has encouraged and implemented the revitalization of our Jamaica Avenue shopping strip. As a result of her efforts, she has attracted quality businesses and improved security and lighting along the commercial strip.

As a testament to her dedication to the community, when Engine Company No. 294 closed due to New York City budget cuts, Maria Thomson worked as first cochairman of the committee to save Engine Company No. 294. Eventually, this fire engine company was reopened to restore safe living conditions for area residents.

Those in the Woodhaven community have come to recognize Maria Thomson's name as a household word because of her sincere interest and dedication to community betterment. She is known to always be ready to lend an ear and a hand to anyone who asks for her assistance. It is for all these reasons which I take great pride in recognizing Mrs. Maria Thomson as true community hero. I urge my colleagues to recognize her and wish her well in all of her future endeavors.

## CONGRATULATIONS TO UNIONTOWN, PA, AS IT MARKS ITS 200TH BIRTHDAY

### HON. FRANK MASCARA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. MASCARA. Mr. Speaker, I would like to take a moment today to congratulate the residents of the historic city of Uniontown, PA, located in my district, as they celebrate their bicentennial on October 5, 1996.

Two hundred years ago, in 1796, this beautiful town, nestled in the foothills of the Appalachian Mountains, was officially incorporated as a borough. From its earliest days, it held a major spot in the country's history.

From its beginnings, Uniontown was considered an important market spot, drawing buyers and sellers alike from southwestern Pennsylvania and neighboring Maryland and West Virginia. This economic activity helped Uniontown become a popular resting stop along the Nation's first national highway which ran through the center of town. As such, Uniontown played a crucial role in encouraging the growth and movement of our Nation westward.

Uniontown also holds the distinction of being one of the centers of the Whiskey Rebellion, the Farmers Tax Revolt of 1791–94, which was a major test of the new U.S. Constitution. It is also the birthplace of such notables as Chief Justice of the Washington Territory, Charles Boyle; Industrialist J.V. Thompson; former U.S. Senator Dr. Daniel Sturgeon; Mason-Dixon Surveyor Alexander McClean; Revolutionary War Gen. Ephraim Douglas; and last, but not least, Five-star Gen. George C. Marshall.

During the late 1880's, Uniontown's fortunes brightened when it became a hub of the coal and coke boom. Site of some of the most immense deposits of the finest bituminous soft coal in the world, companies in and around Uniontown dug the coal from the ground and reduced it to coke for steelmaking in thousands of beehive ovens. The city quickly became the operational and financial center of

the coal industry and the mercantile and cultural center for mining towns in the surrounding area.

Perhaps the town's most important attribute, however, is its hundreds of civic-minded citizens who share a vision to preserve and revitalize this very historic place. In recent years, the community has pulled together to promote tourism and economic development. I am confident all these efforts will prove to be successful and in the coming years, Uniontown will remain a very bright and unique jewel in the heritage of our Nation.

Again, I congratulate all the citizens of Uniontown and know they will have a wonderful day to celebrate their beginnings and renew their community spirit.

## THE 50TH ALUMNI ASSOCIATION REUNION AT ST. AGNES HOME FOR BOYS

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. GILMAN. Mr. Speaker, the St. Agnes Home for Boys in Sparkill, NY, was an outstanding home for orphaned boys for over 100 years. It closed its doors forever back in 1977, but the many boys who were raised by the loving Dominican Sisters of Sparkill will never forget their kindnesses and the outstanding lessons of life that they learned there.

In its over 100 years of existence, thousands of orphaned and needy boys were reared at St. Agnes home. The home taught these youngsters the importance of patriotism, which is underscored by the fact that over 555 graduates of St. Agnes served in the Armed Forces of our Nation during World War II alone. It is hard to believe that any school so small anywhere else in the Nation could possibly have produced so many soldiers. Sadly, 39 of them were killed in action during that conflict—a record of valor which is probably unequaled.

One graduate of St. Agnes, Gerald F. Merna, is today the vice president of the American Defense Preparedness Association, headquartered in Arlington, VA. Another is his brother James, a resident of Lanham, MD, who now serves as chairman of public relations for the St. Agnes Alumni Association. Jerry, James, and their four brothers all were raised at St. Agnes. Their eldest brother, George, was killed at the age of 19 in a sea battle during World War II.

On August 24 of this year, the St. Agnes Alumni Association conducted its 50th anniversary reunion. Seventy-five alumni of St. Agnes from all across the Nation came to Rockland County, in my congressional district, to pay tribute to the sisters, and the sports coaches, who molded them into outstanding citizens, and to reminisce about their incredible experiences at St. Agnes.

The Speaker of the House generated a great deal of controversy last year regarding his comments on orphanages. Here is an example of an orphanage which filled a community need and became a beacon for thousands of youngsters.

Mr. Speaker, I wish to insert into the CONGRESSIONAL RECORD the newspaper article dated August 25 which appeared in the Rockland Journal News recounting the recent reunion:

[From the Rockland Journal News, Aug. 25, 1996]

ST. AGNES ALUMNI CELEBRATE MEMORIES

(By Richard Gooden)

Sparkill.—Art Kingsley provided humor, emotion and nostalgia yesterday during the 50th anniversary celebration of St. Agnes Alumni Association's founding. He held the attention of 75 feisty people, in 85-degree heat, on the grounds of the Dominican Convent.

That was the easy part.

In order to prepare for the day's events, the 73-year-old World War II veteran and former resident of the St. Agnes Orphanage used a chain saw to remove two plaques from a wall of the Hallan Building. He bought a third plaque. He then dug a shallow 10-by-5 bed on the lawn, filled it with gray stone and embedded the plaques in a cream marble.

''This is a beautiful work of art,'' said James Merna, a resident of St. Agnes from 1946 to 1950 and now head of public relations for the alumni association. ''Art Kingsley made this all happen today.''

The corner plaques were dedicated to St. Agnes physical education teacher James Faulk and the nuns who worked at the home. The convent closed the orphanage in 1977.

The plaque in the middle honored the 39 soldiers that attended St. Agnes, who died in World War II and the Korean War.

Merna, a stocky round-faced man, eager to help all in attendance, reminisced on the transformation from childhood to manhood at St. Agnes.

''We went from the ballfields of St. Agnes to the battlefield of World War II and the Korean War,'' said the Marine veteran who graduated from Tappan Zee High School. Merna challenges any orphanage to equal or eclipse the 555 St. Agnes residents who went on to become soldiers.

Merna credits Faulk, who died in 1985, with shaping the orphans into productive citizens. In honor of his role model, Merna named his first child James Faulk.

Pete Lawton, a resident at St. Agnes from 1940 to 1948, also shared his recollections of the football coach while posing for a picture beside the plaques.

''This man was an inspiration to us kids,'' said Lawton, a Congers resident who was at the orphanage from age 6 through 13. ''He is the major reason why most of the St. Agnes kids lived decent lives.''

## WELCOME TO AMBASSADOR JASON HU

### HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. FUNDERBURK. Mr. Speaker, greetings and best wishes to the Republic of China's Washington representative, Ambassador Jason Hu. He comes to Washington from his last post as the Republic of China's Director-General of the Government Information Office. With his wide government experiences and a solid background in politics and commerce, Ambassador Hu will forge ever stronger links between his country and ours. I heartily bid him welcome and look forward to working with him and his colleagues.

As I welcome Ambassador Hu to Washington, I hope the Republic of China will be able to return to the United Nations and other international organizations as soon as possible. As an economic power and a symbol of democracy, Taiwan deserves the world's respect and recognition. Since 1949, the Republic of China on Taiwan has moved from an agricultural society, exporting only bananas and sugar, to a major trading nation today. Moreover, the 21 million people on Taiwan are prosperous and free.

Last but not least, I would like to take this occasion to congratulate President Lee Tenghui and Vice President Lien Chien. I wish them good luck as they prepare to celebrate their National Day on October 10, 1996.

## GOLD ISN'T A WACKO IDEA

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CRANE. Mr. Speaker, an old friend, Owen Frisby brought to my attention an August 19, 1996 article featured in The Detroit News, pertaining to the gold standard.

I have contended for years that in order to revitalize our Nation's economy, we must remove from Government the temptation and the ability to produce chronic budget deficits. Restoration of a dependable monetary standard based on a commodity with fixed value would, by making monetization impossible, accomplish this. It is for this reason that I have introduced legislation in previous Congresses reestablishing the Gold Standard.

The author of the article emphasizes that the Gold Standard has been tested, and proven over the centuries as the best mechanism to protect against destructive inflation and deflation. I commend to the attention of my colleagues, ''Gold Isn't a Wacko Idea.''

[The Detroit News, August 19, 1996]

GOLD ISN'T A WACKO IDEA

Even before Jack Kemp had been named as Robert Dole's running partner, the Clinton White House was on the attack. In addition to bashing his tax-cutting ideas, aides to the president cited Mr. Kemp's affinity for a return to the gold standard as further proof that he's an economic wacko. Should he choose to pursue the issue, however, we have little doubt that's an argument Messrs. Dole and Kemp would win.

The gold standard has pretty good history, after all. Alexander Hamilton placed America on a gold standard as part of his effort to refinance the young country's debt following the Revolution. The link with gold was broken temporarily during the Civil War and in the early 1930s, but it was soon reestablished in both cases. And for good reason: The gold standard proved a durable and politically potent means of ensuring the value of the dollar.

After the remaining links to gold established under the postwar Bretton Woods agreement were finally broken by Richard Nixon in the early 1970s, inflation soared. The market price of gold itself vaulted from $35 an ounce to $850 an ounce. It's still selling for more than $380 an ounce—more than 10 times its price only 25 years ago.

If you wonder why the American middle class is still feeling ''anxious'' about its living standards, you need look little further than at the massive expropriation of wealth and income that this represents. Little wonder it is so tough to wean people from such ''middle-class entitlements'' as Medicare, Social Security benefits, day-care and college tuition subsidies.

Many conservative ''monetarists'' share the belief of liberals that gold is ''a barbarous relic,'' in the words of the late, great British economist, John Maynard Keynes.

They prefer allowing the dollar to ''float'' in value, letting its price be determined in world markets by supply and demand. And the Federal Reserve System, under Chairman Alan Greenspan, appears to be doing a credible job of wringing inflation out of the economy and keeping the dollar stable against other currencies.

But it's no secret that one reason for Mr. Greenspan's success is that he keeps a close informal eye on gold prices. Before he became Fed chairman, he openly expressed support for a gold standard on grounds that gold is an excellent barometer of the supply and demand for paper money.

But Mr. Greenspan may not be around forever. And interest rates remain stubbornly high by historical standards, imposing a huge cost not only on the federal budget but on the average American. These higher interest rates reflect the premium charged by lenders who must worry about the future course of the dollar. When gold was the standard, long-term rates seldom rose above 4–5 percent, compared with at least 6–8 percent today.

Few ordinary citizens can comprehend the Federal Reserve's money-market manipulations. They must guess at what's going on behind the doors at the Fed. The result is they demand a premium as a hedge against future inflation.

But even ordinary citizens can understand a gold standard. When the price of gold rises, they know that inflation may be in the offing. When it falls, they know it's time for the Fed to print more dollars in order to fend of deflation. A gold standard gives voters a practical reality check on the performance of the elites in Washington.

In short, the gold standard is no wacko idea. It's been tested over centuries. It may not be perfect, but is has provided a better hedge against the ravages of inflation and deflation than most other systems. And it is a fundamentally democratic mechanism that enhances the ability of the ordinary citizen to control his or her destiny. What's wacko is the notion the folks in Washington have done such a swell job maintaining the value of the dollar.

## THE MEDICARE AND MEDICAID RECOVERY ACT OF 1996

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. STARK. Mr. Speaker, today I am introducing the Medicare and Medicaid Recovery Act of 1996.

Providers and suppliers are using the Bankruptcy Code as a vehicle to defeat the Secretary's effort to recoup overpayments from the Medicare trust funds. Specifically, providers and suppliers, who owe financial obligations to Medicare, are seeking relief from bankruptcy courts to have their outstanding overpayments, which are unsecured, discharge or greatly reduced. The Medicare Program has been unsuccessful in efforts to halt such action.

Federal bankruptcy legislation is designed to provide equality to all creditors in the distribution of a debtor's assets. However, there are three main exceptions to the equal distribution principle that allow some creditors to receive more than others. The three main devices for some creditors getting more are, first, liens, second, exceptions to discharge, and third, priorities.

With the third main exception—priority—creditors have a demand to first payment from any assets the debtors have available for payment to unsecured creditors. Creditors with priorities get paid before other unsecured creditors.

The Federal Government has long had a priority for taxes, duties, and related penalties. However, it does not have a priority for nontax claims, such as Medicare and Medicaid overpayments to providers. The Government's priority for nontax claims was abolished in 1979.

A 1992 report issued by the Office of Inspector General, entitled ''Federal Recovery of Overpayments from Bankrupt Providers,'' found that as of March 1991, the Medicare trust funds lost $109 million due to the ability of providers and suppliers to discharge their outstanding overpayments. While the report recommends giving Medicare claims a priority status in bankruptcy, better cost savings would be achieved by excepting these claims from discharge. This bill would correct this situation by prohibiting providers and suppliers from using a bankruptcy forum to avoid these outstanding obligations.

This bill addresses a second problem—individuals who owe financial obligations to the United States, or who have had a program exclusion imposed against them for other reasons, are seeking relief from the bankruptcy courts to have their exclusion subject to the automatic stay. Currently, the Secretary of HHS is required to exclude from participation in the Medicare and State health care programs health care professionals who have defaulted on their student loan or scholarship obligations owed to the United States. There are also a number of other bases for exclusion, such as criminal convictions related to the delivery of a health care item or service, or patient abuse. The purpose of the Secretary's exclusion authority is to protect the public, as well as the beneficiaries of the Medicare and State health care programs, from individuals and entities who have demonstrated by their past conduct that they are untrustworthy. This bill makes clear that the Bankruptcy Code should not be used to defeat this congressional purpose.

## TRIBUTE TO THE THREE VILLAGE POST NO. 336 OF THE JEWISH WAR VETERANS

### HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Jewish War Veterans of the United States of America, a venerable veterans' organization that is celebrating its 100th anniversary this year.

In particular, Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in saluting the Three Village Post No. 336 of the Jewish War Veterans, located in Port Jefferson Station, Long Island, NY. As members of America's armed services, Three Village Post members served their country with exemplary patriotic duty. As part of the Jewish War Veterans they epitomize those patriotic ideals, striving to maintain recognition of their comrades' sacrifices, while working to protect the rights and well-being of all veterans.

The oldest, continuously active veterans organization in the United States, the Hebrew Union Veterans Association was established on March 15, 1896 by Civil War veterans of the Union Army. Part of the group's original function was to help dispel the persistent falsehood that Jews did not serve in the Civil War. After World War I, when the group's rolls ballooned, they changed their name to the Jewish War Verterans—USA.

To celebrate the J.W.V. centennial anniversary, on Sunday, October 27, the Three Village Post will hold a special ceremony at the North Shore Jewish Center, in Setauket. At the centennial celebration, post members, their family, friends, and supporters will pay homage to those Jewish War Veterans who have fought and sacrificed in defense of democracy, so that America may remain strong and its people free. As Post Commander Robert Sandberg wrote to me, in a brief history of J.W.V. and Post No. 366: ''The J.W.V. can be doubly proud. First, that we can live peacefully and freely in this wonderful country, and second, that American Jews themselves and their forebears fought and helped win that peace and freedom.''

Since establishing its charter on January 27, 1975, the Three Village Post has sustained the benevolent and patriotic traditions of the J.W.V. Its members have spent thousands of volunteer hours working with the residents of the Northport Veterans Hospital and the State Veterans Home at Stony Brook. Each year, two local high school seniors receive a Jewish War Veterans' scholarship. To maintain the community's awareness of the sacrifices our veterans have made, post members participate in the local Memorial Day and Independence Day parades, along with the grave site memorial services at nearby Calverton National Cemetery.

In this, the Jewish War Veterans' centennial anniversary year, its members continue to work for the ideals on which the organization was founded. Remembering the sacrifices of all veterans is central to those ideals and the J.W.V. is working tirelessly to convince the U.S. Postal Service to issue a commemorative stamp to honor the Jewish War Veterans' 100th anniversary. Mr. Speaker, it was the selfless sacrifices of all veterans that have made America a great republic. None have sacrificed more, nor have others worked harder to protect America's democratic ideals than our Jewish war veterans. I respectfully request that the entire U.S. Congress join me in saluting the 100th anniversary of the Jewish War Veterans of the United States of America. Congratulations.

## TRIBUTE TO TOM BEVILL

### HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. YATES. Mr. Speaker, I rise today in honor of my dear friend, TOM BEVILL. TOM is retiring after this session and I am saddened to see such a thoughtful legislator leave this

House, but I am grateful to have had the distinct pleasure of serving with a man whose integrity is an example to us all.

In his time in the House, TOM won respect from both sides of the aisle for being a decent, honorable gentleman.

TOM and I have been good friends since 1966, the year he was first elected to the House. As chairman and ranking member of the Energy and Water Subcommittee, TOM has served the Nation and the Congress with rare distinction and poise and we are all in his debt.

His mentor and mate, beloved Lou, deserves accolades, a wonderful woman. I know they will enjoy finally being able to spend time together back in Alabama.

TOM is, without question, one of the most able and dedicated Members who has ever served. It has been an honor to have shared this floor with him. TOM will truly be missed.

## INTRODUCTION OF LEGISLATION TO SUSPEND DUTIES ON CERTAIN IMPORTED RAW MATERIALS

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. McDERMOTT. Mr. Speaker, today I am introducing legislation which supports important regional and national interests.

My home, the 7th Congressional District of Washington, is also the home of K2 Corp. the last remaining major U.S. manufacturer of skis and one of three major makers of snowboards in the United States. K2 conducts all significant manufacturing operations for skis and snowboards at its Vashon Island, WA facility. In fact, all K2 snowboards and virtually all K2 and Olin-brand skis sold throughout the world are individually crafted by technicians on Vashon Island. Moreover, K2 sources almost all of the components for its skis and snowboards in the U.S. stimulating the U.S. economy through its purchases of raw materials from U.S. suppliers, especially in the Pacific Northwest region of the country. However, for two key ski and snowboard components, i.e., spring steel edges and polyethylene base materials, K2 has been unable to find a supplier of these products in the United States that can meet its needs. Therefore, K2 has been forced to import these products, which are subject to U.S. customs duties upon importation. This legislation provides for a temporary suspension of customs duty on the two raw materials which are vital to the U.S. production of skis and snowboards and which are unavailable from domestic producers.

K2 is working hard to remain visible in the highly competitive international market for skis and snowboards. In fact, K2 has endured as a U.S. ski manufacturer in the face of fierce price competition, while several other major ski companies not longer manufacture skis in the United States. This temporary duty suspension legislation would support jobs in the region, as well as K2's ability to continue developing innovative, fine quality products. Equally important, a temporary duty suspension would help K2 preserve and increase its competitiveness in the global marketplace.

K2 is the only major export of skis made in the United States. In addition, K2 is one of three principal exporters of U.S.-made snowboards. Thus, K2's exports of U.S.-manufactured skis and snowboards represent a substantial percentage of U.S. skis and snowboards sold worldwide. If K2 is unable to remain competitive in global and domestic markets, skis manufactured in the United States may disappear from the global marketplace. The temporary duty suspension proposed by this legislation would help prevent the shutdown of the only remaining U.S. producer of skis.

## TRIBUTE TO FATHER JAMES W. SAUVE

### HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. PETRI. Mr. Speaker, it is with the deepest regret that I note the passing this past Monday, September 23, of Father James W. Sauve, who was most recently the executive director of the Association of Jesuit Colleges and Universities.

Father Sauve was born in Two Rivers, WI, where his father Willard still lives. He spent 10 years at Marquette University in Milwaukee as a professor, campus minister and administrator; and another 10 years in Rome as Executive Secretary of the International Center for Jesuit Education.

I believe other members will comment more fully on Father Sauve's accomplishments, but it is quite clear that he made immense contributions to education in general and Jesuit education in particular. In his passing, we have all suffered a great loss, but through his life we have all gained immeasurably. No greater tribute can be paid to any man.

I wish to extend my deepest sympathy to Father Sauve's family and friends, and hope that they will not only mourn his death, but be able to celebrate his life.

## TRIBUTE TO DR. LYUSHEN SHEN

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SOLOMON. Mr. Speaker, I would like to pay tribute to a friend of mine and a friend of America who unfortunately will be leaving Washington this week after spending many years here.

Dr. Lyushen Shen, director of public affairs at the Taipei Economic and Cultural Representative Office here in Washington, will be returning home to the Republic of China on Taiwan where he will assume his new post as director of North American Affairs in the Ministry of Foreign Affairs. I am absolutely certain that Lyushen will succeed in this important post which directly affects the working relationship between the Republic of China and the United States.

Dr. Shen has been the chief congressional liaison for the Republic of China for many years. He has nurtured the steady improvement of United States-Republic of China relations, and has been a truly indispensable diplomatic resource. The American people, including Members of Congress, all have a favorable impression of Taiwan.

This is directly attributable to the personal efforts made by officials such as Lyushen Shen. Lyushen has always been clear yet patient in explaining to us the differences between the cultures of the East and West, his government's efforts in reducing its trade surplus with the U.S. and his people's deep affection and regard for the American people.

As a Member of Congress who has strongly supported the Taiwanese in their struggle for democracy and prosperity, I have appreciated Lyushen's input. It has been my privilege to work with Lyushen over the years, and I will miss him.

I wish him and his family the very best.

## HONORING MARTHA K. ROTHMAN

### HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. PASTOR. Mr. Speaker, I rise today to pay tribute to an outstanding leader of the child care community in Arizona and in the Nation, Martha K. Rothman, and to congratulate her organization, the Tucson Association of Child Care [TACC] for its 25 years of outstanding service to children. Martha has been the central force in the development of TACC. Through her vision and leadership, she has encouraged its growth from a small group who developed the first child care centers through the Model Cities Program to what it is today: a large network that makes a positive impact upon the lives of 20,000 children each day in Tucson, Phoenix, Yuma, Sierra Vista, Douglas, and Nogales.

The basic mission of TACC is to provide daily care for young children through a small group setting by licensed family care workers in their homes. This system provides the small group attention needed by young children while monitoring their safety and health through the DES regulatory and TACC oversight services. No child care provider in Arizona is more respected than TACC.

In providing daily child care for children, it became apparent to Martha that additional services and family support services were needed. Because Martha is a master of bringing visions into reality, the following lists only a few of the services that have been initiated through TACC: The Center for Adolescent Parents, Happy Hours School Age Child Care Program, Happy Hours Summer Camp, Educational Intervention for Children and Families, Pima County Health Start, TLC: Choices for Families, Sick Child Program, Kidline, Parentline.

Martha Rothman's determination to provide quality services and care for children has led to her involvement in a number of professional organizations that work for the betterment of children. Her commitment to excellence has earned her many awards and accolades from a grateful and admiring community. She has been honored as the Woman of the Year by the Tucson Jewish Community Council, as a Woman on the Move by the YWCA, as a Pace Setter by the United Way, and she has received the Governor's Meritorious Service Award. The list continues and her other awards are equally noteworthy.

As her impressive list of awards and honors testifies, her work through the TACC is extraordinary. For this reason, I pay tribute today to Martha K. Rothman, a woman of great vision who has truly changed the world for thousands of our children.

## MEETING OUR BINATIONAL COMMITMENTS TO PROTECT THE GREAT LAKES

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. DINGELL. Mr. Speaker, earlier this year I joined several colleagues who expressed concern about funding for the control of the sea lamprey, a nonindigenous creature that for more than 50 years has threatened the ecological and economic health of the $4 billion Great Lakes Fishery.

As we prepare to consider an omnibus appropriations bill for fiscal year 1997, I thought I should share with my colleagues a communication I received from the Government of Canada, assuring me of our northern neighbor's continued commitment to the sea lamprey control program administered jointly with the United States through the Great Lakes Fishery Commission [GLFC], as well as continuation of the Great Lakes Fishery Convention Act.

I was informed also that Canada is greatly concerned about action taken in the other body of Congress to scale back the U.S. contribution to the Commission by $1.5 million from the House-approved funding level. It is my hope that conferees to any omnibus bill will retain the House language on funding, but recede to Senate language which wisely retains the GLFC within the Department of State, as was discussed during debate in the House on H.R. 3814.

Mr. Speaker, I have attached the correspondence of Canadian Charge d'affaires D.G. Waddell. I urge my colleagues to remember the pressing needs of our Great Lakes as we conclude the 104th Congress.

CANADIAN EMBASSY,
AMBASSADE DU CANADA,
*Washington, DC, September 20, 1996.*

Hon. JOHN DINGELL,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CONGRESSMAN DINGELL: On January 31, you wrote to Ambassador Chrétien expressing concerns regarding a reduction in Canadian funding and legislative initiatives for the Great Lakes Fishery Commission. I am pleased to follow up, in the Ambassador's absence, on his interim response to you of March 6. On August 7, following discussions with the Province of Ontario and Canadian stakeholder groups, the Honorable Fred Mifflin, Minister of Fisheries and Oceans, announced that the Federal Government has decided to maintain funding for the Great Lakes Sea Lamprey Control Program for fiscal years 1996–97 and 1997–98. I enclose a copy of the press release issued in this respect.

I am also pleased to inform you that the Department of Fisheries and Oceans has decided not to recommend the repeal of the Great Lakes Fishery Convention Act.

Meanwhile, I understand that a subcommittee of the Senate Committee on Appropriations has reduced the United States funding for the Commission by U.S. $1.5 million. The Canadian government is accordingly concerned by what appears to signal a weakening of the U.S. commitment to the goals of the 1954 treaty and to a strong, healthy Great Lakes fishery.

I would, therefore, be grateful if you would convey these concerns to your colleagues on the appropriate committees.

Yours sincerely,

D.G. WADDELL,
*Chargé d'affaries, a.i.*

## MOURNING THE LOSS OF KILLEEN JUSTICE OF THE PEACE ROBERT L. STUBBLEFIELD

### HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. EDWARDS. Mr. Speaker, I rise today to share with Members the loss of a community leader in my 11th Texas Congressional District.

Robert L. Stubblefield died July 28 from lung cancer. This strong and able public servant went far beyond his official duties to improve his beloved community. The beginning of the school year in Texas reminds us of his contributions to education and central Texas youth.

Robert Stubblefield, known as Stubby to his friends, moved to Killeen in 1951. He worked as a postal employee for more than 35 years and rose to the supervisory ranks. Robert Stubblefield served as a justice of the peace for 10 years. In addition he was a volunteer firefighter and served as president of the State Fireman's and Fire Marshalls' Association of Texas.

A strong advocate of education, Robert Stubblefield was a trustee for 18 years and served as president of the Killeen Independent School District. Robert Stubblefield believed that children were a valuable asset. He crafted a juvenile program in his justice of the peace court that moved young offenders from the streets back to study and a high school diploma. He devoted countless hours to many local youth programs.

I ask Members to join with me in honoring the memory of Robert Stubblefield, a man who will be sorely missed. Our thoughts and prayers go out to the family and friends of this community leader.

## TRIBUTE TO THE CAMPUS BOULEVARD CORP. ON ITS 15TH-YEAR ANNIVERSARY

### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute on the occasion of the 15th-year anniversary of the Campus Boulevard Corp.

The Campus Boulevard Corp. [CBC] is a collaborative organization of nine educational and health-related institutions in Northwest Philadelphia consisting of the Albert Einstein Healthcare Network, Central High School, Germantown Hospital, LaSalle University, Manna Bible Institute, Pennsylvania College of Optometry, Philadelphia Geriatric Center, Philadelphia High School for Girls, and the Widener Memorial School. Incorporated in 1981, CBC's mission is to enhance the economic and social environment for those who use these institutions as well as for those who live and work in the neighborhoods of Belfield, Ogontz, Fern Rock, Germantown, and Logan which surround them.

Through CBC's efforts, these institutions have developed a vision for the advancement of economic vitality and safety for the Campus Boulevard/Olney Avenue area. In order to actualize this vision, CBC has encouraged partnerships between community organizations, member institutions, government agencies and others. As part of this process, CBC has created programs to advance economic and community development, promote a healthy and safe environment, attract development resources, and act as an advocate for increased public services.

Exhibiting this type of commitment to the community for the past 15 years, CBC has a long and illustrious list of achievements. They have successfully lobbied for the development of the Broad and Olney SEPTA Transportation Station, which forms a central hub in Northwest Philadelphia, guided the quality control and fiscal management of the Logan Police Sub-Station, the only professionally managed police sub-station in the city, and received funds from the Philadelphia Private Industry Council with which they created a successful job training program for low and moderate income residents in the healthcare industry which has been cited as a model for other such programs.

Utilizing a $50,000 grant awarded by the U.S. Department of Justice the CBC has implemented exciting youth workshops and provided minigrants to local youth organizations. With another $350,000 in grant awards, the CBC is establishing a Small Business Incubator to link the purchasing power of BCB member institutions to the Incubator tenants.

In light of its many contributions to Northwest Philadelphia's residents and community organizations, I hope that my colleagues will join me today in wishing ''happy birthday'' to the Campus Boulevard Corp. and congratulate its board of directors and staff for 15 years of ''a different kind of partnering.''

## INVESTIGATION OF JOSEPH OCCHIPINTI

### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. TRAFICANT. Mr. Speaker, as part of my on-going investigation of the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I am inserting into the RECORD the following sworn affidavit:

AFFIDAVIT, STATE OF NEW JERSEY, COUNTY OF MONMOUTH

William Acosta, Being Duly Sworn, Deposes and States:

1. I executed this affidavit on behalf of Staten Island Borough President Guy V. Molinari and U.S. Representative James Traficant, Jr. who are investigating the alleged drug cartel conspiracy against former Immigration & Naturalization Service Agent Joseph Occhipinti. I possess evidence which can corroborate the drug cartel conspiracy

against Mr. Occhipinti and I have agreed to share that evidence with the United States Congress and Borough President Molinari.

2. I am a former thirteen year law enforcement official who successfully infiltrated the Medellin and Cali Colombian drug cartels. I am considered an expert on the Colombian and Dominican drug and money laundering operations in the New York City area.

3. In 1987, I was previously employed as an undercover operative for the United States Customs Service, wherein I was assigned to route out corruption at John F. Kennedy International Airport. In 1987, I was the principle undercover agent on ''Operation Airport 88'', which resulted in the prosecution and conviction of seventeen government officials for bribery corruption and related criminal charges. I was then promoted to Special Agent and reassigned to the Los Angeles District Office.

4. In 1990, I was appointed to the New York City Police Department as a Police Officer. In view of my Colombian heritage and confidential sources close to the Colombian cartel, I was eventually assigned to the Internal Affairs Unit. During my undercover activity, I generated evidence of police corruption for the Deputy Commissioner of Internal Affairs which was later corroborated by the ''Mollen Commission'' hearings which investigated police corruption.

5. On January 14, 1992, Manuel De Dios, a close personal friend and world renown journalist executed the attached notarized affidavit, wherein, Mr. Dios corroborated the existence of a drug cartel conspiracy against Mr. Occhipinti. The orchestrators of the conspiracy were major Dominican organized crime figures connected with the ''Dominican Federation'' which is the front for the Dominican drug cartel. The Federation are the principle drug distributors in the United States for the Colombian cartel. Unfortunately, Mr. De Dios was assassinated before he could bring forward his sources who could prove the drug cartel conspiracy against Mr. Occhipinti. After Mr. De Dios assassination, I too became fearful of my personal safety and never made public the evidence on the Occhipinti case.

6. It should be noted that I personally assisted Mr. De Dios in this investigation of the Occhipinti case which corroborated the Federation conspiracy. In fact, I personally accompanied Mr. De Dios to the Washington Heights area where we secretly taped recorded Federation members who conformed the drug cartel conspiracy. Those tapes still exist and can exonerate Mr. Occhipinti. In essence, Mr. Occhipinti was set up because of his increased enforcement efforts on Project Bodega which was exposing and hurting the Dominican Federation's criminal operations in New York City, which included illegal wire transfers, drug distribution, gambling operations, food stamp fraud, food coupon fraud, among other organized crime activity.

7. My investigation also determined that Mr. Occhipinti was exposing a major money laundering and loan sharking operation relating to the Federation which was controlled by the ''Sea Crest Trading Company'' of Greenwich, Connecticut. Sea Crest also maintains an office at 4750 Bronx River Parkway in the Bronx, New York. Sea Crest was using the Capital National Bank in order to facilitate their money laundering operations. In 1993, Carlos Cordoba, the President of Capital National Bank was convicted in Federal Court at Brooklyn, New York for millions of dollars in money laundering and he received a token sentence of probation. My investigation confirmed that Sea Crest, as well as the Dominican Federation, are being politically protected by high ranking public officials who have received illegal political contributions which were drug proceeds. In addition, the operatives in Sea Crest were former CIA Cuban operatives who were involved in the ''Bay of Pigs''. This is one of the reasons why the intelligence community has consistently protected and insulated Sea Crest and the Dominican Federation from criminal prosecution.

8. At present, there are nine major Colombian drug families which control drug operations in the New York City area. These drug families often referred to as the ''Nine Kings''. The Dominican Federation are part of their drug trafficking and money laundering operations. I possess documentary evidence, as well as video surveillance tapes of their drug operations. In addition, the New York City Police has investigative files to corroborate this fact. I have also uncovered substantial evidence of political and police corruption which has been intentionally ignored. In fact, it is my belief that former New York City Police Internal Affairs Commissioner Walter Mack, who I directly worked for, was intentionally fired because of his efforts to expose police corruption. I plan to make public this evidence to the United States Congress, as well as key members of the media in order to preserve this evidence in the event I am assassinated like Mr. De Dios.

9. It should also be noted that Criminal Investigators Benjamin Saurino and Ronald Gardello of the U.S. Attorney's Office in Manhattan similarly ignored the evidence I brought forward to them on the Nine Kings and Dominican Federation. These two investigators who were credited for convicting Mr. Occhipinti and they made it clear to me they didn't want to hear the evidence I had on the Federation which could have exonerated Mr. Occhipinti. They were only interested in corruption cases I had brought to their office. In fact, I recall a conversation, wherein, Investigator Saurino asked me about my involvement with Manuel De Dios and if I knew anything about the Occhipinti case. He then stopped and referred to Occipinti in a derogatory manner, by saying ''He's no * * * good''. Realizing his bias and lack of interest in investigating the Federation and Nine Kings, I changed the subject of conversation.

10. In April, 1995, I resigned from the New York City Police Department, Internal Affairs Unit after it became evident that my efforts to expose police corruption was being hampered. The same reason why I believe Commissioner Walter Mack was fired. It became evident to me that my life was in eminent danger and I could be easily set up on fabricated misconduct charges like Mr. Occhipinti. In fact, they brought departmental charges against me in 1995 and I won the case. The trial judge also admonished the department on the record for perjury. Often, I found myself isolated and in constant danger working alone in the worst neighborhoods of the city without a backup. Today, I possess substantial evidence to prove that the NYC Police Department media campaign to demonstrate that they could independently police themselves and route out corruption was simply a media ploy to avoid having an independent counsel to oversee their internal affairs unit. In reality, corruption is still rampant in the department and high ranking police brass are intentionally terminating viable corruption investigations in order to avoid future scandals exposed by the Mollen Commission. I also possess a consensually monitored tape conversation which implicates a high ranking police official who received bribes from the Dominican Federation.

11. I am willing to testify before Congress as to the allegations set forth in this affidavit. In addition, I am willing to turn over to Borough President Molinari and Congressman Traficant the documentary evidence I possess on the Dominican Federation, the Nine Kings and the Occhipinti drug cartel conspiracy. There are other important pieces of information relating to drug cartel operations and political corruption that I have not made public in this affidavit in order to protect my sources as well as ongoing media investigations that I am involved with. In addition, I am willing to submit to a polygraph examination to prove the veracity of my allegations.

WILLIAM ACOSTA.

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AFFIDAVIT, STATE OF NEW YORK, COUNTY OF QUEENS

Manual DeDios, being duly sworn, deposes and says:

I am a former editor of El Diario/La Prensa Newspaper and am currently the editor of a weekly newspaper published in the Spanish language known as Canbyo.

During the course of my work for Canbyo, I undertook to write an expose concerning criminal complaints brought against an Immigration and Naturalization Service Supervisory Special Agent named Joseph Occhipinti by various members of the Federation of Dominican Merchants and Industrialists of New York.

During the course of my investigatory work in researching for the article, I interviewed numerous individuals who are members of the Federation of Dominican Merchants and Industrialists of New York. These individuals confided to me that Mr. Occhipinti had been set up by the Federation and that the complaints against him were fraudulent. These individuals have indicated to me that they are in fear of their safety and as a result would not go public with this information.

I would be more than willing to share my information with any law enforcement agencies or Courts concerned with these matters and would cooperate fully in any further investigations.

MANUAL DEDIOS.

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## TRIBUTE TO WARREN AND FOREST COUNTIES RETIRED AND SENIOR VOLUNTEER PROGRAM (R.S.V.P.)

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### HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CLINGER. Mr. Speaker, I rise today to congratulate the Warren and Forest Counties Retired and Senior Volunteer Program (R.S.V.P.) as they celebrate their 25th Anniversary this month.

During my time in Congress, I've had the privilege to work with the R.S.V.P. and gain a more complete understanding of the outstanding work performed by R.S.V.P. volunteers. From resolving transportation problems to assisting with local environmental issues, these senior volunteers make a lasting impact on the communities in which they live.

The R.S.V.P. provides an excellent opportunity for retired members of our area to remain active and productive. I have long believed that involvement by older Americans in community-based solutions adds a unique and distinct perspective to each job that is performed or project that is undertaken. And I can attest to the fact that our part of Pennsylvania has benefited from the efforts of older Americans through such valuable programs.

The Warren and Forest Counties R.S.V.P. has coordinated the efforts of more than 500 volunteers in 1995 alone. What is even more impressive is the 47,000 hours of community service performed by its participants!

Mr. Speaker, it is my distinct honor to congratulate the Warren-Forest Counties R.S.V.P. for 25 years of hard work and proven success. Without question, their continued prosperity will enhance the quality of life that our fellow Pennsylvanians have come to enjoy.

## TRIBUTE TO THE NORTH CAROLINA SHAKESPEARE FESTIVAL

### HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. COBLE. Mr. Speaker, since it is not likely that we will be in session when the anniversary occurs, I wanted to share with my colleagues an upcoming milestone in the life of an extraordinary arts program in the Sixth District of North Carolina. On November 16, 1996, the North Carolina Shakespeare Festival [NCSF] in High Point, NC, will celebrate its 20th anniversary. For two decades, the NCSF has provided thousands of North Carolinians with an appreciation and understanding of great works of art.

The North Carolina Shakespeare Festival was founded in High Point in 1977 by Mark Woods and Stuart Brooks. Since that time, the NCSF has grown from a four-week festival with a budget of $100,000 to a 26-week festival with a budget in excess of $1 million. NCSF is nationally recognized for its artistic quality and for performing Shakespeare and other great plays in a way that is relevant to today's audiences.

The NCSF's Educational Outreach Program brings professional, live theatre to many students in high schools and colleges each year. Last year, approximately 34,000 students were served. The home of NCSF is located in High Point, but the festival serves our entire Piedmont Triad region with audience members, supporters and board members from Greensboro, Winston-Salem and High Point. In addition, NCSF is a statewide resource that provides quality cultural and educational programming in schools, civic centers and theatres throughout North Carolina.

The NCSF also serves as North Carolina's ''Cultural Ambassador'' when its annual tours travel to as many as nine Southeastern and East Coast states. The NCSF is an outstanding cultural organization, and it also contributes to both economic development and tourism by being an important part of the North Carolina quality of life.

For two decades, the NCSF has shared its artistic light with countless audiences. On the 20th anniversary of the North Carolina Shakespeare Festival, we look back with pride at what its members have achieved, and we eagerly await its future productions. On behalf of the citizens of the Sixth District of North Carolina, we congratulate the NCSF for outstanding artistic achievement.

## TRIBUTE TO THE NORTHVALE FIRE ASSOCIATION

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. TORRICELLI. Mr. Speaker, I rise today to congratulate the Northvale Fire Association on its 100th anniversary. On December 6, 1896, a special meeting was held in Northvale by a six-man committee to form a volunteer fire department. Anthony Muzzio became the first fire chief.

Various trials and setbacks did not discourage the Fire Association from its mission. It originally possessed only horse-drawn wagons, but Northvale was able to purchase its first 500 gallon truck by 1927. Today, the association boasts a fleet of four trucks and an active membership of 50 firefighters.

Northvale's first firehouse was built in 1900 and underwent reconstruction in 1939. A series of renovations in 1970 brought it to its present state.

The dedication and commitment of Northvale's Fire Department is plainly obvious to even the most casual observer. Since 1965, its staff has trained at the Bergen County Fire Academy and continues to attend well after graduation to stay current on fire fighting techniques. Over the past 100 years, the one thing that has remained constant has been the selflessness of the men who have served in Northvale.

Once again, congratulations.

## THERE ONCE WAS A CHILD (SONG OF AN UNBORN BABE)

### HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. KINGSTON. Mr. Speaker, Mrs. Carol Howard, a resident of Savannah, GA and the First Congressional District of Georgia, authored a poem that I think will touch many hearts. The poem is dedicated to her son, Scott Alexander, and her granddaughter, Yael Jordan. It is inspired by Father Jim Mayo.

THERE ONCE WAS A CHILD

(SONG OF AN UNBORN BABE)

(By Carol C. Howard)

Dedicated to my son, Scott Alexander and my granddaughter Yael Jordan and inspired by Father Jim Mayo.

There once was a child of grace, gentle of spirit and fair of face, who came to be in early spring, blessed by the kiss of an angel's wing.

The angel stood beside a Throne, he told the babe, ''He was God's own, and that with his December birth, would come a man to change the earth!''

''For God has chosen you, sweet one, to try and right the wrongs they've done, to catch the flag before it falls, once you are big and strong and tall.

The greatest land the world has known will, by your birth, become your home, though other lands have been led by kings, the land you'll lead has been kissed with angel's wings.''

He placed the babe within a room; he heard a lullabye in his mother's womb. Her voice was as the summer breeze that rocked him as a gentle sea.

The child though smaller than a hummingbird, would turn his head at Mommy's word. He loved her more each passing day, this child who loved to kick and play.

''Dear Mommy, I know that I am small and it will be awhile before I'm tall. I'll make you very proud of me, cause I'll be lots of help, you'll see.''

His days were filled with great delights; he kicked and played with all his might; then summer rain hushed him to sleep. The tiny child gave not a peep.

The Lord, called the angel to his Throne, His tear-filled eyes like bright stars shone; ''They have no room for him, you see, the way they had no room for Me.''

The angel sad, with head cast down, with lonely eyes he looked around. ''These men that Thou hast made like Thee care not for life because it's free.''

The angel then with sorrowed eyes journeyed far beneath the skies, beyond the moon's impassioned plea he shook his head and took his leave.

The angel said with gentle tone, ''Remember Heaven is your home, beyond the clouds and past Death's Door, the Father waits forevermore!''

As morning slipped right past the night the world was eager for it's light; The sun in sorrow hid his face from earth, and man and time and place.

In a fury came the rains. For Heaven's cries was the child's pain. He was thrown into a bucket cold with no one there, his hand to hold.

A tiny hand reached out to find a mother's face, the love that binds. But, all alone, in fear, he cried, then closed his eyes, And then he died.

Years later, on a cold, bleak day, a woman closed her eyes to pray. A tear upon her pale cheek lay; ''Forgive, me child I threw away.''

An angel came to take her home; he said he was her very own. ''I love you mom, more than you know, Come take my hand, it's time to go . . .

## IN HONOR OF DR. SIOMARA SANCHEZ-GUERRA: A DISTINGUISHED EDUCATOR MAKING A DIFFERENCE TO HER COMMUNITY

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an extraordinary woman, Dr. Siomara Sanchez-Guerra, who is committed to making a difference in her community. Dr. Sanchez's accomplishments will be recognized at the 1996 Anniversary Dinner Dance of the National Association of Cuban-American Women on November 3 at the Mediterranean Manor in Newark, NJ.

Dr. Sanchez's road to becoming a respected community leader began with her birth in the province of Matanzas, Cuba. She subsequently moved with her mother to Havana where she attended high school and later Havana University where she earned a Doctorate of Law in 1959. However, Dr. Sanchez was unable to begin practice as a

lawyer due to the accusation of anti-revolutionary activities against the Castro regime. Two years hence, she traveled to the United States in search of freedom and stability for her family and obtained employment as a bookkeeper and clerk in New York City.

The topic of education has been particularly important throughout Dr. Sanchez's career. She completed coursework at Columbia University that resulted in an 8-year assignment as a social worker. In 1974, Dr. Sanchez earned a masters degree in education from Montclair State College. She became a guidance counselor at East Side High School in Newark, NJ where she has facilitated the educational development of students for the past 20 years.

Community activism has been a hallmark of Dr. Sanchez's existence. In 1977, she joined the New Jersey Chapter of the National Association of Cuban-American Women [NACAW] because she believed that Cuban-American women need to participate in the professional and political world. Dr. Sanchez has served as president of the State chapter of NACAW and is currently its national president. She has accomplished much in the area of community service, including the founding of an annual toy distribution on Three Kings Day to foster the continuation of Spanish traditions, the establishment of the Elena Mederos Award, which recognizes the contribution of women to the advancement of the Hispanic community, and a yearly visit on Easter Sunday with a group of associates to children in the Jersey City Medical Center and an AIDS group home to bring them the joy of the holiday season.

It is an honor to have such an outstanding and considerate individual working on behalf of the residents of my district. Dr. Sanchez epitomizes the immensely positive influence one woman can have on the lives of others in her community. I am certain my colleagues will rise with me and honor this remarkable woman.

## ''SHE HAS NO IDEA WHAT'S GOING ON AROUND HER—HER PARENTS ARE BECOMING ALL TOO AWARE''

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. STARK. Mr. Speaker, I've just received a particularly moving letter about the problems facing American families in the era of managed care.

Today, I introduced legislation which will address some of the problems mentioned in the letter—in this case, timely appeals of coverage decisions and provision of specialty care locally. But there is clearly much, much more to do. Managed care companies—by making the kind of heartless decisions described in this letter—are sowing the wind. They should not be surprised if they reap the whirlwind.

Dr. Courntey's letter follows:

CHILD NEUROLOGY, INC.,
NEURODIAGNOSTIC LABORATORY
*Mishawaka, IN, August 21, 1996.*

Hon. FORTNEY PETE STARK,
*House of Representatives, Cannon Office Building, Washington, DC*

DEAR REPRESENTATIVE STARK: Today was another in a string of very frustrating and sad days. It was different from others in that the players made themselves so obvious. Often I have no one in particular to rail against. Today was different.

Stephanie is 16 months old. About 8 months ago she was abused at the hands of her day care worker. Looking at her MRI, only about 50 percent of her brain is left to perform the functions that it takes the rest of us 100% to accomplish. She may never behave appropriately. She will never think efficiently. She struggles through her week of therapies against the backdrop of seizures brought on by the beating she endured.

Her loving parents, having had a terrible time with conceiving Stephanie, were initially the prime suspects in her abuse. I was called to work with them shortly after they arrived at the hospital. The mother and father were then told that Stephanie was in a coma. They were not told that all the rest of us knew; Stephanie might not survive. The swelling of her brain, coupled with her seizures, might end her life. They could see that she had been damaged, but could not understand why anyone would want to accuse them of injuring someone they loved. They were accused anyway. So, in addition to having to weather their child's life and death fight, the parents had to face multiple meetings with social workers, psychologists, doctors, workers from the child protective agency, and a detective from the state police.

Now, 8 months later, I am looking at Stephanie's MRI and listening to her father tell me that their managed care company wants them to take her to Indianapolis to a panel-approved specialist, rather than the one that has been taking care of her since her admission to the hospital. The local specialist is boarded in the same specialty area as the one in Indianapolis and, in fact, is boarded in areas above and beyond the Indianapolis specialist. The HMO's position was clearly stated to the father as financially driven. The local specialist is not on their panel and they are not interested in establishing a relationship with him—even though he is willing to see the child for the same rate as the Indianapolis specialist and is only 20 minutes from the parent's home. It didn't end there.

The father, distraught by his continuing ordeal with the HMO, complained to his employer's personnel department about the treatment his daughter is receiving. He was subsequently pulled aside by his employer's Vice President and told that there were 80 other employees that he had to think about. If he ''kept complaining about the insurance they had chosen, he could start looking for another job!''

This happens day after day. HMO's seem to be content as long as people are healthy. They define exclusions to coverage more extensive then the scope of that which they will cover. Mental health benefits, supposedly available, are almost impossible to have approved. The level of concurrent review is embarrassing for the patient and exhausting for the health care provider. The number of times this review occurs without the physician reviewer ever meeting or touching the patient is beyond belief. The medical reviewer almost never sees the patient. Moreover, diagnoses of the care-givers are constantly called into question or second-guessed by people employed by the insurance company without specialty training in our area of expertise, not licensed to practice, not trained in health care at all, and who are always advocates for the company and never advocates for the patient.

Within the last several years, you introduced and successfully passed an amendment to prevent doctors from operating medical businesses outside of their specialty area and outside of their total ownership (Stark). The public interest is threatened by a doctor referring a patient to another business for the purpose of their own financial gain. However, managed care companies can create panels of ''providers'' whose contracted fees are based lower than the otherwise prevailing rates. The managed care company directs the patient to the panel doctor who charges the managed care company less and is rewarded for providing less. This occurs for the purpose of the financial gain of the managed care company. To be simple, this style of behavior clearly violates the intent behind your amendment. These care limitations, in turn, increase the managed care company's profits, resulting in higher salaries for middle and upper management.

As a provider of health care, I see the soul of my field, and medicine in general, being corrupted by improper and mephistaphelean pacts with MBA's more concerned with numbers than they are about the patients. I know how the CEO in the managed care company would expect to be treated if it were his or her daughter whose MRIs were on my wall. They would never send their child 130 miles away for care that could be provided better locally. They would seek expensive and regular treatment for their tragically injured daughter. Our only hedge against a worsening condition for a child like this is to provide her with consistent and professional care. The best care, if available, is always local. These interventions may improve the child's future independence. They may improve her parent's will to continue to build their family.

Assurance against abuse on the part of insurers should be mandated. Insurance companies and managed care companies should be held accountable by holding them medically and legally liable for the medical decisions that they make under the guise of ''financial decisions.'' They should not be allowed to operate outside of ''safe harbors'' without regulation. Insurance companies should not be in the business of making medical decisions which affect patients * * * it exemplifies an inherent conflict of interest. This basic and fundamental conflict of interest is a state both unethical and immoral.

In the meanwhile, Stephanie is sleeping in her father's arms. She has no idea what's going on around her. Her parents are becoming all too aware.

Sincerely,

JOHN C. COURTNEY, Psy. D.
*Clinical Neuropsychologist,*
*Treasurer, Indiana Psychological Association.*

## TRIBUTE TO DAN STILL

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. TOWNS. Mr. Speaker, service in the field of public and mental health is demanding and admirable. Dan Still has been performing work in this arena for his entire career, a career which began with the U.S. Public Health Service, Centers for Disease Control [CDC] working on the epidemiology of communicable diseases. Subsequently, he accepted an assignment with the New York City Department of Health and served as the administrative director of childhood lead poisoning and control, and later as the deputy administrator of the Department of Health.

When the New York city Health Services Administration was dissolved, Mr. Still assisted in the establishment of the Department of Mental Health Retardation and Alcoholism

Services. He was later appointed assistant commissioner for administration, with a subsequent promotion to deputy commissioner for management and budget.

Mr. Still has extensive expertise in the financing of community mental hygiene programs and helped develop and implement numerous reforms of the system in New York State, culminating in the Community Mental Health Resources Act of 1993, landmark legislation that reinvests mental health funding from State psychiatric facilities to community services.

Dan is married to Lydia Still, an early childhood teacher, and they have two children in college. Mr. Still is active in an array of community activities and civic organizations. I am pleased to commend him for his efforts and contributions.

## HONORING JAMES BONNER

### HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CALLAHAN. Mr. Speaker, when Alabama was redistricted a few years ago, Wilcox County was taken from the 1st District and put in the 7th District. While I am no longer privileged to represent the people of Wilcox County here in the House of Representatives, I obviously made a lot of friends there over the years, and I still value those friendships very much.

One of those friends is James Bonner. James is a man who tells it like he sees it, which in this day and time is a rare quality indeed. And if you are lucky enough to count James as your friend, you know you've got a friend for life.

James was recently honored with a front page tribute in his hometown newspaper, the Wilcox Progressive Era. The headline of the story tells it all—''James Bonner: One of Camden's living legends.''

Mr. Speaker, at this time, I would like to submit for the RECORD the entire article on James Bonner, written by our mutual friend, M. Hollis Curl, the editor and publisher of the Progressive Era. And while I'm at it, I'd like to join Hollis in adding my thanks, too, to James, for all he has done for so many people. Keep it up, James, for many more years to come.

JAMES BONNER: ONE OF CAMDEN'S LIVING LEGENDS

If you're among Camden's younger residents—below 40—or a newcomer, chances are you don't know a whole lot about the elderly gentleman you've seen making his way along Broad Street each morning with the help of an aluminum walker and under the watchful eye of his driver or secretary.

If you're a native of Camden—one of the oldtimers—you know the gentleman as Mr. James Bonner. If you do know him chances are, small town's being what they are, that you have strong opinions about him; just as he certainly does about you.

Yes, sir, James Bonner is a forceful, opinionated individual. If he likes you, you have a friend forever. And no one is ever likely to know the breadth of his benevolence. James has helped failing businesses, folks with catastrophic illnesses, and he has sent numerous kids to school. He has a big, big heart. We just hope he doesn't take offense at our noting the softer side of his personality!

On the other hand, if he doesn't like you you can at least take comfort in the fact that your transgression has merited you the considerable wrath of a formidable adversary! James doesn't waste his time on petty individuals.

We heard a fellow say the other day that ''James Bonner would wrestle a circle saw when he was younger''. That's true as far as it goes. Actually, James Bonner will take on any foe right now. Eighty-plus years have not diminished his zest for espousing causes and pursuing them to satisfactory conclusions.

In the old days—when Bonner Brothers consisted of his late brothers Billy and Josiah Robins (James' twin) the trio were genuine movers and shakers in the Wilcox County community.

Land, timber and minerals were their primary focus but they dabbled in other things too. Billy, it is said, did yoeman duty while Jo Robins—who was Probate Judge at the time of his death—handled lawyering. Nobody ever doubted, though, that James Bonner was the thinker in that trinity.

But things have changed somewhat. Time—and better than eighty years—mandate a few changes. But none have been mental. James Bonner is as sharp today as he was back in 1929 when he left Wilcox County to attend Erskine College.

When he returned in the early 30's he taught school at Oak Grover near Pine Hill. He was at one time principal of that school and the one at Lower Peach Tree.

When World War II broke out James volunteered as a buck private in the Army Air Corps. He quickly advanced to corporal and it wasn't long before his superiors sent him to Officer Candidate School at Miami Beach.

After graduating as a lieutenant, James went to Wright Field in Ohio. A brief stint at the intelligence school in Harrisburg, PA, earned him the position of Post Intelligence Officer at what was to become Wright-Patterson AFB.

It was about then, with the war in full swing, that James recalled that his grandfather CSA Major James Bonner had been a courier during the War Between The States. That bit of family heritage prompted him to volunteer for often dangerous duty in the Courier Service.

As a courier stationed in San Francisco, James traveled all over the war-torn world under direct order from President Franklin D. Roosevelt. He delivered invasion maps and decoding equipment to forces fighting in the South Pacific, Australia, India and etc. It was while in New Guinea delivering these maps to General Douglas McArthur that his ship was torpedoed by the Japanese. Luckily, the torpedo was a dud and did not explode.

Once, while waiting on the airstrip at the Pacific island of Biak, the Japanese bombed the strip while James was on the flight line. It was there that he met Col. Bill Darwin (who now lives in Camden) who was in charge of the anti aircraft unit guarding the field. James says he recalls vividly watching Bill's men repel the Japs.

James' recollection of WWII also includes memories of Lt. Gen. David Godwin Barr, of Nanafalia. Gen. Barr was McArthur's assistant and directed the bombing of Japan and the destruction of the Japanese fleet. Barr's air unit also carried out the mission of dropping the Atomic bombs that ended the war.

After the war, James remembers, Col. R.R. ''Fritz'' Carothers, of Oak Hill and Camden (Mayor at one time) was assigned the job of special courier to carry pictures and information directly to President Harry Truman.

A sad memory for James was the death of a Camden native—a young prisoner of war—who was murdered by the Japanese a week after the Peace Treaty was signed aboard the deck of the battleship Missouri.

Following the war, James' courier unit was instrumental in delivering the documents throughout the world to countries which became part of the United Nations.

When James Bonner returned to Camden after the war he was confident that his military duty had been fulfilled. But it was not to be. He was called back to active duty during the Korean War to serve with the Strategic Air Command at Barksdale AFB. Legendary general Curtis LeMay was his commanding officer.

James eventually did retire, with the rank of Major, and has devoted his time to business—and worthy causes—ever since.

From a civic standpoint, James Bonner is the only surviving member of the original Industrial Board which helped pave the way for MacMillan Bloedel's coming to Wilcox County.

And it was with the help of fellow civic leaders John Webb, W.J. Bonner, Mrs. Clyde Miller and others that the Solomon Brothers sewing plant came here and is now the oldest local industry still operating with a steady payroll.

James also worked with the late Dr. Shannon ''Shine'' Hollinger, DVM, in securing a $1 million bond issue for the establishment of Camden Mills on the Bypass. The facility presently houses IKS Services.

Yes, James Bonner has witnessed many changes over the years. Some have been good and others not so good. He is particularly disappointed by the fact that state politicians have not kept the promises they made during the last election.

But from a civic standpoint is might be good that all the promises haven't been kept. That means that James Bonner will stay motivated to be a part of the things that make Camden and Wilcox County better.

Thanks James. Keep on Keeping on!

## 85TH NATIONAL DAY OF THE REPUBLIC OF CHINA

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. THOMPSON. Mr. Speaker, today, I would like to make note of and salute the upcoming 85th National Day of the Republic of China [ROC] on Taiwan which will be celebrated on Thursday, October 10, 1996.

I wish the ROC every success in its adoption and implementation of a pragmatic diplomacy; and its work toward a greater international voice and acceptance in the world community. We should all recognize that this is a country which has made a truly impressive effort to improve its position and gain recognition in the world community—becoming the world's 19th largest economy and 7th largest U.S. trading partner.

On this very special day to the ROC, I extend my congratulations to both the President of the ROC, Dr. Lee Teng-hui, and the Taipei Economic and Cultural Representative in the United States, Dr. Jason Chih-chiang Hu.

## CHILD ABUSE PREVENTION AND TREATMENT ACT, AMENDMENTS OF 1996

SPEECH OF

### HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 25, 1996*

Mr. RIGGS. Mr. Speaker, I rise today in support of the House substitute to S. 919, a bill that makes amendments to the Child Abuse Prevention and Treatment Act, known as CAPTA. This legislation, which has been crafted in a bicameral and bipartisan fashion, authorizes and makes critical amendments to the current CAPTA Act.

As a former law enforcement officer I urge support for this legislation so that we can protect the most vulnerable segment of this Nation's population—abused and neglected children. As you know crime against children is on the rise and we must act now. It is because of the children we need to pass this today.

One important component of this bill is that is provides expanded adoption opportunities for babies who have been abandoned. The parents of these children have indicated by their actions that they do not want these children, then lets make it easier for these children to go to homes that will love, care, provide nourishment for them. In addition this act will take a closer look at the effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes. This legislation adds a requirement for states to explore contracting with public or private nonprofit agencies, or sectarian institutions for the recruitment of potential foster and adoptive families. This legislation increases the authorization for the Adoptive Opportunities Act to $20 million and continues authorization through 2001.

It is time that we all join together and protect our children. I urge my colleagues to vote favorably on this legislation.

## TRIBUTE TO DEAN SCHOFIELD

### HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to recognize the long and distinguished career of Dean Schofield, deputy secretary of the Department of Transportation of the State of South Dakota. Dean consistently demonstrated utmost dedication and professionalism in his 35 years and 8 months of service to South Dakota.

Throughout his years with the South Dakota Department of Transportation, Dean served as a mentor and model for all employees through his quiet, thoughtful style, strong work ethic and leadership. His commitment to family, profession, church and community was something that many within the department strived to emulate and his ability to balance all of his responsibilities was remarked on by many. My office always enjoyed working with Dean and my staff came to rely heavily on Dean's extensive knowledge and ability to always provide much needed information, even on short notice.

Dean Schofield's hard work and extensive knowledge about South Dakota's transportation systems contributed to the passage of several pieces of major Federal legislation, including the Intermodal Surface Transportation and Efficiency Act and the National Highway System legislation, which are extremely beneficial to the State of South Dakota. Additionally, Dean was instrumental in developing the Department's Computerized Needs Data Book, the 5-Year Construction Program with its project prioritization system based on needs, the annual strategic Plan and the legislative program, and he served on numerous department, statewide, and special Governor's task forces.

Through his knowledge, judgment, openness, thoroughness, and integrity over the last 35 years, Dean has earned the respect of everyone he has dealt with, both within and outside the South Dakota Department of Transportation. In recognition of his outstanding service, Dean was voted the Department's most considerate and genuinely caring employee and is a unique individual who will be sorely missed by the Department and by my office. South Dakota will truly benefit from the fruits of Dean's labor for many years to come. I am honored to have the opportunity to recognize him today.

## CONSUMER BANKRUPTCY CONCERNS

### HON. SONNY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. BONO. Mr. Speaker, along with many other Members I share a deep concern that the United States is about to set an economic record which is nothing to be proud of. I speak of the fact that by the end of 1996 total U.S. bankruptcy filings are expected to exceed 1 million for the first time in the Nation's history. It is particularly worrisome that this level of bankruptcies is occurring in a time of relatively good economic news, as it raises significant concerns about what bankruptcy levels will be whenever the next cyclical economic downturn arrives. As a member of the Banking Committee I am of course worried about the potential impact of losses stemming from bankruptcy on the health of our financial institutions, and on the price and availability of credit. And, as a member of the Judiciary Committee, aware that bankruptcy filings constitute more than three-quarters of all cases in the Federal courts, I worry about this increasing burden upon the judicial system.

About 9 out of 10 of all bankruptcy filings are consumer bankruptcies. About two-thirds of those are in chapter 7, where creditors are paid some percentage of what they are owed from the liquidation proceeds of the debtor's nonexempt assets, if there are any. Chapter 7 is a historical anachronism, a holdover from a time when credit was hard to come by and based upon what you owed. Today, of course, consumer credit is plentiful and is extended on the basis of the applicant's anticipated future income.

The remainder of consumer bankruptcies are in chapter 13, where employed debtors with a regular income commit to a multi-year repayment plan covering some portion of what they owe.

The majority of debtors filing for bankruptcy are in serious financial straits due to loss of employment, divorce, or medical emergency, and we must keep the system open and available to assist them in getting back on an even financial keel.

But there appears to be a significant percentage of individuals abusing the bankruptcy system through multiple filings to forestall legal actions, hiding of assets, making false and incomplete financial statements, and similar actions. Some individuals enter into chapter 13 repayment plans which are unrealistic and which inevitably fail, while other individuals with steady incomes and the ability to make significant repayment of their freely acquired debts choose to abandon them in chapter 7. The system is out of kilter, and its overburdened overseers are ill-equipped to catch those who abuse it.

It is my belief that individuals with financial problems should consider filing for bankruptcy to be their last resort, not their first. All of the individuals involved in the system—judges, trustees, administrators, and attorneys—have an obligation to ensure that consumer debtors are fully aware of their nonbankruptcy alternatives for accomplishing financial restructuring. Consumer credit counseling services are widely available throughout the nation and can help individuals and families avoid bankruptcy through various financial management techniques. Creditors are extremely supportive of these efforts.

Attorneys and other bankruptcy petition preparers have an obligation to fully disclose the very serious nature and consequences of filing for bankruptcy to individuals considering this step. Debtors need to be aware that this is a step with serious, negative long term consequences for their ability to obtain credit and other services, and that there are alternative means for redressing their problems which should be explored first.

Unfortunately, some attorneys and other bankruptcy preparers advertise their services as ''debt reduction'', ''federal repayment'', or similarly vague and misleading terms to disguise the true nature of their business and to downplay the consequences of entering into personal bankruptcy. As a result, many thousands of individuals each year are placed into bankruptcy without fully informed knowledge and consent. Attorneys and other petition preparers have a constitutional right to advertise, but this type of deceptive and misleading practice needs to be curbed.

In 1994 Congress passed bankruptcy reform legislation which established a National Bankruptcy Review Commission to review and further evaluate the bankruptcy system and make recommendations for fundamental reform to Congress. It is my understanding that the commission, which has a 2 year mandate expiring in the fall of 1997, has so far made very little progress in grappling with the fundamental problems rampant in the consumer bankruptcy system. It has instead permitted its staff to engage in a series of pointless academic debates and to advance proposals which have little support, much less consensus, in the broad bankruptcy community. While the other working groups established within the Commission have already issued numerous policy proposal in such areas as

corporate restructuring, small business bankruptcy, and system administration, the consumer working group has yet to make even a single, tentative recommendation for reform of the current system. With consumer bankruptcy filings constituting about 90 percent of all filings, this wheel-spinning cannot be allowed to continue. Therefore, I was pleased to learn that the Commission is finally going to begin to grapple with this area in a comprehensive way with a series of hearings beginning in November. Congress needs this Commission to deliver a series of pragmatic proposals to get the system back under control and to provide debtors with the relief they require, creditors with the repayment they deserve, and society at large with the right balance between forgiveness and obligation.

One area which I hope the Commission devotes serious attention to is recommending ways in which individuals can be informed of alternatives to bankruptcy at the earliest possible time, perhaps even before their initial contact with the bankruptcy system. Consumer financial education must obviously play a larger role in addressing current problems.

I also believe that both the Federal Trade Commission and state bar associations should do a much better job of monitoring bankruptcy-related advertising, and should crack down on deceptive ads which fail to clearly and conspicuously disclose that the services being offered involve a declaration of bankruptcy along with all of its grave and lingering consequences. Disciplinary or enforcement action should certainly be utilized where appropriate.

Finally, the Office of U.S. Trustee, which administers the bankruptcy system, should undertaken efforts to ensure that the standing trustees in chapters 7 and 13 are making inquiries to determine that debtors are aware of alternatives to bankruptcy and are fully aware of the long-term effects of filing for bankruptcy.

It is my intention to continue to monitor bankruptcy developments and the ongoing work of the Bankruptcy Commission. This subject involves matters of economics, judicial fairness, and personal values. There may be many ways to address the ongoing bankruptcy crisis—but they all require an initial recognition that this is indeed a crisis, most particularly for the millions of debtors and their families caught up in it. Bankruptcy must remain available as a last resort for those who truly require legal forgiveness of their contractual obligations. But it cannot grow into a first resort for those with the ability but not the desire to make good on their financial obligations.

## INTRODUCTION OF A RESOLUTION EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES CONCERNING VIOLENCE ON TELEVISION

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CASTLE. Mr. Speaker, a recent review of 34 new pilot television shows in U.S. News and Worked Report found that many of them contain extensive and graphic violence—some as early as 8 p.m. In one show, a criminal drives a nail into the palm of a corrupt mayor. In another, a man is buried alive with his mouth and eyes sewn shut. And in yet another offering, as the top of a corpse's head is sawed off an alien creature pops out.

Children are particularly sensitive to the world around them, as they notice and absorb everything they see and experience. Psychologist Stephen Garber of the Behavior Institute of Atlanta has seen an increasing number of children in his practice who, despite having no actual contact with violence and living in safe neighborhoods, are developing not just fears but full-blown phobias about being kidnaped, getting shot, and other real-world calamities. He attributes this in part to what children see on television. The American Psychological Association estimates that a typical child will watch 8,000 murders and 100,000 acts of violence before finishing elementary school.

This matters because studies are pretty clear with respect to the impact that viewing violence has on children. In 1956, one of the first studies of television violence reported that 4 year olds who watched ''Woody Woodpecker'' cartoons were more likely to display aggressive behavior than children who watched the ''Little Red Hen.'' Study after study in decade after decade confirmed similar findings. However, the harm caused by viewing violence is broader than the encouraging of violent behavior. Studies have found that viewing violence increases mistrust of others and fear of being a victim of violence, and desensitizes viewers to violence resulting in calloused attitudes and apathetic behavior toward violence.

Over the years, Congress and broadcasters have sporadically tackled this issue. For example, in 1990, Congress passed the Children's Television Act to increase the amount of quality educational programming for children. The recent rewrite of the Telecommunications bill included a requirement that television sets be manufactured with a computer chip that would allow parents to screen out programs, rated by the broadcast industry, that are inappropriate for their children. And more recently, the broadcasters have agreed to air 3 hours of educational television programming per week. I support these efforts.

But quite frankly, I don't think they are enough. I agree with the philosophy that if a river is polluted, you don't just put up a warning sign—you try to clean it up. That is why I am introducing a resolution, with Congressman WOLF and 10 other Members of Congress, expressing the sense of the House that broadcasters should not air violent programming between the hours of 6 a.m. and 10 p.m.

Cleaning up television will not resolve all of the Nation's ills. But as former Education Secretary William J. Bennett points out, in recent years we have seen a explosion in moral pathologies: abused and abandoned children, out-of-wedlock births, drug use, violent crime and just plain trashy behavior, as well as the vanishing of the unwritten rules of decency and civility, social strictures and basic good manners. He attributes this to the fact that ''the good'' requires constant reinforcement, and ''the bad'' needs only permission.

Turning the tide, reinforcing ''the good'' will ultimately take a massive collective effort, one that engages our families, our civic leaders, our religious leaders, our teachers, our community leaders, all levels of government, neighbors—everyone in society. But the media, too, with its enormous role in the socialization process, must join us in this effort.

## SALUTE TO DON AND JACKIE PRUNER

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. GALLEGLY. Mr. Speaker, I rise today to salute two people who have probably had a more direct effect on the health and welfare of Ventura County residents than anyone else—Don and Jackie Pruner.

In August of 1963, Don and Jackie scraped together nearly all the money they could find and bought an ambulance company that consisted of one 1958 Pontiac ambulance. Times were tight, so Don did the driving while Jackie handled business operations and dispatched about 15 calls a month (to a service population of about 9,000 people in the Thousand Oaks area) out of the couple's home.

Back then, the business was called Conejo Ambulance. Over the course of three decades, Pruner Health Services grew to provide 24-hour emergency service to a population of more than 345,000 people in an area of approximately 650 square miles.

Obviously, Don and Jackie have come a long way from that 1958 Pontiac. Like all business success stories, theirs is one of hard work, determination and day-to-day achievements that together form an extraordinary record of service.

As we celebrate their retirement, it is entirely appropriate that we celebrate all that Don and Jackie have given to all of us—those who know them personally as friends, and those who have known them only through the essential service they provide.

Anyone who has ever picked up a phone to summon an ambulance in the middle of an emergency knows that those calls are often made in frantic desperation. For more than three decades, the people of Ventura County and Malibu have found Don and Jackie Pruner on the other end of that phone—willing to do anything they could to preserve life.

Through it all, Don and Jackie have also found the time to raise three children, Michelle, Mike and Scott, and to welcome five grandchildren into the world.

Mr. Speaker, I would like to today salute my friends Don and Jackie Pruner, and to thank them for everything they have done for our community. It is rare to come across someone who has truly dedicated their lives to helping preserve the health and welfare of others. Don and Jackie Pruner are two such individuals. It is my hope that, in retirement, these two good friends can focus on their love of traveling, fishing and frequent excursions to Catalina. I think everyone who knows Don and Jackie personally would agree, after all the years of hard work, they deserve it.

Mr. Speaker, I commend Don and Jackie Pruner to this distinguished body and wish them all the best in the future.

## 20TH ANNIVERSARY OF NMMI TV

### HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in recognizing the 20th anniversary of New Mexico Military Institute Television Productions in Roswell, NM. New Mexico is proud to have on the finest military schools in the country, New Mexico Military Institute. NMMI is known for academic excellence, offering one of the few 2-year Army Officer Commissioning Programs in the United States, and having a tough curriculum for the development of strength and character of the young men and women who attend NMMI from literally all around the world. In addition to this, NMMI has contributed greatly to its local community, through, among other things, outstanding television broadcasting produced at NMMI.

This school year NMMI Television Productions will begin its 20th season of providing the Roswell community with local and original broadcasting. Over 300 cadets, and numerous local citizens-as-program hosts and other community volunteers have been a part of this effort. Their programming ranges from community services, retirement programs and activities, bilingual awareness shows, sports, medicine, news, recreation and other programs of interest for and about Roswell. I commend NMMI–TV Productions for providing this additional technical and educational program as part of an experience-by-doing learning laboratory for cadets interested in the field of television broadcasting.

Recently, the superintendent of NMMI, Lt. Gen. Robert D. Beckel, came and briefed me on the many wonderful accomplishments and improvements taking place at NMMI. NMMI Television Productions is clearly an example of this excellence and what they are doing for the men and women attending their institution as well the local community. I am attaching an article from the Roswell Daily Record that explains in detail the exceptional work being done by this unique program. I urge may colleagues to join me in saluting NMMI and NMMI. Television Productions for their all-around dedication to the NMMI Corps of Cadets and the community of Roswell.

[From the Roswell Daily Record, Sept. 8, 1996]

NMMI BROADCASTS 20TH YEAR OF TV PRODUCTION

(By Marifrank DaHarb)

Lights . . . camera . . . and ACTION begins Tuesday as the New Mexico Military Institute TV Productions enters its 20th season on the air.

Under the supervision of executive producer Col. Bruce McLaren and director of broadcasting Lt. Col. Cory Woodbury, the NMMI programming airs on cable channel 11 every Tuesday night during the academic year.

''We share the channel with Community Calendar, First Baptist Church and Roswell City Council meetings,'' McLaren said. He also said they can offer local programming and a link to satellite teleconferences and telecourses to the community, Roswell schools and Eastern New Mexico University-Roswell as well as the institute.

''We've been on the telecommunications cutting edge for 20 years,'' McLaren said, ''hosting numerous broadcast events and now extending into such new areas as a proposed additional downlink site from Eastern, the new Western Governors University and availability as a node in the new statewide telecommunications network now in the planning stages.''

McLaren said the NMMI program's focus has always been on cadet training, sometimes for school credit and sometimes for fun.

''We have 27 volunteer cadets right now,'' he said, ''and a waiting list.''

College sophomore Estevan Padilla of Espanola is in his third year at the institute but this is his first year of involvement with TV production. ''My friend, Mike, got me into it,'' he said. ''It's my first experience with television, but I was already in audio as a member of the VMV Club which is open to everyone, not just for cadets.

''We set up for dances and other performers such as comedians, singers, bands, whatever they need us for.''

Padilla's friend, Mike Ulanski of Wahiawa, Hawaii, also a sophomore and in his third year, said, ''I did this all last year, including special projects like taping alumni activities during Homecoming and the superintendent's retirement party. We'll tape anything as long as it's approved by Col. McLaren.''

Ulanski explained the cadets rotate responsibilities. ''For one show, you might be director,'' he said. ''For the next one you might be in charge of audio.''

Mark Jacobs of Albuquerque is in his third year at NMMI and is a junior in high school. This is his second year in TV production. ''I think I'm very interested in taking this another step,'' he said.

Lt. Col. Woodbury believes the experience can be invaluable, even if it's not a career goal. ''One cadet who graduated from here worked his way through college working for PBS (Public Broadcasting System).''

Martha Ortiz of El Paso, a college freshman, said she had been at NMMI some 21 days. She got interested in TV production after learning about it at an event in the gym showcasing campus activities. ''I like it a lot,'' she said. ''It's very interesting.''

The programs offered have a variety of interests for public viewing. Dori Lenz Wagner is no stranger to the production end, having been a frequent guest on Diane Holdson's ''How To . . .''. But this fall her own show, ''Quilting,'' debuts. The nationally known quilting instructor will teach four different patterns—Fancy Three Patch, Mandevilla, Attic Window and Snowball—as well as how to finish a quilt. Everything will be machine pieced with rotary cutting.

''This is the first time they've done a quilting show,'' she said. ''I think it'll be fun and I'm looking forward to it.''

Wagner's six shows will alternate weeks with newcomer Bo Shero. Shero's program is on woodcarving. ''I plan to take them through a full project of carving a bluebird,'' he said, ''including all the techniques for attaching the wings, heads and feet and painting and sharpening tools.''

Shero is new to Roswell as well as NMMI–TV. He spent five years as a guest woodcarver at Silver Dollar City in Branson, MO, where people demonstrate how things were done in the Ozarks in the 1890s.

''We think we have a good line-up this fall,'' McLaren said. ''But we'd like to be able to offer shows for the home handyman and the Roswell gardener or something like 'New Mexico Out-of-Doors' and 'Learning to play . . . whatever musical instrument.' We're limited only by the availability of program hosts.''

## ''LINKED FINANCING''—A NEW CONCEPT IN AVIATION FUNDING

### HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. LIGHTFOOT. Mr. Speaker, I rise today for the purpose of introducing legislation to establish an innovative new funding mechanism for the Federal Aviation Administration. We've named this new funding mechanism Linked Financing and I'm introducing the legislation at this obviously late date to ensure interested committees such as the Budget, Ways and Means and Transportation Committees, as well as organizations such as the National Civilian Aviation Review Commission, will have an opportunity to study and consider this interesting concept before work begins again next year on the controversial issue of FAA financing reform.

This concept known as Linked Financing is something I've worked on with my friends at the Aircraft Owners and Pilots Association (AOPA). AOPA has devoted substantial time and effort to refining the idea, and I believe it holds considerable promise for addressing the future funding needs of our Nation's air transportation system. It's based on a simple premise. That is, the services provided by the FAA are an essential Government function largely financed by the users of the system. As we know, under existing budget rules the cap on discretionary spending and the tradeoffs it requires, sometimes constrain our ability to fully fund programs which are largely funded by the users.

This situation cries out for a fresh approach. Next year, Congress will begin to debate a number of issues closely tied to the future of aviation funding. The House, in an overwhelming vote to take the transportation trust funds off budget, has sent the clear signal that it wants transportation trust fund monies fully spent for the intended purpose. An internal fight among airlines for market share has crept into Congress and will likely cause a reexamination of the current airline ticket tax structure. Finally, the Clinton administration, in an attempt to use more discretionary spending to fund its liberal social agenda, has created what I believe is an artificial FAA funding crisis in order to justify a new aviation tax structure.

All of these issues contain potential pitfalls. Taking the transportation trust funds out of the unified budget process could send a mixed signal as we seek to balance the Federal budget over the next 7 years. It remains to be seen whether readjusting the airline ticket tax structure will increase either safety or savings to the traveling public. The administration has not been able to adequately demonstrate its alleged aviation funding shortfall. And its proposed solution, new aviation taxes, has a number of additional problems. They are costly to collect, they can disrupt the financial planning of the airlines, they have safety implications, and—most important—FAA would have little direct accountability to Congress for how the agency spends the money.

Linked Financing is a better alternative. This plan would provide FAA the funding the administration says it needs, but, unlike imposing the administration's proposed new aviation taxes, would not circumvent the current budget process.

Linked Financing would retain the excise taxes which airway system users now pay on airline tickets, fuel, and cargo. These taxes would continue to feed the Airport and Airway Trust Fund. This Trust Fund is for aviation spending only, and it finances most of the FAA's budget.

Under Linked Financing, what aviation users pay in taxes for a given year would depend on what Congress allowed the FAA to spend the year before. When the FAA's spending goes up, the taxes collected would be adjusted upwards by a corresponding amount the following year, according to a predetermined formula. An upper limit on the tax rates would keep the rates at a reasonable level. The objective is for tax revenues to match spending from year to year. We think most of the necessary growth in tax revenue would result from aviation industry growth, not tax rate increases. But the formula would provide for an adjustment in the tax rates, if necessary.

When FAA spending drops, tax rates would drop automatically the following year to reflect the decrease. This would ensure that system users will not pay for non-existent services.

Linked Financing also addresses the constraints imposed by the discretionary spending cap. Under the current rules, additional revenue doesn't automatically lead to additional spending. Why? Because spending is capped, regardless of how much money the government takes in.

The purpose of the spending cap is to control the deficit by cutting Government spending instead of raising taxes. However, under Linked Financing, aviation users would pay for the increased spending for FAA—not other taxpayers.

Therefore, the Linked Financing plan establishes an annual Trust Fund reserve account which would be available to the appropriations committees to supplement the resources otherwise available to them within the discretionary cap. This Annual Reserve Account would be outside the discretionary cap, so the discretionary cap would not limit the ability of Congress to spend the funds deposited in the Reserve Account. The amount deposited in the Annual Reserve Account each year would be equal to the annual increase in Aviation Trust Fund revenue, if any.

Linked Financing assures that the taxes that aviation users pay are promptly spent for aviation purposes. And it does this without major changes to the current budget process or the ability of Congress to oversee FAA's spending.

As an innovative mechanism for using dedicated taxes—taxes collected for a specific purpose—Linked Financing could offer a solution for other user financed Government programs, as well.

This is an interesting idea, Mr. Speaker, which deserves serious consideration. The challenges facing aviation are not going to go away and I urge my colleagues to give this proposal their attention as we begin to debate these issues in the final days of this Congress as well as the 105th Congress.

## RECOGNIZING TAIWAN'S NATIONAL DAY

### HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CHABOT. Mr. Speaker, I just wanted to take a moment before the Congress adjourns for the year to congratulate our friends and allies in the Republic of China as they prepare to celebrate their National Day on October 10.

As my colleagues know, the Taiwanese people recently made history as they successfully and peacefully held the first Democratic elections in over four thousand years of Chinese history. President Lee Teng Hui and the people of the Republic of China are to be commended for that landmark achievement.

I join with my colleagues in the Congress and my many Taiwanese-American friends in Cincinnati and around the country in congratulating the people of the Republic of China on this, the 85th anniversary of their National Day.

## TRIBUTE TO ALAN G. HEVESI

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. TOWNS. Mr. Speaker, I rise to recognize the stalwart efforts of Alan Hevesi, who, as New York City's 41st comptroller has fought to ensure financial integrity in the budgetary process. A veteran of the State Assembly, Alan has been involved in the negotiation and passage of 18 balanced budgets.

Alan Hevesi has been a champion of affordable health care, education reform, and the rights of people with disabilities. His efforts were instrumental in passing legislation that cracked down on Medicaid fraud and nursing home abuses.

Under Alan Hevesi's administration, the number of audits conducted by the comptroller's office has doubled, generating $42 million in direct cash savings for the city of New York. Other efforts he has directed resulted in the elimination of individuals from welfare and their placement in meaningful jobs. Additionally, pension funds for which the comptroller is a trustee and advisor, are ranked in the top quartile for performance and the bottom quartile for costs.

The stellar performances of this exceptional individual are attributable to his vast energy, commitment, professional and academic training. He received his undergraduate academic training from Queens College, and his Ph.D in public law and government from Columbia University.

Alan Hevesi and his wife Carol have three children, Laura, Daniel, and Andrew. I am pleased to recognize his vast contributions and to introduce him to my House colleagues.

## A VETERAN INSTRUCTOR SHARES HER EXPERIENCES IN THE CLASSROOM

### HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. WICKER. Mr. Speaker, I want to share with my colleagues an article that appeared in the Sunday, September 22 edition of the Northeast Mississippi Daily Journal in my hometown of Tupelo, MS. Claudia Hopkins is a fifth grade teacher at King Intermediate School in Tupelo. She was recently asked to talk about her career as a teacher before the Tupelo Rotary and Kiwanis Clubs. Her comments reaffirm my long-held feelings that classroom teachers are the most important part of education.

A VETERAN INSTRUCTOR SHARES HER EXPERIENCES IN THE CLASSROOM

(By Claudia Hopkins)

I never planned to teach. I didn't want to. My mother was a career teacher, my father had been a teacher at different times in my life, my aunts were teachers, and I just wasn't interested. I didn't like teachers! They were always so intrusive! I think I was like Winston Churchill who said, ''Personally, I'm always ready to learn, although I do not always like to be taught.''

I wanted to be a writer, and that's the employment I was seeking as a new college graduate 27 years ago in Nashville. I was scheduled for my second interview for a copywriter's position when I came home for the Labor Day weekend to find that the principal of a little school outside of Nashville had called saying he needed a fourth grade teacher. There was only one drawback, he said. My room would be on the stage. Well, those of you who know me can appreciate the irony in that! And, sure enough, without really knowing why, I canceled my copywriting interview, took that teaching job and with the exception of seven years, have been ''on the stage'' ever since!

Often I've felt just like Dolly Levi with a business card and a solution for every problem! A teacher makes so many decisions for so many people in one day—our profession ranks second in the number of immediate decisions that must be made every day. Air traffic controllers are first! They also have the highest suicide rate, but I don't want to dwell on that!

II. ''GETTING TO KNOW YOU.''

It didn't take me very long that first year to realize that if I wanted my students to be successful, I couldn't teach them as if they were all round pegs to fit into round holes, Some of them are square pegs, some are diamond-shaped—all are unique. I began to read and study and observe. Somewhere along the way, I read what a student had written, and the words had a profound effect on my teaching:

''Can't nobody teach me who don't know me and won't learn me.'' Let me repeat that: ''Can't nobody teach me who don't know me and won't learn me.''

Wow, what a powerful statement! I began to try to get to know each one of my students—to search out the learning style unique to each one—to find just the right way to help each child experience success. It's a hard task—often an exhausting one and one I'm still trying to master.

I guess the most outstanding example of tailoring education to fit the child was Fred. Fred was an older boy who'd been held back several years. By the time he was in the

fourth grade, he was so mature that he wasn't just noticing the girls but the teachers, too! I found him in the sixth grade hall one day getting a drink of water, and as I passed, I patted him on his back and told him that he needed to return to his classroom. He never raised up—I just heard him utter, ''Umm, umm, umm!''

Well, at the end of that fourth grade year, the principal decided to bypass fifth grade and put Fred in my sixth grade class because he was, quote, ''getting too old to stay in elementary school'' and ''it didn't matter where he was anyway; he couldn't learn.'' Boy, don't ever give me a challenge like that! I discovered right away that Fred could learn—in fact, he could learn fast. I showed him how to annex the zero in multiplication in one day. He called that zero the ''naked zero. I don't know why. But it worked for him. He was like that—you could see the light come on in his eyes, and whatever connection he made that year, I supported. He couldn't read very well and we weren't really successful in overcoming that, but he'd found his own system of deciphering the printed word enough to keep up in science and social studies.

In getting to know him, I discovered that he got up before sunrise every day to help his uncle on their farm and that he drove a tractor sometimes late into the night. Yet, he always had his homework that year. His lower elementary teachers couldn't understand the change. I didn't understand it. But Fred did. He understood a lot of things for the very first time, and it felt good to him.

Years later I was back in that little community for a visit, and I attended the very first graduation ceremony in their new high school. Can you imagine how I felt when the principal called his name and there he was in a cap and gown getting his diploma? That's why I teach.

III. HAVE CHILDREN CHANGED?

I'm often asked, ''Don't you think children have changed? '' I've even said it myself, but I really don't think it's the children who have changed. They haven't been here long enough! The world has changed, values have changed, communication has changed, delivery of instruction has changed, I have changed. But, I think the children are basically the same in 1996 as they were in 1969.

1. They love to be read to. I know that sentence ended with a preposition, but as long as I know it, it's OK. Isn't it? The beauty of the language is as appealing to children today as it ever was. I try to read to my students every day. I choose all kinds of literature, and they are just spellbound. For many, it's the only time of the day that they're completely quiet and focused on what's being said. That never changes. One of the perks of my job is hearing them say, ''The book is better than the movie''

2. The approval of their peers is as important today as it was when I first started teaching. On Friday, one of my students was having a hard time getting anyone to work with him. He said to me, ''Nobody likes me,'' and then he walked off with slumped shoulders. That's what the feeling does to children—to us all—it defeats us. I couldn't stand for him to feel that way, so he and I had a silent conversation while everyone else was working. Have you ever had a silent conversation? It's where you and someone else write your thoughts and questions and comments instead of speaking them. It's a wonderful way to communicate. You're more focused on what you're feeling, you're using more than one or two of your seven intelligences and it's really hard to whine on paper! Try it in your business. Try it at home with hour families! Anyway, I suggested that perhaps he was so busy distracting others and being loud that they weren't able to see the real him—the one that was so smart and capable. He didn't write a response—he just looked up at me, grinned and nodded, and said aloud, ''This was fun'' as he joined a group to finish his work.

3. Children today love to be creative, to perform, to improvise. But here's the great paradox in education. Even though studies show that children who are stimulated creatively through the arts perform better in school and on standardized tests, the arts budgets and the strictness of scheduling often cut out the very experiences that children need. Go figure! We're fortunate at King to have the time, thanks to Dr. Cother, and the materials, thanks to AEE, to be able to set up an art museum simulation this year and perform several musicals that extend our social studies, science and literature curricula and meet the creative needs of each child.

4. Children love to see you in a tense, uncomfortable situation and then they go in for the kill.

That hasn't changed.

I'll never forget the first time my superior came into my classroom to observe me. Of course, it was unexpected, but I felt pretty good about the lesson for the day. I'd spent a lot of time cutting out pictures from magazines to reinforce my lesson on writing descriptions. Each student had taken one, written a description, and then I was to read them and let them see if they could guess what the picture was from the description.

Well, my supervisor eased in just as I was reading the description of an elephant. ''It has fat legs and big hips.'' One hand went up. I nervously asked, ''Yes, honey, who or what do you think it is?'' ''Sounds a lot like my sister to me!'' Well, I handled the laughter as well as I could and said something inadequate like, ''No, sweetie, it's not your sister,'' and went on reading. ''It has a little tail.'' I see you're ahead of me. And of course that same little voice piped up, ''Nope, it sure ain't my sister if it's got a little tail. Hers is as big as the Grand Canyon.'' Well, you'd think that was the end of it, wouldn't you? Oh, no! Just as I reclaimed control of the class, another student raised his hand, and like a fool, I called on him. ''What's that mark on your top?'' You know, tact is not a child's long suit. Well, that morning I'd let the iron stay a bit too long on that spot and had a perfect print of an iron right on the front of my top, but I'd convinced myself that it wasn't noticeable. I explained, my humiliation almost complete. As we walked out of the classroom, one of the students said, ''You need some new shoes, too.'' My supervisor never said a word, in fact, she never came back.

5. Brace yourselves, parents. Children tell us what you say about us. I really think there ought to be a contract signed every year between parents and teachers stating: We won't believe everything they say about you if you won't believe everything they say about us! I taught sex education one year—don't laugh—to sixth grade girls. I had looked through my teachers' edition of my science book and noticed that chapter 10 was about reproduction. The principal and I planned for months. We had filmstrips and videos, guest speakers lined up, and our lessons all prepared. We'd sent the science books home with instructions for the parents to read chapter 10, sign the permission notes and be in partnership with us as we went through the unit.

On the first day, I opened with, ''Girls, I know you all have read chapter 10 and your parents have read chapter 10. What are your thoughts as we begin this unit?'' There was just this long silence, so I tried another approach. ''Did your parents discuss this with you?'' Mary was the only one to raise her hand. ''Yes, Mary?'' ''Well, my mother said it was just like an old maid to get in a stew over this. She said she didn't know what all the fuss was about.'' I began to respond with something like, ''Mary, some parents think this is a very delicate subject,'' and Mary said, ''What's delicate about plants?'' Friends, I had read the alternate chapter in my teacher's edition. The students textbooks were all about cross pollination of pea pods—not sexual reproduction. If those parents had said to me what they'd said about me, we could have saved ourselves a lot of stress!

6. Children today are as hungry for an adult's approval as they ever were. Several years ago my students were asked to write in their journals at the beginning of every class period. It was one of those days when the silence was broken several times with the question, ''What's today?'' I'd answered that question over and over and finally, I jumped up, ran to the middle of the room and sang, ''Da, da, da, da, da, da! Today's the 29th! Now, everybody knows what today is.'' On my way back to my seat, I heard one of the boys say to his neighbor, ''Everybody but James—he's too dumb to know what today is.'' Before I could respond, I heard James say, just as quietly, ''Uh huh. Da, da, da, da, da, da! Today's the 29th!'' I just fell out and said, ''James, I love you!'' At the end of the week, I took up their journals and there in James' poor spelling and painfully childish writing were these words: ''Miss Hockin love me. She say so.'' Some things never change.

IV. WHAT, THEN, HAS CHANGED?

Am I saying that children are still attending school in Mayberry with Miss Crump? Goodness, no! There ARE differences in our classrooms today. Because of advances in technology, the world can be brought to our doors. We can access research data almost as soon as new discoveries are made. We can communicate with students in other places from our classrooms. We have more materials, more comfortable classrooms, more up-to-date textbooks, more resources. But, because of drug abuse we have students who are severely altered in academic ability and in behavioral skills. Because of the changes in the home, we have students who are withdrawn or threatening. Because of neglect, we have students who seek attention in any way they can get it. Because they've been given too much too soon, we have students who are hopeless and jaded. The dead eyes alarm me more than anything.

Today's differences create more challenges for teachers. What are the greatest challenges I face today? Probably the same ones I faced in the early '70s—how to individualize instruction; how to provide a classroom climate where motivation can take place; how to manage behavior; how to communicate effectively with students, parents and other educators; how to meet the needs of every student whether the need be academic, emotional or physical; how to relinquish ''teaching'' time to laugh, to enjoy the spontaneous moment, to really look at a child, to really listen, to discover, to explore, to appreciate, to grow; and the continuing challenge of how to give a flawless performance on this education ''stage'' I've chosen, because . . .

. . . a doctor's mistake is buried

. . . a lawyer's mistake is imprisoned

. . . a plumber's mistake is stopped

. . . an accountant's mistake is written off

. . . a printer's mistake is reprinted

. . . But, a teacher's mistake is never erased.

## A CLOSER LOOK AT PARTIAL-BIRTH ABORTIONS

HON. ROBERT K. DORNAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. DORNAN. Mr. Speaker, even liberal newspapers such as the Washington Post agree that abortion advocates have been fast and loose with the facts concerning H.R. 1833, the Partial-Birth Abortion Act. It's time to set the record straight. Here is an in-depth, factual analysis of this important, life-saving bill.

[From the National Right to Life Committee, Inc., Sept. 11, 1996]

PARTIAL-BIRTH ABORTIONS: A CLOSER LOOK

(By Douglas Johnson, NRLC Federal Legislative Director)

The final version of the Partial-Birth Abortion Ban Act (HR 1833) was approved by the U.S. Senate by a vote of 54–44 on December 7, 1995, and by the U.S. House of Representatives on March 27, 1996, by a vote of 286–129. On April 10, 1996, President Clinton vetoed the bill. The House is expected to vote on whether to override the veto on or about September 19, 1996. If two-thirds of the House votes to override, the Senate also will vote on whether to override.

Opponents of the bill, including President Clinton and his subordinates, have propagated a number of myths regarding the partial-birth abortion procedure and the bill. These myths include the assertions that partial-birth abortions are very rare and are performed only in extreme circumstances involving serious fetal deformities or threat to the life of the mother; that the bill would jeopardize the lives or health of some women; and that anesthesia given to the mother kills the fetus/baby or renders her pain-free before the procedure is performed. Some of this misinformation—especially the claim that the procedure is used mostly in cases of severe ''fetal deformity''—has been uncritically adopted as factual by some journalists, columnists, and editorialists.

Yet, these claims are contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions, and by other available documentation, including authoritative medical information gathered by the House Judiciary Committee and the Senate Judiciary Committee. This factsheet relies heavily upon such primary sources. For copies of documents cited here, contact the NRLC Federal Legislative Office at (202) 626–8820, fax (202) 347–3668.

### WHAT IS A PARTIAL-BIRTH ABORTION, AND WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) would prohibit performance of a partial-birth abortion, except in cases (if there are many) in which the procedure is necessary to save the life of a mother. The complete text of the bill is attached to this factsheet.

The bill defines a ''partial-birth abortion'' as ''an abortion in which the person performing the abortion partially vaginally delivers a long fetus before killing the fetus and completing the delivery.'' Abortionists who violates the law would be subject to both criminal and civil penalties, but no penalty would be applied to the woman who obtained such an abortion.

This procedure is generally beginning at 20 weeks (4½ months) in pregnacy, and ''routinely'' at least 24 weeks (5½ months). It has often used much later—even into the ninth month. The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 news story: The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Martin Haskell of Dayton, Ohio, wrote a paper that described in detail, step-by-step, how to preform the procedure. [''Dilation and Extraction for Late Second Trimester Abortion.''] Dr. Haskell is a family practitioner who has performed over 1,000 such procedures in his walk-in abortion clinics. Anyone who is seriously seeking the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the explanatory interviews that Dr. Haskell gave in 1993 to two medical publications, American Medical News (the official AMA newspaper) and Cincinnati Medicine. [All are available from NRLC.]

Here is how Dr. Haskell explained a key part of the abortion method: With a lower [fetal] extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and upper extremities. The skull lodges at the internal cervical os[the opening to the uterus]. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spineup. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and ''hooks the shoulders of the fetus with the index and ring fingers (palm down) * * * [T]he surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger * * * [T]he surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents.'' [''Dilation and Extraction for Late Second Trimester abortion,'' pages 30–31.]

Dr. Haskell also wrote that he ''routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from 4½ to 5½ months after the last menstrual period] with certain exceptions,'' these ''exceptions'' involving complicating factors such as being more than 20 pounds overweight. Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] ''on selected patients.'' [p.28] He added, ''Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.'' (p. 33).

In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Haskell explained that he first learned of the method when a colleague described very briefly over the phone to me a technique that I later learned came from Dr. [James] McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breech type of delivery.

Dr. James McMahon, who died in 1995, used essentially the same procedure thousands of times, and to a much later point in pregnancy—even into the ninth month. Other abortionists also employ the procedure, as discussed below.

### AREN'T ''THIRD TRIMESTER'' ABORTIONS RARE? AT WHAT STAGE IN PREGNANCY DO PARTIAL-BIRTH ABORTIONS OCCUR? ARE THESE BABIES ''VIABLE''?

It appears that the substantial majority of partial-birth abortions are performed late in the second trimester—that is, before the 27-week mark—but usually after 20 weeks (4½ months). There is compelling evidence that the overwhelming majority of these pre-week-27 partial-birth abortions are performed for purely ''social'' reasons.

In an attempt to ''filter out'' this documentation, many opponents of the bill attempt to narrow the debate to only third-trimester partial-birth abortions procedures—that is, to abortions performed beginning in the 27th week [seventh month] of pregnancy. Some journalists and commentators have readily adopted this ''filter.'' However, there is really no non-ideological justification for adopting this ''third trimester'' demarcation. It has no basis in the text of the Partial-Birth Abortion Ban Act (HR 1833), which bans partial-birth abortion at any point in pregnancy. Nor, contrary to some popular misconceptions, is there any basis in current Supreme Court constitutional doctrine or in neo-natal medical practice for adopting a ''third trimester'' demarcation.

Under the Supreme Court's doctrine, ''viability'' is regarded as the constitutionally significant demarcation. In Planned Parenthood v. Casey (1992), the Supreme Court explicitly disavowed the ''trimester framework'' of Roe v. Wade (1973), and reaffirmed that ''viability'' is (in the Court's view) the constitutionally significant demarcation. ''Viability'' is the point at which a baby born prematurely can be sustained by good medical assistance. Currently, many babies are ''viable'' a full three weeks before the ''third trimester.'' Therefore, most partial-birth abortions kill babies who are already ''viable,'' or who are at most a few days or weeks short of viability.[1]

(Even at 20 weeks, the baby is seven inches long on average. And, as discussed below, at a March 21 congressional hearing leading medical authorities testified that the baby by this point is very sensitive to painful stimuli.)

At least one partial-birth abortion specialist, the late Dr. James McMahon, regularly performed the procedure even after 26 weeks—even into the ninth month. In 1995, Dr. McMahon submitted to the House Judiciary Constitution Subcommittee a graph and explanation that explicitly showed that he aborted healthy (''not flawed'') babies even in the third trimester (after 26 weeks of pregnancy). Dr. McMahon's own graph showed, for example, that at 29 or 30 weeks, one-fourth of the aborted babies had no ''flaw'' however slight. Underneath the graph, Dr. McMahon offered this explanation: After 26 weeks, those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. [chart and caption reproduced in June 15 hearing record, page 109]

In an interview with Constitution Subcommittee Counsel Keri Harrison, Dr. McMahon explained that ''pediatric indication'' referred to underage mothers, not to any medical condition of the mother or the baby.

[1] According to the landmark survey of neonatal units in the National Institute of Child Health and Human Development Neonatal Research Network, conducted in 1987 and 1988 by Dr. Maureen Heck, et al, babies born at 23 weeks had on average a 23% chance of survival, rising to 34% at 24 weeks, and 54% at 25 weeks. See ''Very Low Birth Weight Outcomes of the National Institute of Child Health and Human Development Neonatal Network,'' Pediatrics, May 1991.

IS THE BABY ALIVE WHEN SHE IS PULLED FEET-FIRST FROM THE WOMB?

American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors ''told AM News that the majority of fetuses aborted this way are alive until the end of the procedure.'' On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Dr. Haskell to the House Judiciary Committee. The transcript contains the following exchange:

American Medical News: Let's talk first about whether or not the fetus is dead beforehand.

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.

In an interview quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell conveyed that the scissors thrust is usually the lethal act: ''When I do the instrumentation on the skull * * * it destroys the brain tissue sufficiently so that even if it (the fetus) falls out at that point, it's definitely not alive,'' Dr. Haskell said. [For further evidence on this issue, see the next section.]

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Dr. Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17, 1995), Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the baby was alive and moving as the abortionist delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

Under HR 1833, in any case in which a baby dies before being partly removed from the uterus—whether of natural causes or by an action of an abortionist—the subsequent removal of that baby is not a partial-birth abortion as defined by the bill.

DOES ANESTHESIA GIVEN TO THE MOTHER KILL THE BABY?

Many prominent defenders of partial-birth abortion have publicly insisted that the unborn babies are killed by anesthesia given to the mother, prior to being ''extracted'' from the womb. For example, syndicated columnist Ellen Goodman wrote in November, 1995, that if you listened to supports of the ban, ''You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal.'' NARAL President Kate Michelman said, ''The fetus, is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.'' [KMOX–AM, St. Louis, Nov. 2, 1995]

Likewise, Planned Parenthood distributed to Congress a ''fact sheet'' signed by Dr. Mary Campbell, Medical Director of Planned Parenthood of Metropolitan Washington, which stated, ''The fetus dies of an overdose of anesthesia given to the mother intravenously * * * This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb.''

However, when this statement was read to Dr. Norig Ellison, the president of the 34,000-member American Society of Anesthesiologists (ASA), he testified, ''There is absolutely no basis in scientific fact for that statement * * * think the suggestion that the anesthesia given to the mother, be it regional or general, is going to cause brain death of fetus is without basis fact.'' [Senate Judiciary Committee hearing record J–104–54, Nov. 17, 1995, p. 153]

Subsequently, in attempting to defend their ''fetal demise'' claims, pro-abortion advocacy groups disseminated new claims that the late Dr. James McMahon had utilized exceptionally massive doses of narcotic anesthesia before performing his abortions, and that these massive doses would indeed kill a fetus. But in the testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified: In order to cause fetal demise, it would be necessary to give the mother dangerous and life-threatening doses of anesthesia.'' [* * *] Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. [House Judiciary Committee hearing record no. 73, pages 140, 142]

SINCE THE BABY IS STILL ALIVE WHEN ''EXTRACTED'' FROM THE WOMB, DOES SHE FEEL PAIN?

Dr. Norig Ellison, president of the American Society of Anesthesiologists (ASA), wrote to the Senate Judiciary Committee: Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide little-to-no analgesia [pain relief] to the fetus. [Senate Judiciary Committee, Nov. 17, 1995 hearing record, page 226]

On March 21, 1996, the House Judiciary Subcommittee on the Constitution conducted a public hearing on ''The Effects of Anesthesia During a Partial-Birth Abortion.'' Four leading experts in the field testified that the fetuses/babies who are old enough to be ''candidates'' for partial-birth abortion possess the neurological equipment to respond to painful stimuli, whether or not the mother has been anesthetized. Opponents of the bill were unable to produce a single medical witness willing to testify in support of the claims that anesthesia kills the fetus or renders the fetus insensible to pain. [See House Judiciary Committee Hearing Record No. 73, March 21, 1996.)

Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta, testified that recent research shows that by the stage of development that a fetus could be a ''candidate'' for a partial-birth abortion (20 weeks), the fetus ''is more sensitive to pain than a full-term infant would be if subjected to the same procedures,'' Prof. Wright testified. These fetuses have ''the anatomical and functional processes responsible for the perception of pain,'' and have ''a much higher density of Opioid (pain) receptors'' than older humans, she said.

Dr. David Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified, ''Having administered anesthesia for fetal surgery, I know that on occasion we need to administer anesthesia directly to the fetus because even at these early ages the fetus moves away from the pain of the stimulation.'' [hearing record, page 288]

At a hearing before the same panel on June 15, 1995, Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, testified, ''The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain.'' After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: ''Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.'' [House Judiciary Committee hearing No. 31, June 15, 1995, page 70.] Prof. Jean Wright concluded, ''This procedure, if it were done on an animal in my institution, would not make it through the institutional review process. The animal would be more protected than this child is.'' [hearing record, page 286]

DOES THE BILL CONTAIN AN EXCEPTION FOR LIFE-OF-THE-MOTHER CASES?

HR 1833 explicitly provides that the ban ''shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury,'' if ''no other medical procedure would suffice for that purpose.''

[Some pro-abortion advocacy groups have insisted that exception does not apply to disorders associated with pregnancy, since ''pregnancy'' per se is not a disorder or disease. House Judiciary Committee Chairman Henry J. Hyde (R–11.) commented that this reading ''is absurdly convoluted, and violates standard principles of statutory construction.'' In a June 7 letter, even President Clinton has acknowledged that the bill ''provides an exception to the ban on this procedure only when a doctor is convinced that a woman's life is at risk.'']

Under HR 1833, an abortionist could not be convicted of a violation of the law unless the government proved, beyond a reasonable doubt, that the abortion was not covered by this exception. (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense—that the abortionist ''knowingly'' partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

It is noteworthy that none of the five women who appeared with President Clinton at his April 10 veto ceremony required a partial-birth abortion because of danger to her life. As one of the women, Claudia Crown Ades, said in a tape-recorded April 12 radio interview on WNTM (Mobile, AL): ''My procedure was elective. That is considered an elective procedure, as were the procedures of Coreen Costello and Tammy Watts and Mary-Dorothy Line and all the other women who were at the White House yesterday. All of our procedures were considered elective.'' [Complete tape recording available on request.]

[Two of the women said that if their babies had died natural deaths within their wombs, it could have placed them at risk. But the removal of a baby who dies a natural death, whether by foot-first extraction or in any other manner, is not an abortion and has nothing to do with the bill. Professor Watson Bowes, Jr., of the University of North Carolina, co-editor of the Obstetrical and Gynecological Survey, has stated that weeks would pass between the baby's natural demise and the development of any resulting risk to the mother.]

WHAT REASONS HAS PRESIDENT CLINTON GIVEN FOR VETOING HR 1833?

On December 7, 1995, before the Senate had even voted on final passage of the bill, chief opponent Sen. Barbara Boxer (D-Cal.) took the floor to make an unqualified statement that President Clinton would veto the bill. On December 8, White House Press Secretary Michael McCurry said unequivocally that the President would veto the bill because ''it would represent an erosion of a woman's right to choose.''

However, when President Clinton next publicly addressed the issue in a February 28 letter to key members of Congress (after a national poll found 71% support for the ban), he took different tone, although the legal bottom line was unchanged. Mr. Clinton wrote of having ''studied and prayed about this issue * * * for many months,'' of finding the procedure ''very disturbing,'' and of seeking ''common ground * * * that respects the views of those—including myself—who object to this particular procedure,'' while defending Roe v. Wade. But the ''common ground'' that Mr. Clinton proposed tracked the language offered by Sen. Boxer on December 7, and endorsed by the National Abortion and Reproductive Rights Action League (NARAL) as a ''pro-choice vote.'' The Boxer/NARAL amendment would have allowed partial-birth abortion to be performed without any limitation whatever until ''viability,'' and also ''after viability where, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.'' (The Senate rejected this gutting amendment.)

The Boxer/Clinton language must be read in the light of Doe v. Bolton, the 1973 companion case to Roe v. Wade, in which the Supreme Court said that ''health'' must encompass ''all factors—physical, emotional, psychological, familial and the woman's age—relevant to the well-being of the patient.'' Given this expansive definition of ''health,'' adding the word ''serious'' has no legal effect, since Mr. Clinton proposes to leave entirely up to each abortionist to decide whether ''depression'' or some other ''health'' concern is ''serious.''

In a June 7 letter to leaders of the Southern Baptist Convention, Mr. Clinton said that he favored banning the procedure with an exception for ''cases where a woman risks death or serious damage to her health,'' but not for cases involving ''youth'' or ''emotional stress.'' But in his formal veto message on the bill, Mr. Clinton referred to a ''health'' exception as required by Roe v. Wade. Mr. Clinton, a former teacher of constitutional law, knows full well that these two positions are inconsistent, because if Roe/Doe applies to partial-birth abortions, then even after ''viability,'' the exception must indeed cover ''emotional'' health.

In his June 7 letter, President Clinton asserted that ''the medical community * * * broadly supports the continued availability of this procedure where a woman's serious health interests are at stake.'' However, the American Medical Association (AMA) Legislative Council voted unanimously to recommend endorsement of the bill, with one member explaining that the procedure was ''not a recognized medical technique.'' (The full AMA Board of Trustees was divided on the bill and ultimately took ''no position.'') Of the five medical doctors who serve in Congress, four voted for the bill, including the only family practitioner/gynecologist.

HOW OFTEN ARE PARTIAL-BIRTH ABORTIONS PERFORMED?

There are at least 164,000 abortions a year after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as minimums, since they are based on voluntary reporting to the AGI. (The Centers for Disease Control reported that in 1993, over 17,000 abortions were performed at 21 weeks and later—and the CDC acknowledges that the reports that it receives are incomplete.)

No one really knows how many late abortions are done by the partial-birth procedure. The Center for Reproductive Law and Policy told The New York Times, ''The number of procedures that clearly meet the definition of partial birth abortion is very small, probably only 500 to 1,000 a year.'' (March 28, 1996) Even if such figures were accurate, the legislation would be urgently needed. If a new virus swept through neo-natal units and killed 500 or 1,000 premature babies, it would be a top news story—not dismissed as too ''rare'' to be of consequence. For each human being at the pointed end of the scissors, a partial-birth abortion is a 100% proposition.

Moreover, the numbers may be considerably higher—perhaps thousands per year. Dr. Martin Haskell and the late Dr. James McMahon spend years trying to convince other abortionists of the merits of the procedure—that was the purpose of Dr. Haskell's 1992 instructional paper (see page 3) which was distributed by the National Abortion Federation, a lobbying group for abortion clinics. For years, Dr. McMahon was director of abortion instruction at the Cedar-Sinai Medical Center in Los Angeles. In addition, he invited other doctors to visit his abortion clinic for a period of days to learn the procedure. Also, The New York Times reported on Nov. 6, 1995: ''Of course I use it, and I've taught it for the last 10 years,'' said a gynecologist at a New York teaching hospital who spoke on condition of anonymity. ''So do doctors in other cities.''

It is not known how many other abortionists have adopted the method, but a few have made themselves known. On March 19, 1996, Dr. William Rashbaum of New York City wrote a letter to Congressman Charles Canady (R–FL), stating that he has performed 19,000 late-term ''procedures,'' and that he has performed the procedure that HR 1833 would ban ''routinely since 1979. This procedure is only performed in cases of later gestational age.''

In 1995, Dr. Martin Haskell filed a lawsuit challenging a state abortion-regulation law. In that proceeding, two other doctors filed affidavits affirming that they perform the same procedure as Dr. Haskell—and that's just in Ohio.

FOR WHAT REASONS ARE LATE-TERM ABORTIONS USUALLY PERFORMED?

There is no evidence that the reasons for which late-term abortions are performed by the partial-birth abortion method are any different, in general, than the reasons for which late-term abortions are performed by other methods—and it is well established that the great majority of late-term abortions do not involve any illness of the mother or the baby. They are purely ''elective'' procedures—that is, they are performed for purely ''social'' reasons.

In 1987, the Alan Guttmacher Institute (AGI), an affiliate of the Planned Parenthood Federation of America (PPFA), collected questionnaires from 1,900 women who were at abortion clinics procuring abortions. Of the 1,900, ''420 had been pregnant for 16 or more weeks.'' These 420 women were asked to choose among a menu of reasons why they had not obtained the abortions earlier in their pregnancies. Only two percent (2%) said ''a fetal problem was diagnosed late in pregnancy,'' compared to 71% who responded ''did not recognize that she was pregnant or misjudged gestation,'' 48% who said ''found it hard to make arrangements,'' and 33% who said ''was afraid to tell her partner or parents.'' The report did not indicate that any of the 420 late abortions were performed because of maternal health problems. [''Why Do Women Have Abortions?,'' Family Planning Perspectives, July/August 1988.]

Also illuminating is an 1993 internal memo by Barbara Radford, then the executive director of the National Abortion Federation, a ''trade association'' for abortion clinics: There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.''

Likewise, a June 12, 1995, National Abortion Federation letter to members of the House of Representatives noted that late abortions are sought by, among others, ''very young teenagers * * * who have not recognized the signs of their pregnancies until too late,'' and by ''women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers.''

In her article about late-term abortions, based in part on extensive interviews with Dr. McMahon and on direct observation of his practice (Los Angeles Times Magazine, January 7, 1990), reporter Karen Tumulty concluded: If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.

According to Peggy Jarman, spokeswoman for Dr. George Tiller, who specializes in late-term abortions in Wichita, Kansas: About three-fourths of Tiller's late-term patients, Jarman said, are teen-agers who have denied to themselves or their families they were pregnant until it was too late to hide it. [Kansas City Star]

FOR WHAT REASONS ARE PARTIAL-BIRTH ABORTIONS USUALLY PERFORMED?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claims that the partial-birth abortion procedure is employed only in cases involving extraordinary threats to the mother or grave fetal disorders. For example, NARAL President Kate Michelman wrote in a Scripps Howard News Service op ed published June 16, 1996, ''Late-term abortions are only used under the most compelling of circumstances—to protect a woman's health or life or because of grave fetal abnormality * * * nearly all abortions are performed in the first trimester.'' PPFA said in a press release that the partial-birth abortion procedure is ''done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.'' (Nov. 1, 1995)

However, claims such as these are inconsistent with the writings and recorded statements of the three doctors who are most closely identified with the procedure: Dr. Martin Haskell, Dr. James McMahon, and Dr. David Grundmann.

*Reasons for Partial-Birth Abortions: Dr. Martin Haskell*

In his 1992 paper, Dr. Martin Haskell, who has performed over 1,000 partial-birth abortions, described the procedure as ''a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.'' Dr. Haskell, a family practitioner who operates three abortion clinics, wrote that he ''routinely performs this procedure on all patients 20 through 24 weeks'' (4½ to

5½ months) pregnant, except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

For information on why Dr. Haskell adopted the method, the 1993 interview in Cincinnati Medicine is very instructive. Dr. Haskell explained that he had been performing dismemberment abortions (D&Es) to 24 weeks: But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D&Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach up and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. * * * Then I said, ''Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it.'' I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

In 1993, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said: And I'll be quite frank: most of my abortions are elective in that 20–24 week range. * * * In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.

In a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with ''a variety of conditions. Some medical, some not so medical.'' Among the ''medical'' examples he cited was ''agoraphobia'' (fear of open places). Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinic for abortions ''well beyond'' 4½ months into pregnancy, and that ''none of these women had any medical illness, and all three had normal fetuses.''

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shafer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

*Reasons for Partial-Birth Abortions: Dr. James McMahon*

The late Dr. James McMahon performed thousands of partial-birth abortions, including the third-trimester abortions performed on the five women who appeared with President Clinton at his April 10 veto ceremony. Dr. McMahon's general approach is illustrated by this illuminating statement in the July 5, 1993 edition of *American Medical News*: ''[A]fter 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.' On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother.''

In June, 1995, Dr. McMahon submitted to Congress a detailed breakdown of a ''series'' of over 2,000 of these abortions that he had performed. He classified only 9% (175 cases) as involving ''maternal [health] indications,'' of which the most common was ''depression.''

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, gave the Senate Judiciary Committee her analysis of Dr. McMahon's 175 ''maternal indication'' cases. Of this sample, 39 cases (22%) were for maternal ''depression,'' while another 16% were ''for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis),'' Dr. Smith noted. She added that in one-third of the cases, the conditions listed as ''maternal indications'' by Dr. McMahon really indicated that the procedure itself would be seriously risky to the mother.

Of Dr. McMahon's series, another 1,183 cases (about 56%) were for ''fetal flaws,'' but these included a great many non-lethal disorders, such as cleft palate and Down Syndrome. In an op ed piece written for the *Los Angeles Times*, Dr. Katherine Dowling, a family physician at the University of Southern California School of Medicine, examined Dr. McMahon's report on this ''fetal flaws'' group. She wrote: Twenty-four were done for cystic hydroma (a benign lymphatic mass, usually treatable in a child of normal intelligence). Nine were done for cleft lip-palate syndrome (a friend of mine, mother of five, and a colleague who is a pulmonary specialist were born with this problem). Other reasons included cystic fibrosis (my daughter went through high school with a classmate with cystic fibrosis) and duodenal atresia (surgically correctable, but many children with this problem are moderately mentally retarded). Guess they can't enjoy life, can they? In fact, most of the partial-birth abortions in that [McMahon] survey were done for problems that were either surgically correctable or would result in some degree of neurologic or mental impairment, but would not harm the mother. Or they were done for reasons that were pretty skimpy: depression, chicken pox, diabetes, vomiting. [''What Constitutes A Quality Life?,'' *Los Angeles Times*, Aug. 28, 1996]

Over one-third of McMahon's 2,000-abortion ''series'' involved neither fetal nor maternal health problems, however trivial.

In Dr. McMahon's interviews with American Medical News and with Keri Harrison, counsel to the House Judiciary Subcommittee on the Constitution, Dr. McMahon freely acknowledged that he performed late second trimester procedures that were ''elective'' even by his definition (''elective'' meaning without fetal or maternal medical justification).

After 26 weeks, Dr. McMahon claimed that all of his abortions were ''non-elective''—but his definition of ''non-elective'' was very expansive. His written submission stated: ''After 26 weeks [six months], those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications.'' [''Pediatric indications'' was Dr. McMahon's terminology for young teenagers.]

*Reasons for Partial-Birth Abortions: Dr. David Grundmann*

Dr. David Grundmann, the medical director for Planned Parenthood of Australia, has written a paper in which he explicitly states that he uses the partial-birth abortion procedure (he calls it ''dilatation and extraction'') as his ''method of choice'' for abortions done after 20 weeks (4½ months), and that he performs such abortions for a broad variety of social reasons. [This paper, ''Abortion After Twenty Weeks in Clinical Practice: Practical, Ethical and Legal Issues,'' and associated documentation, is available from NRLC.]

Dr. Grundmann himself described the procedure in a television interview as ''essentially a breech delivery where the fetus is delivered feet first and then when the head of the fetus is brought down into the top of the cervical canal, it is decompressed with a puncturing instrument so that it fits through the cervical opening.''

In the 1994 paper, Dr. Grundmann listed several ''advantages'' of this method, such as that it ''can be performed under local and/or twi-light anesthetic'' with ''no need for narcotic analgesics,'' ''can be performed as an ambulatory out-patient procedure,'' and there is ''no chance of delivering a live fetus.'' Among the ''disadvantages,'' Dr. Grundmann wrote, is ''the aesthetics of the procedure are difficult for some people; and therefore it may be difficult to get staff.'' (Dr. Grundmann also wrote that ''abortion is an integral part of family planning. Theoretically this means abortions at any stage of gestation. Therefore I favor the availability of abortion beyond 20 weeks.'')

Dr. Grundmann wrote that in Australia, late-second-trimester abortion is available ''in many major hospitals, in most capital cities and large provincial centres'' in case of ''lethal fetal abnormalities'' or ''gross fetal abnormalities,'' or ''risk to maternal life,'' including ''psychotic/suicidal behavior.'' However, Dr. Grundmann said, his Planned Parenthood clinic also offers the procedure after 20 weeks for women who fall into five additional ''categories'': (1) ''minor or doubtful fetal abnormalities,'' (2) ''extreme maternal immaturity i.e. girls in the 11 to 14 year age group,'' (3) women ''who do not know they are pregnant,'' for example because of amenorrhea [irregular menstruation] ''in women who are very active such as athletes of those under extreme forms of stress i.e. exam stress, relationship breakup * * *,'' (4) ''intellectually impaired women, who are unaware of basic biology * * *,'' (5) ''major life crises or major changes in socio-economic circumstances. The most common example of this is a planned or wanted pregnancy followed by the sudden death or desertion of the partner who is in all probability the bread winner.''

IS A PARTIAL-BIRTH ABORTION EVER THE ONLY WAY TO PRESERVE A MOTHER'S PHYSICAL HEALTH?

President Clinton and pro-abortion advocacy groups have made strenuous efforts to persuade the public that partial-birth abortions are necessary to protect the lives or health of pregnant women, and many journalists have uncritically accepted this claim at face value. However, these claims are coming under increasingly sharp challenge from prestigious medical experts, and from women who have given birth to babies in circumstances such as those cited by President Clinton.

The sort of cases highlighted by President Clinton third-trimester abortions of babies with disorders incompatible with sustained life outside the womb—account for a small fraction of all the partial-birth abortions. Confronted with identical cases, most specialists would never consider executing a breech extraction and puncturing the skull. Instead, most would deliver the baby alive, sometimes early, without jeopardy to the mother—usually viginally—and make the baby as comfortable as possible for whatever time the child has allotted to her.

In an interview published in the August 19 edition of American Medical News, former Surgeon General C. Everett Koop said, ''I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the later-term abortions as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby.''

Dr. Koop, a world-renown pediatric surgeon, was asked by the American Medical

News reporters whether he had ever ''treated children with any of the disabilities cited in this debate? For example, have you operated on children born with organs outside of their bodies?'' Dr. Koop replied, ''Oh, yes indeed. I've done that many times. The prognosis usually is good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but sill contained in the sac * * * the first child I ever did, with a hug omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care until many years later.''

In addition, in the summer of 1996, an organization called Physicians' Ad Hoc Coalition for Truth (PHACT) began circulating material directly challenging President Clinton's claims. As of early September, PHACT reportedly consisted of over 230 physicians, mostly professors and other specialists in obstetrics, gynecology, and fetal medicine. In an advertisement published in August, the PHACT physicians said: Congress, the public—but most importantly women—need to know that partial-birth abortion is never medically indicated to protect a mother's health or her future fertility.

The PHACT doctors also referred directly to the specific medical conditions that affected some of the women who appeared with President Clinton at his April 10 veto ceremony, such as hydrocephalus (excessive fluid in the head), and commented: We, and many other doctors across the United States, regularly treat women whose unborn children suffer these and other serious conditions. Never is the partial-birth procedure medically indicated. Rather, such infants are regularly and safely delivered live, vaginally, with no threat to the mother's health or fertility.

At a July 24 briefing on Capitol Hill, PHACT member Dr. Curtis Cook, and ob/gyn perinatologist with the West Michigan Perinatal and Genetic Diagnostic Center (616–391–3681), said that partial-birth abortion is never necessary to preserve the life or the fertility of the mother, and may in fact threaten her health or well-being or future fertility. In my practice, I see these rare, unusual cases that come to most generalists' offices once in a lifetime—they all come into our office. We see these every day * * * The presence of fetal disabilities or fetal anomalies are not a reason to have a termination of pregnancy to preserve the life of the mother—they do not threaten the life of the mother in any way * * * [and] where these rare instances do occur, they do not require the death of the baby or the fetus prior to the completion of the delivery.

Also present at the July 24 briefing were several women who, while pregnant, had learned that their unborn babies were afflicted with conditions similar or identical to those cited by President Clinton, but who gave birth to their babies alive. One of the women, Jeannie French of Oak Park, Illinois, distributed a July 17 letter that she and several other women sent to President Clinton, asking for a meeting so that he could learn about the medical alternatives to partial-birth abortion. Ms. French wrote: In recent months, I have had the opportunity to get to know many women who've carried and given birth to children with fatal conditions from anacephaly, encepaloceles, Trisomy 18, hydrocephaly, and even a rare disease called body stalk anomaly, in which internal organs develop outside a baby's body. We gave birth to our children knowing that their serious physical disabilities might not allow them to live long. * * * You say that partial-birth abortion has to be legal for cases like ours, because women's bodies would be 'ripped to shreds' by carrying their very sick children to term. By your repeated statements, you imply that partial-birth abortion is the only or the most desirable response to children suffering severe disabilities like our children. * * * This message is so wrong! * * * Will you meet with us personally, and hear our stories?

Ms. French got a brief letter of response from two White House scheduling aides, who said that ''the tremendous demands on the President will not give him the opportunity to speak with you and your group. * * * Your continued interest and support are deeply appreciated.''

WHAT ABOUT PRESIDENT CLINTON'S STATEMENT THAT FOR SOME WOMEN, THE ONLY ALTERNATIVE TO PARTIAL-BIRTH ABORTION IS TO ''RIP YOUR BODY TO SHREDS''?

President Clinton has repeatedly justified his veto by referring to cases in which the baby suffers from advanced hydrocephaly (head enlargement). Speaking in Milwaukee on May 23, President Clinton suggested that Bob Dole or others who would deny a partial-birth abortion in such cases are saying ''it's okay with me if they ripped your body to shreds and you could never have another baby.''

But this is medical nonsense. Medical specialists commonly deal with cases of severe hydrocephaly by a procedure called cephalocentesis, in which a needle is used to withdraw the excess fluid (but not the brain), reducing the head size so that normal delivery of a live baby can occur. An eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the Obstetrical and Gynecological Survey, wrote to Congressman Charles Canady: Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size of the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

(Note: Cases of hydrocephaly accounted for less than 4% of Dr. McMahon's partial-birth abortions, according to his submission to the House Judiciary Committee.)

WHAT ABOUT THE SMALL MINORITY OF CASES THAT DO INVOLVE ''SERIOUS FETAL DEFORMITY''?

It is true that some partial-birth abortions—a small minority—involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

Dr. Harlan Giles, a professor of ''high-risk'' obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until ''viability.'' However, in sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said: [After 23 weeks] I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Cesarean section for that matter, depending on the choice of the parents with informed consent. * * * But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

In a partial-birth abortion, the abortionist dilates a woman's cervix for three days, until it is open enough to deliver the entire baby breech, except for the head. When American Medical News asked Dr. Martin Haskell why he could not simply dilate the woman a little more and remove the baby without killing him, Dr. Haskell responded: The point here is you're attempting to do an abortion * * * not to see how do I manipulate the situation so that I get a live birth instead. [American Medical News transcript]

Under closer examination, it becomes clear that in some cases, the primary reason for performing the procedure is not concern that the baby will die in utero, but rather, that he/she will be born alive, either with disorders incompatible with sustained life outside the womb, or with a non-lethal disability. (Again, in Dr. McMahon's table of partial-birth abortions performed for ''fetal indications,'' the largest category was for Down Syndrome.)

Viki Wilson, whose daughter Abigail died at the hands of Dr. McMahon at 38 weeks, said: I knew that I could go ahead and carry the baby until full term, but knowing, you know, that this was futile, you know, that she was going to die * * * I felt like I needed to be a little more in control in terms of her life and my life, instead of just sort of leaving it up to nature, because look where nature had gotten me up to this point. [NAF video transcript, page 4.]

Tammy Watts, whose baby was aborted by Dr. McMahon in the 7th month, said: I had a choice. I could have carried this pregnancy to term, knowing everything that was wrong. [Testimony before Senate Judiciary Committee, Nov. 17, 1995]

Claudia Crown Ades, who appeared with President Clinton at the April 10 veto, said: My procedure was elective. That is considered an elective procedure, as were the procedures of Coreen Costello and Tammy Watts and Mary Dorothy-Line and all the other women who were at the White House yesterday. All of our procedures were considered elective. [Quotes from taped appearance on WNTM, April 12, 1996]

In a letter opposing HR 1833, one of Dr. McMahon's colleagues at Cedar-Sinai Medical Center, Dr. Jeffrey S. Greenspoon, wrote: As a volunteer speaker to the National Spina Bifida Association of America and the Canadian National Spina Bifida Organization, I am familiar with the burden of raising a significantly handicapped child * * * The burden of raising one or two abnormal children is realistically unbearable. [Letter to Rep. Hyde, July 19, 1995]

IS THERE A MORE ''OBJECTIVE'' TERM FOR THE PROCEDURE THAN ''PARTIAL-BIRTH ABORTION?

Some opponents of the Partial-Birth Abortion Ban Act (HR 1833) insist that anyone writing about the bill should say that it bans a procedure ''known medically as intact dilation and evacuation.'' But when journalists comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to ''intact dilation and evacuation'' abortions. More importantly, the term ''intact dilation and evacuation'' is not equivalent to the class of procedures banned by the bill.

The bill would make it a criminal offense (except to save woman's life) to perform a ''partial-birth abortion,'' which the bill

would define—as a matter of law—as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

In contrast, the term ''intact dilation and evacuation'' was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appeared in no standard medical textbook or database, nor anywhere in the standard textbook on abortion methods, Abortion Practice by Dr. Warren Hern. Because ''intact dilation and evacuation''[2] is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. Indeed, it is worse than useless—a criminal statute that relied on such a term would be stricken by the federal courts as ''void for vagueness.''

Although there is no clear definition of the term, we know enough to say that it is inaccurate to equate ''intact dilation and evacuation'' abortions with the procedures banned by HR 1833, since in his writings Dr. McMahon clearly used the term ''intact dilation and evacuation'' so broadly as to cover certain procedures which would not be affected at all by HR 1833 (e.g., removal of babies who are killed entirely in utero, and removal of babies who have died entirely natural deaths in utero). Indeed, at least one of the specific women highlighted by opponents of HR 1833 had various types of ''intact D&E'' abortion procedures that were not covered by HR 1833's definition of ''partial-birth abortion.''

[In his 1992 instructional paper, Dr. Haskell referred to the method as ''dilation and extraction'' or ''D&X''—noting that he ''coined the term.'' When the bill was drafted, the term ''dilation and extraction'' did not appear in medical dictionaries or databases.]

The term chosen by Congress, partial-birth abortion, is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell—who has done over 1,000 partial-birth abortions, and who authored the instructional paper that touched off the controversy over the procedure—explained that he first learned of the method when a colleague described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breech type of delivery.

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NRLC ACCURATE, OR MISLEADING?

The AMA newspaper American Medical News (July 5, 1993) interviewed Dr. Martin Haskell and reported: Dr. Haskell said the drawings were accurate ''from a technical point of view.'' But he took issue with the implication that the fetuses were ''aware and resisting.''

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady: Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. * * * Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL CONTRADICT U.S. SUPREME COURT DECISIONS?

The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that ''the word 'person,' as used in the Fourteenth Amendment, does not include the unborn.'' Thus, under the Supreme Court's doctrine, a human being becomes a legal ''person'' upon emerging from the uterus. But a partial-birth abortion does not involve an ''unborn fetus.'' A partial-birth abortion, by the very definition in the bill, kills a human being who is partly born. Indeed, a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court.

Moreover, in Roe v. Wade itself, the Supreme Court took note of a Texas law that made it a felony to kill a baby ''in a state of being born and before actual birth,'' and the Court did not disturb that law.

Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by Roe v. Wade.

THE PARTIAL-BIRTH ABORTION BAN ACT (H.R. 1833) AS PASSED BY THE U.S. SENATE ON DECEMBER 7, 1995 AND BY THE U.S. HOUSE OF REPRESENTATIVES ON MARCH 27, 1996

*Section 1. Short Title.*

This Act may be cited as the ''Partial-Birth Abortion Ban Act of 1995.''

*Sec. 2. Prohibition on Partial-Birth Abortions*

(a) In General.—Title 18, United States Code, is amended by inserting after Chapter 73 the following: ''Chapter 74—Partial-Birth Abortions.

Sec. 1531. Partial-birth abortions prohibited.

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.

(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

STEP 5

''[T]he surgeon then forces the scissors into the base of the skull * * * [H]e spreads the scissors to enlarge the opening. The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.'' Text from Martin Haskell, M.D., Dilation and Extraction for Late Second Trimester Abortion.

## TRIBUTE TO ANTONIO BROWN

### HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. KINGSTON. Mr. Speaker, I submit for the RECORD a story of a true hero. It is fitting and proper for Congress to recognize Mr. Antonio Brown for his gallant effort. We need more citizens like him.

[From the Savannah Morning News, June 28, 1996]

MAN SHOT TRYING TO THWART ARMED ROBBERY

(By John Cheves and Keith Paul)

Antonio L. Brown wasn't going to stand quietly and watch a mugging.

Not on his street. Not when the victim was a friend.

Instead, Brown was shot in the head at about 11 p.m. Wednesday after he attempted to thwart the armed robbery on the 600 block of East Duffy Street, just a stone's throw from his family's home.

He remained in critical condition Thursday night at Memorial Medical Center.

The 21-year-old Savannah High School graduate was standing in his small front yard late Wednesday, relatives said. When Brown looked west down Duffy Street, he saw the attempted mugging of a male friend.

''He said, 'I just can't let that happen like that,' and then he walked over there,'' said nephew Rajai Steward on Thursday.

Added Savannah police Detective Deborah A. Robinson, ''Brown stepped in between the two to stop the robbery. He was trying to fight with the assailant and was shot once in the head.''

Police searched Thursday for the suspected gunman, Jarrett Myers, 20, of 413 E. Waldburg St. Police filed warrants charging Myers with aggravated assault.

Brown knew Myers casually, but the two weren't friends, Brown's family said.

[2] The term ''intact dilation and evacuation'' should not be confused with ''dilation and evacuation,'' which is a procedure commonly sued in second-trimester abortions, involving dismemberment of the fetus/baby while still in the uterus. The bill does not apply to ''dilation and evacuation'' abortions at all.

The 600 block of East Duffy Street is a narrow, dead-end road that sits in the heart of ''Area C,'' a midtown neighborhood generally considered the poorest and most violent part of Savannah.

But Brown, known as Tony to friends, wasn't the type of man to walk away from a threat in a hostile environment, relatives said.

''I look at him as a hero, Steward said. ''A lot of * * * men, they wouldn't have gotten involved.''

Brown's wife, Jacqueline Steward, said Brown had just been hired as a bricklayer here in Savannah, and he had a strong work ethic.

''He was the type of person, he didn't bother with nobody,'' she said. ''He didn't hang out on the street or sell drugs, or anything like that.''

## DIABETES RESEARCH

### HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SCOTT. Mr. Speaker, recently at a special session of the Congressional Black Caucus, members learned about the devastating impact of diabetes in the African-American community. I wanted to share with my colleagues the exciting research underway at the Diabetes Institute in Norfolk, VA. The work being done there holds out the hope that we can actually discover a cure for this disease and I believe we must do all we can to support efforts that have this much promise. Mr. Speaker, I ask unanimous consent that the attached article from the Virginia-Pilot be printed in the CONGRESSIONAL RECORD.

[The Virginia-Pilot, Tuesday, July 9, 1996]

A RESEARCH GAMBLE

(By Marie Joyce)

Someday, Dr. Aaron I. Vinik may be able to say that he and his colleagues helped cure diabetes, through work they did at the Diabetes Institutes at Norfolk's Eastern Virginia Medical School.

Someday.

Right now, Vinik, his staff and the medical school are taking a high-stakes gamble.

Medical research is expensive.

The payoff isn't guaranteed.

Other scientists around the world are chasing the same type of cure and hoping to get there first.

Because fund-raising efforts have fallen short and grants are hard to come by, money matters now loom almost as large as scientific questions at the institutes.

If Vinik's project succeeds, it could help millions of diabetes sufferers, and bring glory and money to the relatively new medical school and to Hampton Roads. If it fails—despite years of effort and millions of dollars—most people probably will never know about it.

The public hears only about the great discoveries, said Jock R. Wheeler, the school's dean.

''There are many more scientists who work their entire lifetimes and never gain recognition or the goals they've set for themselves,'' he said. ''That doesn't mean they've been unsuccessful.''

A scientist who cures diabetes would improve the lives of millions in the United States alone.

Diabetes happens because the body either can't make or can't properly use insulin, a hormone that helps process sugar and other carbohydrates.

It has been diagnosed in 8 million Americans, and some health officials estimate as many as 8 million more have the disease but don't know it. In 1992, diabetes contributed to the deaths of at least 170,000 people in the United States, according to the Centers for Disease Control and Prevention. It can lead to blindness, heart disease, stroke, kidney failure and nerve damage.

Vinik and his staff say they have taken a big step toward a possible cure. Working with collaborators at McGill University in Montreal, they've discovered a mix of proteins that spurs the body to grow more insulin-producing cells, Vinik says.

The researchers have experimented with a mix of proteins that cures the disease in hamsters, that were given a chemical to make them diabetic, Vinik said. The scientists do much of their work in a building on Brambleton Avenue, across from the medical school's main buildings.

The human body grows insulin-producing cells, located at the pancreas, before birth. After birth, the body doesn't create many more of these cells.

But in people with diabetes, the process malfunctions. With type 1 diabetes—which accounts for only about 5 percent of all cases—the body apparently attacks and kills its own insulin-producing cells. With type 2, either the body can't efficiently use the insulin or the cells can't make enough; sometimes, the cells die under the strain.

Vinik and his colleagues are trying to revive the ability the body had before birth, prompting it to grow more insulin-producing cells.

To do that, they must accomplish two things:

They must find a specific gene that acts as a blueprint, telling the body to create the protein. Or they must isolate the specific protein created by the gene.

They must find other substances that shut off the process once enough insulin-producing cells have been created.

Potentially, Vinik says, the discovery could help all type 1 sufferers and the 15 percent or so of type 2 victims who lose their insulin-producing cells.

If they can accomplish all this in animals, they probably can do it in humans, too, Vinik said. Right now, the key is finding the blueprint gene in hamsters.

No one at the medical school will disclose how close—or how far—they are. They must be careful, they say, not to reveal too much to rival scientists.

''One never knows until the last minute, until the last experiment was done,'' said Dr. Leon-Paul Georges, director of the institutes. ''It's a tremendous gamble, in a way.''

For the last 7 years or so, the medical school and Hampton Roads contributors have been putting their money on the table to fund this research.

The institutes run a large patient-care clinic and education programs. Vinik, who had earned an international reputation at the University of Michigan Medical School and elsewhere, arrived to head the research division in 1990. A new laboratory opened that fall, after a foundation fund-raising campaign brought in $11.5 million in less than four years.

Georges remembers a day when he and Vinik ordered a million dollars worth of sophisticated diagnostic equipment and supplies.

Since then, there have been up years and down years with fund raising, said Georges. The last year or so has been down. Last week, the research division dropped 10 jobs, almost half of its 25-person staff, although none of the researchers worked on Vinik's key project. They're also scaling back on supplies and equipment purchases. The patient care and education departments weren't affected.

The Diabetes Institutes Foundation, the Norfolk-based, non-profit group that finds money for the institutes, collected about $700,000 less than it hoped to in the 1994–95 fiscal year, according to the foundation's tax forms. The foundation began that year about $700,000 behind for a combined shortfall of about $1.4 million.

The foundation's board is composed mostly of community volunteers. Georges, who sits on the board, said that despite members' hard work, it simply wasn't possible to raise as much as they had hoped. They were able to raise about $800,000 for the institutes in the 1994–95 fiscal year, according to tax documents.

The medical school had been making up the difference between what was budgeted and what was raised. The foundation intends to repay the money, but so far hasn't been able to, Georges said.

This year, the medical school's and institutes' board members decided the school couldn't fill the gap anymore.

With less money, Vinik says, the institute must look to other funding sources to continue at the same pace. And success may depend on speed. More than a half-dozen other centers around the world are investigating the same type of treatment.

Wheeler, the medical school's dean, won't say whether he thinks the work will go more slowly now. He said the board still backs Vinik's project. ''We think the diabetes program has been very successful and we think it will continue to be very successful,'' Wheeler said.

But the foundation and the medical school—like institutions around the country—have been hurt by a shrinking pot of research and education money from the government and private groups, say school officials.

''The decisions in medical schools are very difficult right now,'' Wheeler said.

The Diabetes Institutes will continue with other major research projects, although they may have to cut back on some less important investigations.

Among other things, the institutes are participating in a study of a medicine that reverses some diabetes-related nerve damage. A major biotechnology company is funding some of that work. The project has attracted a lot of attention and brought in patients and donations from around the country.

As for the project on growing insulin-producing cells, the institutes will look for other sources of money, said Vinik. They will seek more collaborators at other schools, who would take on some of the work in exchange for some of the benefits.

Biomedical companies may be willing to bankroll the work because they expect it to pay off. Georges and Vinik say they have spoken with several major firms, which have signed agreements to examine the research without divulging it.

Research spending is always a bit of a wild card investment, even through school administrators look hard at the science before they spend the money.

''I can't say, 'I have this project, and if I spend this amount of money, I'm going to get this result,''' Wheeler said. ''You have to understand—that's what research is all about. You're looking for new ideas. . . You may not discover the fountain of youth.''

## BILL TO PRESERVE AND PROTECT THE RIGHTS OF THE MICCOSUKEE TRIBE

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce a very important bill which will carry out the longstanding intent of Congress in preserving and protecting the rights of Miccosukee Tribe of Indians of Florida. This bill is introduced in a truly bipartisan fashion, with my Florida colleagues Congresswoman CARRIE MEEK, and Congressmen LINCOLN DIAZ-BALART and DAN MILLER joining me as original cosponsors.

This legislation allows for the good people of the Miccosukee Tribe to live in perpetuity in the so-called permit area of Everglades National Park. The Miccosukees have lived and worked for generations in this area. The rights of the Miccosukees are recognized by the Everglades National Park Enabling Act of 1934 and their special use permit.

In 1934, the Everglades National Park Enabling Act specifically provided that rights of the Indians were protected. Subsequently, in 1962, and 1973, the tribe was guaranteed that they could build homes, schools, clinics, and other tribal buildings in the 300-plus acres identified in their special use permit.

Unfortunately, Mr. Speaker, the Park Service now seeks to restrict Miccosukee activites on their own land—even after the tribe has complied with all Federal, States, and local laws. The intent of this Congress in 1934 was to guarantee the Indians the freedom to live, work, and govern themselves as they wish in this area, not to be governed by the National Park Service. This bill will allow for Miccosukee self-government to continue.

These Indians seek nothing more than what we promised them when we passed the park bill in 1934, nothing more than was said on the floor of this House, nothing more than the Department of the Interior confirmed in the special use permit. In 1960, Justice Hugo Black wrote, ''Great nations, like great men, should keep their promise.'' With this bill, we keep our promise to these native Americans, to these fellow citizens of the United States.

They deserve nothing less.

## AMERICAN TEACHERS IN BOSNIA AND HERZEGOVINA HELP REBUILD CIVIL SOCIETY

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. MORAN. Mr. Speaker, I am proud to recognize Mr. Mark J. Molli of Alexandria, VA, for his participation in CIVITAS@Bosnia-Herzegovina from July 17 to July 27, 1996. This is an intensive program which prepares local teachers to assist with the development of democracy in Bosnia and Herzegovina. Mr. Molli was part of a team of 18 American educators and 15 teachers from the council of Europe who were assigned to key cities throughout the Federation of Bosnia and Herzegovina.

The summer training program was developed by the Center for Civic Education as part of a major initiative in Bosnia and Herzegovina supported by the United States Information Agency and the United States Department of Education. The United States Information Service in Sarajevo provided valuable assistance to the program as well. The goals of the program are to help prepare students and their communities for participation in elections and other civic matters. Achieving this goal will help restore a sense of community, cooperation, tolerance and support for democracy and human rights in this war torn area.

I am also pleased to announce that the curricular materials being used for the program in Bosnia and Herzegovina have been adapted from the We the People * * * the Citizen and the Constitution and the Project Citizen programs, as well as other programs supported by Congress which are used in schools throughout the United States. Initial reports evaluating the summer program indicate the materials and teaching methods were enthusiastically received and can be adapted for use in classrooms throughout Bosnia and Herzegovina.

Mr. Speaker, I wish to commend Mark Molli for his dedication and commitment during the CIVITAS@Bosnia-Herzegovina summer training program. His work is helping to achieve the overall objective of building support for democracy in Bosnia and Herzegovina.

## SNOQUALMIE NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 1996

SPEECH OF

### HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 25, 1996*

Ms. DUNN of Washington. Mr. Speaker, I want to thank Chairman HANSEN for his leadership on this bipartisan and proenvironment effort. This bill simply adjusts the boundary of the Snoqualmie National Forest to allow the incorporation into the Snoqualmie National Forest of some private lands owned by the Weyerhaeuser Co.

I am pleased to state that this legislation is supported not only by all members of the Washington State delegation but also by the Sierra Club, the Alpine Lakes Protection Society, the Washington Environmental Council, the North Cascades Conservation Council, and the Mountaineers.

This boundary adjustment will facilitate what is known as the Huckleberry Land Exchange, which involves approximately 7,200 acres of National Forest land and 33,000 acres of private land of which about 6,278 are outside the present boundary of the Snoqualmie National Forest.

As Chairman HANSEN stated in his opening remarks, this landmark agreement has been several years in the making and was brought about through a collaborative effort between the Sierra Club's Checkerboard Project and the Weyerhaeuser Co. It is noteworthy that this exchange includes a substantial donation of land by Weyerhaeuser into the national Alpine Lakes Wilderness Area.

Mr. Speaker, the public will benefit from this substantial donation of land. It will be one of only a few added this year into our Nation's wilderness areas. By consolidating ownership, an additional connecting corridor of wildlife habitat between the Alpine Lakes Wilderness and the Mount Si Conservation Area will be created.

This land exchange also adds substantial acreage to the area visible to the public from the I–90 Freeway in support of the objectives of the Mountain to Sound Greenway Trust—a nonprofit organization whose sole purpose is to protect a greenway along I–90 from the eastern foothills of the Cascade Mountains all the way to Puget Sound.

I want my colleagues to know that a Draft Environmental Impact Statement was released in late June, a 45-day public comment period was initiated, and three public meetings were held to discuss the exchange and the draft EIS. The final EIS and Record of Decision should be released by the end of October.

Today's action is necessary in order to give the Forest Service authority to administer the exchange area. And, Mr. Speaker, since this exchange has been 12 years in the making, all parties involved are pleased that we will be finalizing the boundary modification legislation today.

Mr. Speaker, this legislation is part of a win-win proposal. By consolidating ownership both the Forest Service and Weyerhaeuser will be able to implement a more effective ecosystem-based management that will allow for wetland protection and long-term protection for wildlife.

More important, this land exchange is a textbook example of how land disputes can be resolved between parties that are willing to look for areas of agreement rather than differences. The environment and all of the people of the Puget Sound region benefit as a result. I thank the Speaker, the Resources Committee, and I urge my colleagues to support the passage of this resolution.

## FORMER INDIAN PRIME MINISTER INDICTED FOR CORRUPTION

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CRANE. Mr. Speaker, former Indian Prime Minister P.V. Narasimha Rao resigned as head of the Congress Party after he was indicted for defrauding an Indian businessman. The Congress Party is providing tacit support to the current government headed by H.D. Deve Gowda.

According to the Washington Post, Mr. Rao has been ordered to face criminal charges because an Indian expatriate businessman named Lakhubhai Pathak alleges that Mr. Rao conspired with a Hindu guru to cheat him out of $100,000. He will be formally indicted on September 30. This took place in 1983, and Mr. Rao is just now facing charges for it. It has also been reported that he received $3.5 million from the Jain brothers, who have been charged with bribing a wide range of Indian politicians from all parties. He has apparently received large sums of money from other influence-seekers as well. It looks like Mr. Rao dipped into the well of corruption too many times.

Mr. Rao's resignation proves that journalist Rajinder Puri of the Times of India was right when he wrote that India is ''a rotten, corrupt, repressive, and anti-people system.'' It is that

system which the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and so many others are trying to escape. The corruption and the repression are tied together. The State Department reported that between 1991 and 1993, the regime paid over 41,000 cash bounties to police officers for killing Sikhs. Justice Ajit Singh Bains reports that more than 50,000 Sikhs disappeared or were murdered from 1992 through 1995. These events occurred on Mr. Rao's watch.

I am pleased that P.V. Narasimha Rao is finally facing the consequences of his corruption, but it is time that he also faced the consequences of his brutal terror campaign against the Sikh nation. As Home Minister in 1984, Mr. Rao was the person who organized the Delhi massacres that killed 20,000 Sikhs. When will he be indicted for these crimes?

In addition to its repression and corruption, India is a country that never misses an opportunity to take a swipe at the United States. Although it is one of the largest recipients of United States aid, India has a virulently anti-American voting record at the United Nations, and it is the country that single-handedly blocked the Comprehensive Test Ban Treaty [CTBT]. It is in America's interest to support the freedom movements in the subcontinent.

Unfortunately, the Sikhs and others continue to live under the brutal rule of a tyrannical regime. Recent events like the detention of American citizen Balbir Singh Dhillon and the savage beating of London-based Khalistani leader Jagjit Singh Chohan show that nothing has changed from Mr. Rao's brutal and corrupt rule. It is time for the United States to take a firm stand against these atrocities. We must institute an embargo against Indian companies and products. We must end United States aid to India. Finally, we must speak out for the freedom of Khalistan, Kashmir, Nagaland, and all the others seeking their freedom from India. Tyrants must know that America is on the side of freedom.

Mr. Speaker, I insert into the RECORD the September 22, 1996, Washington Post account of the Rao resignation.

INDIAN EX-PREMIER QUITS CONGRESS PARTY

NEW DELHI—Former Indian prime minister P.V. Narasimha Rao quit yesterday as head of the Congress party after a court upheld a summons ordering him to appear in a criminal case.

Although his party suffered a defeat in general elections earlier this year, Rao has retained a say in the nation's politics by offering his party's crucial support to the center-left United Front coalition government.

Rao, 75, said in a statement read at a news conference here by Congress general secretary Devendra Dwivedi that he was not guilty.

Earlier yesterday, a Delhi judge upheld the summons ordering Rao to appear in court September 30. Formal charges would be framed on the same day.

An Indian expatriate businessman, Lakhubhai Pathak, alleges Rao and a Hindu guru conspired conspired to cheat him of $100,000 in 1983.

## THE MANAGED CARE CONSUMER PROTECTION ACT OF 1996

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. STARK. Mr. Speaker, I am pleased to introduce the Managed Care Consumer Protection Act of 1996, a bill that will provide critically needed consumer protections to millions of Americans in managed care health plans.

Health care consumers who entrust their lives to managed care plans have consistently found that many plans are more interested in profit than in providing appropriate care. My constituent mail has been full of horror stories explaining the abuses that occur at the hands of HMO's and other forms of managed care.

For example, David Ching of Fremont, CA had a positive experience in a Kaiser Permanente plan and then joined an employer sponsored HMO expecting similar service. He soon learned that some plans would rather let patients die than authorize appropriate treatment. His wife developed colon cancer, but went undiagnosed for 3 months after the first symptoms. Her physician refused to make the appropriate specialist referral because of financial incentives and could not discuss proper treatment because of the health plan's policy. Mrs. Ching is now dead.

In a similar case, Jennifer Pruitt of Oakland wrote to me about her father who also had cancer. He went to his gatekeeper primary care physician numerous times with pain in his jaw. The doctor, who later admitted that she had never treated a cancer patient, refused to refer Mr. Pruitt to a specialist. Eventually, after months of pain, a dentist sent Mr. Pruitt to a specialist outside of the HMO network. The cancer was finally diagnosed, but it had spread too rapidly during the months that the health plan delayed. Mr. Pruitt died from a cancer that is very treatable if detected early.

These tragedies and others like them might have been avoided if the patients had known about the financial incentives not to treat, or if the physicians had not been gagged from discussing treatment options, or if there had been legislation forcing health plans to provide timely grievance procedures and timely access to care. It's too late for these victims, but it is not too late to provide these protections for the millions of people in managed care today.

A few years ago, Congress recognized a crisis in the health care industry. Expenditures were soaring and overutilization was the rule. At that time, I chose to address this problem with laws that prohibited physicians from making unnecessary referrals to health organizations or services that they owned.

Others responded by pushing Americans into new managed care plans that switched the financial incentives from a system that overserves to a system that underserves. They got what they asked for. The current system rewards the most irresponsible plans with huge profits, outrageous executive salaries, and a license to escape accountability. Unfortunately, patients are dying unnecessarily in the wake of this health care delivery revolution. It must stop.

Several States have already addressed the managed care crisis. In 1996, more than 1,000 pieces of managed care legislation flooded State legislatures. As a result, HMO regulations were passed in 33 States addressing issues like coverage of emergency services, utilization review, post-delivery care and information disclosure. Unfortunately, many States did not pass these needed safeguards resulting in a piecemeal web of protections that lacks continuity. The states have spoken; now it's time for Federal legislation to finish the job and provide consumer protections to all Americans.

The bill I offer today is a revision of an earlier bill, H.R. 1707, the Medicare Consumer Protection Act of 1995. This legislation includes a comprehensive set of protections that will force managed care plans to be accountable to all of their patients and to provide the standard of care they deserve.

In the U.S. Congress, we have the power to put an end to abuse in managed care and guarantee that Americans who choose managed care get the care for which they pay. It is irresponsible to do anything less.

Following is a summary of the consumer protections provided for in this bill.

MANAGED CARE CONSUMER PROTECTION ACT OF 1996

SUMMARY

I. MANAGED CARE ENROLLEE PROTECTIONS

A. UTILIZATION REVIEW

1. Any utilization review program that attempts to regulate coverage or payment for services must first be accredited by the Secretary of Health and Human Services or an independent, non-profit accreditation entity;

2. Plans would be required to provide enrollees and physicians with a written description of utilization review policies, clinical review criteria, information sources, and the process used to review medical services under the program;

3. Organizations must periodically review utilization review policies to guarantees consistency and compliance with current medical standards and protocols;

4. Individuals performing utilization review could not receive financial compensation based upon the number of certification denials made;

5. Negative determinations about the medical necessity or appropriateness of services or the site of services would be required to be made by clinically-qualified personnel of the same branch of medicine or specialty as the recommending physician;

B. ASSURANCE OF ACCESS

1. Plans must have a sufficient number, distribution and variety of qualified health care providers to ensure that all enrollees may receive all covered services, including specialty services, on a timely basis (even in rural areas);

2. Patients with chronic health conditions must be provided with a continuity of care and access to appropriate specialists;

3. Plans would be prohibited from requiring enrollees to obtain a physician referral for obstetric and gynecological services.

4. Plans would demonstrate that enrollees with chronic diseases or who otherwise require specialized services would have access to designated Centers of Excellence;

C. ACCESS TO EMERGENCY CARE SERVICES

1. Plans would be required to cover emergency services provided by designated trauma centers;

2. Plans could not require pre-authorization for emergency medical care;

3. A definition of emergency medical condition based upon a prudent layperson definition would be established to protect enrollees from retrospective denials of legitimate claims for payment for out-or-plan services;

4. Plans could not deny any claim for an enrollee using the ''911'' system to summon emergency care.

D. DUE PROCESS PROTECTIONS FOR PROVIDERS

1. Descriptive information regarding the plan standards for contracting with participating providers would be required to be disclosed;

2. Notification of a participating provider of a decision to terminate or not to renew a contract would be required to include reasons for termination or non-renewal. Such notification would be required not later than 45 days before the decision would take effect, unless the failure to terminate the contract would adversely affect the health or safety of a patient;

3. Plans would have to provide a mechanism for appeals to review termination or non-renewal decisions.

E. GRIEVANCE PROCEDURES AND DEADLINES FOR RESPONDING TO REQUESTS FOR COVERAGE OF SERVICES

1. Plans would have to establish written procedures for responding to complaints and grievances in a timely manner;

2. Patients will have a right to a review by a grievance panel and a second review by an independent panel in cases where the plan decision negatively impacts their health services;

3. Plans must have expedited processes for review in emergency cases.

F. NON-DISCRIMINATION AND SERVICE AREA REQUIREMENTS

1. In general, the service area of a plan serving an urban area would be an entire Metropolitan Statistical Area (MSA). This requirement could be waived only if the plans' proposed service area boundaries do not result in favorable risk selection.

2. The Secretary could require some plans to contract with Federally-qualified health centers (FQHCs), rural health clinics, migrant health centers, or other essential community providers located in the service area if the Secretary determined that such contracts are needed in order to provide reasonable access to enrollees throughout the service area.

3. Plans could not discriminate in any activity (including enrollment) against an individual on the basis of race, national origin, gender, language, socioeconomic status, age, disability, health status, or anticipated need for health services.

G. DISCLOSURE OF PLAN INFORMATION

1. Plans would provide to both prospective and current enrollees information concerning:

Credentials of health service providers

Coverage provisions and benefits including premiums, deductibles, and copayments

Loss ratios explaining the percentage of premiums spent on health services

Prior authorization requirements and other service review procedures

Covered individual satisfaction statistics

Advance directives and organ donation information

Descriptions of financial arrangements and contractual provisions with hospitals, utilization review organizations, physicians, or any other health care service providers

Quality indicators including immunization rates and health outcomes statistics adjusted for case mix

An explanation of the appeals process

Salaries and other compensation of key executives in the organization

Physician ownership and investment structure of the plan

A description of lawsuits filed against the organization

2. Information would be disclosed in a standardized format specified by the Secretary so that enrollees could compare the attributes of all plans within a coverage area.

H. PROTECTION OF PHYSICIAN—PATIENT COMMUNICATIONS

1. Plans could not use any contractual agreements, written statements, or oral communication to prohibit, restrict or interfere with any medical communication between physicians, patients, plans or state or federal authorities.

I. PATIENT ACCESS TO CLINICAL STUDIES

1. Plans may not deny or limit coverage of services furnished to an enrollee because the enrollee is participating in an approved clinical study if the services would otherwise have been covered outside of the study.

J. MINIMUM CHILDBIRTH BENEFITS

1. Insurers or plans that cover childbirth benefits must provide for a minimum inpatient stay of 48 hours following vaginal delivery and 96 hours following a cesarean section.

2. The mother and child could be discharged earlier than the proposed limits if the attending provider, in consultation with the mother, orders the discharge and arrangements are made for follow-up post delivery care.

II. AMENDMENTS TO THE MEDICARE PROGRAM, MEDICARE SELECT AND MEDICARE SUPPLEMENTAL INSURANCE REGULATIONS.

A. ORIENTATION AND MEDICAL PROFILE REQUIREMENTS

1. When a Medicare beneficiary enrolls in a Medicare HMO, the HMO must provide an orientation to their managed care system before Medicare payment to the HMO may begin;

2. Medicare HMOs must perform an introductory medical profile as defined by the Secretary on every new enrollee before payment to the HMO may begin.

B. REQUIREMENTS FOR MEDICARE SUPPLEMENTAL POLICIES (MEDIGAP)

1. All MediGap policies would be required to be community rated;

2. MediGap plans would be required to participate in coordinated open enrollment;

3. The loss ratio requirement for all plans would be increased to 85 percent.

C. STANDARDS FOR MEDICARE SELECT POLICIES

1. Secretary would establish standards for Medicare Select in regulations. To the extent practical, the standards would be the same as the standards developed by the NAIC for Medicare Select Plans. Any additional standards would be developed in consultation with the NAIC.

2. Medicare Select Plans would generally be required to meet the same requirements in effect for Medicare risk contractors under section 1876.

Community Rating

Prior approval of marketing materials

Intermediate sanctions and civil money penalties

3. If the Secretary has determined that a State has an effective program to enforce the standards for Medicare Select plans established by the Secretary, the State would certify Medicare Select plans.

4. Fee-for-service Medicare Select plans would offer either the MediGap ''E'' plan with payment for extra billing added or the MediGap ''J'' plan.

5. If an HMO or competitive medical plan (CMP) as defined under section 1876 offers Medicare Select, then the benefits would be required to be offered under the same rules as set forth in the MediGap provisions above. Such plans would therefore have different benefits than traditional MediGap plans.

D. ARRANGEMENTS WITH OUT OF AREA DIALYSIS SERVICES.

E. COORDINATED OPEN ENROLLMENT

1. The Secretary would conduct an annual open enrollment period during which Medicare beneficiaries could enroll in any MediGap plan, Medicare Select, or an HMO contracting with Medicare. Each plan would be required to participate.

III. AMENDMENTS TO THE MEDICAID PROGRAM

A. ORIENTATION AND IMMUNIZATION REQUIREMENTS

1. When a Medicaid beneficiary enrolls in a Medicaid HMO, the HMO must provide an orientation to their managed care system before Medicaid payment to the HMO may begin;

2. Medicaid HMOs must perform an introductory medical profile as defined by the Secretary on every new enrollee before payment to the HMO may begin.

3. When children under the age of 18 are enrolled in a Medicaid HMO, the immunization status of the child must be determined and the proper immunization schedule begun before payment to the HMO is made.

## TRIBUTE TO FATHER JAMES SAUVE

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. GILMAN. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to an outstanding American who passed away earlier this week.

Father James Sauve, the executive director of the Association of Jesuit Colleges and Universities, was a highly respected educator. As the director of the International Center for Jesuit Education in Rome, as the official representative of the 28 Jesuit colleges and universities, and as a highly respected pastor, Father Sauve threw himself into his work with gusto and zeal, and in so doing earned the respect of all of us.

Father Sauve was a graduate of Spring Hill College in Alabama, and received his Ph.D. from Johns Hopkins University. He was proficient in six languages, and traveled extensively throughout the world.

Father Sauve's sudden passing was a loss not only to the Jesuit world, but to all of us who appreciate learning and understanding of all cultures.

We join in the sorrow of Father Sauve's surviving family, which consists of his father, Willard, and his brother, Dudley, and his family. We also join all of Father Sauve's many students whose sense of loss must be immense.

## HUMAN RIGHTS ABUSES IN EAST TIMOR

### HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. HALL of Ohio. Mr. Speaker, for many years I have been deeply concerned over the tragedy in the former Portuguese colony of East Timor. I have had the privilege of meeting the Roman Catholic Bishop of East Timor, Carlos Ximenes Belo, on several occasions.

Bishop Belo is a most courageous figure who has ceaselessly tried to promote a peaceful solution and dialog as a way out of the 20-year-old conflict in East Timor, which Indonesia invaded in 1979 and where as many as a third of the population has perished.

During his 13 years as apostolic administrator of the Roman Catholic Church in the Indonesian-occupied former Portuguese colony of East Timor, Carlos Filipe Ximenes Belo has been a tireless advocate of peace, human rights, nonviolence and reconciliation in a situation marked by war, grim atrocities and an atmosphere of terror. It is worth recalling some of the details of Bishop Belo's effort. On November 12, 1991, Indonesian troops opened fire on a peaceful gathering of thousands of people at Santa Cruz cemetery in the East Timor capital of Dili. More than 250 were killed on that day, many more were badly wounded. The full extent of the tragedy surrounding the Santa Cruz events is still not widely known. Most of the victims were young people.

In the immediate aftermath of the Santa Cruz massacre, driving his own automobile, between the hours of 9 a.m. until 2 a.m. the next morning, Bishop Belo gathered, in groups of five and six, hundreds of young people who has been at Santa Cruz cemetery the morning of November 12 and returned them to their homes before they could meet further harm at the hands of the Indonesian military. Subsequent reports indicate that dozens of those who survived the massacre at Santa Cruz cemetery were taken away and executed by Indonesian security forces.

On numerous occasions before and since, Bishop Belo has acted to deter violence. But in the absence of greater international support his power over the situation is limited. The other day he told a friend from Washington that last week two villages—a civil servant on the way to picking up his pay envelope with a relative—were shot dead by Indonesian troops in the town of Viqueque, while others in the region of Ermera were beaten, arrested, and prevented from attending Mass and from tending their coffee fields.

The tension in East Timor is of great cause for concern, particularly now that the fifth anniversary of the November 12, 1991 Santa Cruz massacre approaches. I believe the Congress and the administration should be prepared to give the greatest possible support to Bishop Belo in his efforts to bring peace to East Timor and to help strengthen Bishop Belo's hand in the difficult weeks and months ahead.

For the benefit of my colleagues, I would like to submit for the RECORD a firsthand account by Arnold Kohen from the December 10, 1995, Boston Globe:

[From the Boston Sunday Globe, December 10, 1995]

BURIED ALIVE: EAST TIMOR'S TRAGIC OPPRESSION

(By Arnold S. Kohen)

With the world's attention focused on the Bosnian peace agreement, the 20th anniversary of an invasion that led to even greater carnage than the tragedy in the Balkans passed Thursday with little notice. But the consequences of Indonesia's December 1975 invasion of the former Portuguese colony of East Timor are still with us. The children of those who perished in the first wave of savage repression are at this moment being beaten and tortured.

Over most of the last two decades, East Timor has received only sporadic worldwide attention: in 1991, when Indonesian troops massacred more than 250 people in a church cemetery, an event filmed by British television and broadcast around the world, and again last year, when East Timorese students occupied part of the U.S. Embassy compound in Indonesia during a visit by President Clinton. On Thursday, in recognition of the anniversary of the invasion, pro-independence Timorese occupied part of the Dutch and Russian embassies in Jakarta. But for the most part, the public knows little of what is happening in East Timor.

East Timor, an area located off the north coast of Australia, and about the size of Connecticut, deserves the special sympathy of Americans, because, the United States provided the arms and diplomatic support for that 1975 invasion. President Ford and Secretary of State Henry Kissinger were in Jakarta the day before, and they made no objection to the Indonesian action, though it was illegal under international law and has never been recognized by the United Nations. Longtime efforts in Congress finally have stimulated pressure to address the tragedy in East Timor.

If the public is troubled about Bosnia, it should also be concerned over East Timor. About 250,000 people of a population of 4 million have perished in Bosnia since 1991, while in East Timor, it is estimated that 200,000 of a population of less than 700,000 died from the combined effects of the Indonesian assault between 1975 and 1979, many in a war-induced famine compared with some of the worst catastrophes in recent history, including starvation in Cambodian under Pol Pot.

''It defies imagination that so many people have perished in such a small place as East Timor,'' said Mairead Corrigan Maguire, who won the 1976 Nobel Peace Prize for her work in Northern Ireland, where 3,000 people have died in the violence since 1969. East Timor has sparked public concern in Ireland, in part because of the Irish historical experience of occupation by a powerful neighbor.

Today, tension and oppression have a vise-like grip on East Timor. I visited there in September, during some of the most serious upheavals since the Santa Cruz massacre of 1991. ''This place is like a concentration camp,'' said a priest who could not be identified.

At a Mass one day at the home of Roman Catholic Bishop Carlos Ximenes Belo, himself considered for the Nobel Peace Prize in 1995, there was a crippled boy, his face black-and-blue with caked-up blood from a beating by security forces. Traumatized and barely willing to speak, he said he had been in a police station with 30 other young people who had been stripped naked and similarly assaulted.

''We have been going from prison to prison—I don't know where he is—and the police won't tell us,'' said one desperate parent searching for his child. He took a considerable risk simply in talking to a foreigner. Nearby, dozens of young people taking refuge in a courtyard, several with head wounds inflicted by Indonesian police.

''They're taking everything from us,'' said one man. ''All most Timorese have now is the skin on their bones.'' Indonesian settlers brought into East Timor are taking the scrace jobs and opportunities. As in Tibet, invaded by the Chinese in 1950, the settlers seem to be there to swamp the East Timorese in their own country.

''It's a slow annihilation,'' said another priest, who reported that as many as 80 percent of the native East Timorese in some areas suffer from tuberculosis, while Indonesian authorities make it difficult for many people to obtain medicines.

The disparity between the two sides could not be more clear. On the one hand, unarmed young people who have little more than ideals to sustain them. The other consists of heavily armed elite units of Indonesian mobile brigade riot police. I saw countless trucks filled with machine-gun toting army troops, both uniformed and in plainclothes, some wearing ski masks in broad daylight in the oppressive tropical heat—an open reminder of those in East Timor who have ''disappeared'' without a trace. Spies working for Indonesian forces are everywhere.

In a telephone conversation this week, Bishop Belo, a courageous moderate who has worked hard to deter violence in the territory, said the situation remains the same.

During the past few months, dozens of young East Timorese have entered embassies in Jakarta seeking political asylum. The personal histories of almost all of these young people tell the story of East Timor today: Many, if not most, have lost parents in the war, and most have been beaten or tortured.

Involvement of the Clinton Administration in Bosnia and Northern Ireland has helped smooth the way for peace agreements. There are signs that over time, the same might work in East Timor. President Clinton, who has raised the issue with Indonesian President Suharto, can increase his support for United Nations peace talks and try to convince Indonesian government to take concrete steps in pursuit of a peaceful solution. Experts say there is growing recognition in Indonesia that changes must be made if Jakarta is to rid itself of what has come to be a debilitating injury to the country's international reputation.

In the meantime, international pressure could save lives. All official buildings in East Timor today are adorned by idealized portraits of Indonesia's vice president, Try Sutrisno, former commander of the army. I was reminded of his statement after the Santa Cruz massacre: The young victims ''were delinquents who needed to be shot and we will shoot them.'' I was told by authoritative diplomatic sources that, in the absence of growing international pressure led by the United States, Indonesian forces would simply kill the young resisters of East Timor, as they have killed so many of their elders. All the more reason why distant East Timor should have more than a little meaning for us.

Arnold S. Kohen is writing a book on East Timor and international policy.

## TRIBUTE TO THE HALFWAY SCHOOLHOUSE

### HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. BONIOR. Mr. Speaker, this coming Saturday, September 28, 1996, in Eastpointe, MI, a historical marker honoring the Halfway Schoolhouse will be formally dedicated.

The Halfway Schoolhouse was built in 1872 and served the community until 1921. At that time it was located in the village of Halfway, midway between Mount Clemens and Detroit. When the school closed in 1921, it was moved and used as a warehouse. The East Detroit Historical Society acquired the school in 1984, returning it to within 100 feet of its original site and restoring its 19th century appearance. The contributions of the members of the historical society are numerous and they deserve our gratitude for their hard work and dedication to preserve this beautiful Victorian building for future generations.

It has been 124 years since this school first opened its doors to this community but many values remain the same. The people were hard working, family oriented and aware of the importance of education. This school brought hope for a better way of life. It opened doors within the minds of the young people and inspired future leaders. Today, the school is once again servicing the needs of the community. Children who visit leave with a sense of the past and a feeling of pride and belonging in their community.

I commend the members of the East Detroit Historical Society for their role in preserving this treasure. The Halfway Schoolhouse will be formally recognized as a Michigan historic site with the dedication of this marker. The citizens of Eastpointe should feel pride in knowing that they have reclaimed something precious that will now be a living memorial.

## IN RECOGNITION OF THE DEDICATED SERVICE OF LARRY MATHIS

### HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. BENTSEN. Mr. Speaker, I rise today to honor Larry L. Mathis, the president and chief executive officer of Methodist Health Care System in Houston, TX, in my district. Mr. Mathis has faithfully served the Houston area as the head of one of our Nation's leading nonprofit health care organizations for more than 25 years.

Later this year, Mr. Mathis will be retiring from Methodist Health Care System. Mr. Mathis began his career at Methodist Hospital in 1971 as an administrative resident. He was quickly promoted and was appointed president and chief executive officer of the hospital in 1983. During his leadership, Methodist grew from a single-site hospital in the Texas Medical Center to its emerging presence today as a community-based health care system. Methodist is now a leading provider of state-of-the-art medical care in the competitive managed care market in Houston. The Methodist Health Care System includes the Methodist Hospital, Diagnostic Center Hospital, San Jacinto Methodist Hospital, an international network of affiliated hospitals, a managed care organization, a health maintenance organization, home health services, skilled nursing, primary, and secondary physician groups, community health care centers, and hospice services.

During Mr. Mathis' tenure, the Methodist Hospital won the Commitment to Quality Award, an important award for hospital quality, and was named one of America's Best Hospitals by U.S. News and World Report. Methodist was also included in the 1993 edition of ''The 100 Best Companies To Work for in America'' and in the 1995 edition of the ''Best Hospitals in America.'' Mr. Mathis was also named as one of the five best managers in nonprofit health services in Business Week.

Mr. Mathis has been recognized by his peers as an expert in health care policy. He is chairman-elect of the American College of Healthcare Executives, a professional society of 30,000 members. He has served as chairman of the board of the American Hospital Association, the Texas Hospital Association, and the Greater Houston Council. In addition, Mr. Mathis served as a member of the Prospective Payment Assessment Commission and the Quality Task Force of the Joint Commission on Accreditation of Healthcare Organizations.

As Methodist Hospital searches for a replacement, Mr. Mathis will continue to serve as president and CEO of Methodist Health Care System. After this retirement, Mr. Mathis will continue to consult and work with Methodist Hospital on selected projects and programs. I applaud the dedicated leadership and hard work that Mr. Mathis has given to the Houston area and wish him the very best in his new career. Thank you, Mr. Mathis, for your service to the patients, the employees, and your community at the Methodist Health Care System. Your presence as a health care visionary will be missed.

## TRIBUTE TO BENJAMIN FRANKLIN CLEVELAND

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SOLOMON. Mr. Speaker, it is great honor for me to introduce a true American hero, Benjamin Franklin Cleveland. Mr. Cleveland, a resident of Johnsburg, NY, will soon celebrate his 100th birthday. I am proud to call this gentleman one of my constituents.

Mr. Cleveland is the only living veteran of the First World War residing in Johnsburg. I would like to offer my heartfelt appreciation for his service to the Nation. In recognition of Mr. Cleveland's 100th birthday, the town of Johnsburg, a small town in the 22d Congressional District, is throwing a parade in his honor this Saturday, September 28. I am thrilled that Johnsburg is honoring Mr. Cleveland.

Mr. Speaker, serving your country is the ultimate sacrifice. It takes courage, dedication, perseverance, and above all, love of country. Mr. Cleveland has fought to preserve the freedoms many Americans, unfortunately, take for granted. You deserve the respect and admiration of all Americans.

The United States must look awfully different to Mr. Cleveland than it did in the year of his birth, 1896. In his lifetime, he has seen the introduction of air travel, the automobile, radio and television, nighttime baseball, and many other advances that have forever altered the American landscape.

Mr. Speaker, the country is different, but not necessarily better in all aspects. We have much to learn from members of Mr. Cleveland's esteemed generation. The country can draw on the wisdom he obtained in his 10 decades of life in the United States. He has a great deal to offer our Nation. I sincerely hope our youngsters can display the same virtues that Mr. Cleveland has amply demonstrated: duty, honor, sacrifice, and love of God and Country.

Once again, Mr. Speaker, I want to thank Mr. Cleveland on behalf of the U.S. Congress for your military service. I hope he has a wonderful birthday on October 14, 1996 and pray that he has many more years in beautiful upstate New York.

Living 100 years is a true milestone—Mr. Cleveland has great reason to feel proud of his accomplishment.

God Bless You, Mr. Cleveland. You are in our prayers.

## PERSONAL EXPLANATION

### HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. GONZALEZ. Mr. Speaker, I rise to clarify my vote on the Immigration and Nationality Act conference report yesterday. While my vote was recorded as ''aye'', it was my intention to vote ''no'', as I still oppose this legislation. My position on the issue of immigration is long standing and a matter of public record. I would thus like the RECORD to accurately reflect my position on this bill. Thank you, Mr. Speaker.

## TRIBUTE TO THE DEALE VOLUNTEER FIRE DEPARTMENT AND RESCUE SQUAD ON THEIR 50TH ANNIVERSARY

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to the past and present men and women of the Deale Volunteer Fire Department and Rescue Squad. This October, they will be celebrating their 50th anniversary of service to the citizens of Deale, MD.

Prior to the fire company's inception in 1946, the citizens of Deale relied upon surrounding communities to provide their fire protection. As the population grew, following World War II, it became apparent that Deale could no longer rely entirely on other communities and it needed its own fire department. In October 1946, a small group of community leaders started the Deale Volunteer Fire Department. They were Tilghman Franklin, Gordon Phipps, Oregon Nutwell, Ray Clark, Sterling Knopp, Maurice Whittington, and Joseph Adcock.

As with most volunteer fire companies they started off small. They didn't have much money and hadn't been in the community long enough to establish a very large volunteer base. However, what they lacked in resources they more than made up in hard work. Their first fire engine was purchased second hand from the Clinton Volunteer Fire Department and they used a local businessman's garage as a firehouse. The first few years of the department were difficult because the department had to be entirely self-sufficient. They raised the necessary funds to purchase all the equipment and start construction on a proper firehouse by hosting oyster roasts, game parties, and collecting donations from the community.

In 1951, the fire department started receiving tax funds from Anne Arundel County. This steady revenue, supplemented by their fundraising activities, allowed the department to complete the second stage of the firehouse construction which began in 1948. Additionally it allowed them to hire Junior Windsor and James ''Tutti'' Revell to be the first full-time professional firefighters for the department.

The department continued to grow with the community during the succeeding four decades. They made three additions to the existing firehouse, purchased new equipment, added ambulance service, and expanded their volunteer base and their activities in the community. Under the able leadership of Chief Tommy Manifold, President Gayle Moreland, and Delegates Matt Zang, Tammy Ladd, Jack Browing, and Leonard King the Deale Volunteer Fire Department is 71 members strong and operates three pumper engines, one ambulance, two brush units, and three fire and rescue boats.

The members of the Deale Volunteer Fire Department and Rescue Squad, past and present, are all heros. Not because they have all saved a child from a burning house, but because for the past 50 years they have given their time, their effort, and risked their lives on behalf of their community. They don't do it for money. They don't do it for fame or acclamation. They do it, Mr. Speaker, because they care. They care about the safety of their fellow citizens and they care about the welfare of their community above that of their own—and that Mr. Speaker is my definition of a hero.

Mr. Speaker, I am honored to congratulate the 50 years of service the Deale Volunteer Fire and Rescue Squad has given their community and wish them continued success in their mission.

## TRIBUTE CELEBRATING THE 25TH ANNIVERSARY OF THE WOODHAVEN RESIDENTS' BLOCK ASSOCIATION

### HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SCHUMER. Mr. Speaker, I rise today to join all New Yorkers in celebrating the 25th anniversary of the Woodhaven Residents' Block Association, the Guardian of the Woodhaven Community. I believe this association's dedication to making the community a safer place to live deserves considerable recognition.

Throughout the years, this organization has worked tirelessly in conjunction with the police captain and officers in the 102d precinct, and in the successful campaign to reopen the local firehouse, engine company 294.

In addition, the Woodhaven Residents' Block Association has also formed the Woodhaven Resident's Security Patrol that patrol our streets, and have been supportive through the years to the Greater Woodhaven Development Corp., the Woodhaven Richmond Hill, Kew Gardens Ambulance Corps, the 102d precinct auxiliary police and the new Woodhaven Business Improvement District.

Those living in the Woodhaven community have come to understand the importance of the block association. I urge all my colleagues and fellow residents of Brooklyn to congratulate the Woodhaven Residents' Block Association for 25 years of service to the community and wish them continued success in the future.

## IN MEMORY OF FATHER JAMES W. SAUVÉ, S.J.

### HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. McDADE. Mr. Speaker, I know that many of my colleagues join me in mourning the untimely death of Father James W. Sauvé, S.J. on Monday, September 23. Father Sauvé's passing is mourned by many communities around the world including the Society of Jesus, the Association of Jesuit Colleges and Universities where he worked as executive director, Marquette University, the International Center for Jesuit Education in Rome, and the University of Scranton in Pennsylvania.

Father Sauvé's was a nationally recognized leader in Jesuit education committed to the absolute best that is achievable for any human being. Throughout his life, Father Sauvé excelled at scholarship and inspired students and colleagues alike.

His proficiency in six languages allowed him to travel extensively throughout the world promoting all levels of Jesuit education.

In 1975, Father Sauvé organized the first worldwide meeting in Rome of all presidents of Jesuit colleges and universities. It was the first time in the 455 years of Jesuit history that a meeting of this magnitude was convened. It focused on the Jesuit mission of service of faith and promotion of justice worldwide.

Father Sauvé died unexpectedly of coronary complications at Georgetown University Hospital.

Survivors include his father, Willard F. Sauvé, an ordained permanent deacon in Two Rivers, WI, his step-mother, and his brother Dudley and his family in Farmville, VA.

The funeral for Father Sauvé is scheduled for Friday, September 27 at 7 p.m. at the Holy Family Chapel followed by an 8 p.m. Mass on Marquette University campus in Milwaukee, WI. Burial will be on Saturday at the Cemetery of Holy Cross.

There will also be a memorial service for Father Sauvé on Monday, September 30 at 7:30 p.m. at Dahlgren Chapel at Georgetown University here in Washington. Following the Mass, there will be a reception at the Jesuit Community next to the chapel.

## TRIBUTE TO LOIS AND DICK GUNTHER

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Lois and Dick Gunther, dear friends who this year are being given the Jewish Family Service's FAMMY Award. This award honors their outstanding community leadership and continuing devotion to Jewish Family Service. I cannot think of two more deserving recipients.

The Gunthers have a long and distinguished history of involvement in philanthropy and public service. For example, Dick is a cofounder of the Jewish Federation's Urban Affairs Committee; chaired and helped develop a community outreach Mid-Life Program at Cedars-Sinai Hospital; along with the American Association of Retired Persons created the Legacy Award, where cash awards go to senior citizens who are performing extraordinary services in their communities; and has been on the board of directors of public television station KCET for 28 years.

Lois has been just as active. Several decades ago she became a participant in an interracial, interreligious panel of women called Portraits of American Women. She later turned her attention to the Jewish community, serving on the board of directors of Brandeis-Bardin Institute for many years, as well as on the advisory committee of the School of Jewish Communal Service of Hebrew Union College.

The Gunthers are also passionate about politics, contributing time and effort to a variety of causes and candidates. Dick was even included on President Richard Nixon's infamous Enemies List—a sure sign that he was doing something right.

With all their community and professional activities, somehow the Gunthers found the time to raise three sons and dote on four grandchildren. There is nothing more important to Lois and Dick than family.

I ask my colleagues to join me today in saluting Lois and Dick Gunther, whose selflessness and dedication are a shining example to us all. I am proud to call them my close friends.

## OUTSTANDING NEW JERSEY CHEERLEADERS OF SHORECHEER INTERNATIONAL

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SMITH of New Jersey. Mr. Speaker, I recently had the opportunity to meet with Mr. Louis Pulcrano, coach of a unique group of students from Monmouth and Ocean Counties, NJ. These outstanding young women are members of ShoreCheer International, dedicated to excellence in cheerleading and service to their communities.

Not only have these athletes earned prestige for themselves in national and international cheerleading competitions, the young women have demonstrated great virtue and devotion in caring for those in need around them.

I was particularly moved by a special visit the young women of ShoreCheer made recently to Montoursville, PA, in a effort to help comfort those mourning the loss of family and friends who perished in the TWA Flight #800 tragedy. The cheerleaders spent time with their peers at the Montoursville High School and delivered messages of support and love. Once again, in a moment of sadness and need, these young women offered their time and energy to brighten the lives of others.

Mr. Speaker, I respectfully submit for the RECORD, an article written by the girls' coach, which outlines their numerous achievements and contributions to the community. I would first like to include a list of the names of the young women of ShoreCheer, so that we can all applaud their notable athletic distinction and, most importantly, the great kindness they show to others—something that impacts us all.

Senior All-Stars: Beth Allen; Wendy Dailey, Traci Mayer, Jill Balinski, Beth Hager, Heidi Farnham, Shannon O'Malley, Lauren Petty, Suzanne Heyniger, Kelly MacDonald, Melissa Lennon, Erin Lacey, Kristi Pilgrim, Brittany Larkin.

Junior Prep All-Stars: Laura Stogdill, Jenifer Vienna, Lauren Rogers, Anna Norcia, Danielle Berkely, Kristine Triola, Charolette Yorgenger, Nicole Gashlin, Kyle Allen, Rachelle Rose, Meghan Ward.

Junior All-Stars: Krystle Berryman, Jenny Biancella, Julie Biancella, Caitlin Bilotta, Gina Cifelli, Brianna Dwyer, Amanda Foderaro, Megan Jakubowski, Lauren Krueger, Tara Luchetti, Nicole Masiero, Kristen McCormick, Lauren McCrossan, Melissa Millen, Krissie Previte, Amber Tempsick, Lauren McCormick.

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With so much negative publicity directed toward today's youth, we in New Jersey take great pride in a very special group of young athletes, who have emerged, not only leading their State, but leading their Nation as well in the promotion of pride, honor, and dignity.

They have been called, ''A fine example of what the youth of America can accomplish'' by President of the United States, Bill Clinton, as during the past 7 years of their existence, ShoreCheer International, a cheerleading, educational, and community service program for youth of all ages, has won 125 trophies on the local, State, national and international levels and over 100 honors and recognitions all on the national and international levels for their community service and caring for others in need.

These very special young adults have accumulated some very special achievements over the past 7 years. They have coached one of our Nation's few cheerleading squads made up of handicapped children and successfully trained and entered them in major cheerleading competitions in 1993, 1994, and 1995. A music video was made of these dedicated young ladies working with these special children and it ended up being used as a training tape for Special Olympics in China. In 1994, the group produced a second music video promoting the ''Cheerleaders Fighting Cancer'' program, challenging every cheerleading squad in America to donate 5 percent of all money raised to help put an end to the disease of cancer. That same year, they were selected and honored for the second time by the President of the United States for winning the 1994 CANAM International Sportsmanship Award, presented to just one out of 60,000 cheerleading squads in North America.

They were 1995 International Championship trophy winners in Myrtle Beach, SC, where, after saving up for this trip for a year, gave up their only day of sun and fun on the beach, visiting and paying tribute to the local police, visited a nursing home where they delivered homemade cookies and ended their day visiting a hospital, delivering personal get-well messages to every patient in the hospital and stuffed animals to every child there as well.

In 1992, they were selected as one of just two high school youth groups out of over 400 high schools in their State to speak and perform at the Governor's Summit on Drug and Alcohol Abuse and have lectured numerous other young adults on the dangers of drug, tobacco, and alcohol abuse and the importance of practicing proper values.

Members of ShoreCheer were selected by the motion picture industry to coach movie star Chirstina Ricci, star of ''Casper,'' ''The Addams Family,'' ''Mermaids,'' ''Then and Now'' for her next motion picture, ''Last of the High Kings.'' ShoreCheer Senior All-Star Lauren Petty was selected and featured on the front cover of American Cheerleader Magazine as ''National Cheerleader of the Month'' for February 1996. This year, and for the third year in a row, ShoreCheer will be representing cheerleaders from across the Nation as they have been selected and will perform in the Miss America Pageant Parade in Atlantic City.

Program cheerleaders have raised and donated funds to Hale House in New York City for babies born addicted to alcohol and drugs, to the Make-A-Wish Program, to the New Jersey Food Bank, the Red Cross, and Cheerleaders Fighting Cancer. They have twice performed half-time shows for the NBA New Jersey Nets.

The program received its spots highest honor when it was selected and won the 1995 National Outstanding Cheerleading Program of the Year Award for 1995–96. And most recently, 21 ShoreCheer International cheerleaders made a 500 mile, 10 hour round-trip to Montoursville, PA, on a mission of love and caring and to help in the healing process in a community which lost 21 of its members, including 16 high school students, in the TWA Flight 800 tragedy. The ShoreCheer girls met with the Montoursville High School Cheerleading Squad and presented them with six large megaphones containing close to 1,000 signatures and messages of support from cheerleaders all over the Northeast United States, a red rose for each family of the victims and had a star officially named ''LoveCheer 800'' in honor of those lost in the TWA tragedy. It was the words spoken by ShoreCheer cheerleader Lauren Petty which bonded the two groups together in a very special friendship as Lauren spoke these words of the twenty one victims:

''By reaching out with our hearts, no distance is too great to conquer and it is the love in our hearts that has brought us here today. And as the fingers of their love and the fingers of our love reach out and touch each other here today, we have bonded with them in eternal friendship—21 new friends who will be with us in mind and heart always.''

The six megaphones will be placed on the Montoursville Athletic Field where two of the victims who were cheerleaders would normally cheer during the football season.

To date, ShoreCheer International Cheerleaders have performed live in front of over 2 million spectators from every State in the Nation and their dedication to dignity, honor, respect, pride, community, and those in need has won them recognition on four continents. This very special program and its very special young athletes can best be described by the words of the Governor of Alaska, Walter J. Hickel, ''All of America is proud of you!''

## THE 50TH ANNIVERSARY OF WNTM–AM 710

### HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. CALLAHAN. Mr. Speaker, today commemorates 50 years of service from radio station WNTM–AM 710 in Mobile, AL. This station has bettered the lives of listeners throughout Mobile and Baldwin Counties by not only providing them with music, humor, and relaxation, but by informing them through news, sports, and local affairs. I rise today to applaud the efforts to those who have continued the tradition of this great station, and I wish to express my deep appreciation to them.

Originally signing on the air as WKRG in 1946, this station was born out of postwar exuberance, relief, and anticipation for the future. Although the station has been known by different call letters over the years, WNTM has always been influential in tapping Mobile's rich potential.

During a span of 50 years, WNTM has obviously created a number of local personalities who have turned the ears of listeners daily. From Jack Bitterman and Carl Haug, during the early years of the station's history, to current celebrities like Dick Scott and Mike Malone, these gentlemen, coupled with dozens of other loyal employees, past and present, have truly provided a quality, family oriented program to radio listeners throughout south Alabama. Special thanks should also go to Tim Camp, the current general manager of WNTM.

Mr. Speaker, it is with obvious pride that I ask my colleagues to join me, and thousands of south Alabamians, in celebrating the 50th anniversary of WNTM–AM 710. I wish to offer my deepest congratulations, as well as my gratitude for a job well done. Here's to the next 50 years.

## TRIBUTE TO MAUREEN KENNEDY

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. THOMPSON. Mr. Speaker, today, I would like to pay tribute to one of President Clinton's finest appointees, the Administrator of the U.S. Department of Agriculture's Rural Housing Service, Maureen Kennedy. As a result of the reorganization of the Department of Agriculture, Maureen Kennedy served as the first Administrator of the newly created Rural Housing Service [RHS]. In that role, she broke new ground by creating directives to change the priorities of the housing programs that were formerly administered by the Farmers Home Administration.

Shortly after accepting the position of Administrator, she traveled throughout the delta of my district to look at the challenges this poor section of the country faces each day. This was not a hollow/perfunctory visit to satisfy the request of the Congressman from the Second District of Mississippi. This was the work of a dedicated and sincere public servant—she observed, took notes, and then took steps to make a visible difference. In fact, she followed through on a commitment to return a year later and complete a project she had been working on—even though she was actually on maternity leave.

Maureen Kennedy is now leaving the RHS. I know Maureen well enough to know that she will continue to be a tireless advocate for the poor in her next undertaking. Many people in my district and across this Nation are better off today as a result of Maureen Kennedy's work.

In an era when it is extremely popular to denigrate public servants and label them unfit to represent the Government, I am pleased to have the opportunity to salute one who served this President, this Congress, and more importantly the people of this country with honor and distinction. Maureen will be missed. I am certain she will be successful in whatever endeavor she pursues in the future.

## DRUG-INDUCED RAPE PREVENTION AND PUNISHMENT ACT OF 1996

SPEECH OF

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 25, 1996*

Mrs. SCHROEDER. Mr. Speaker, because I believe that it is critically important that we increase the penalties for possession and trafficking in Rohypnol, I support this legislation even though it does not go far enough.

Rohypnol has been proven dangerous. The drug is odorless, colorless and tasteless and cause sedation and euphoric effects within 15 minutes. The effects are boosted further by alcohol or marijuana. And, most offensively, Rohypnol has become the tool of predators who spike the drinks of unsuspecting young women and then rape them.

Recognizing the dangers posed by Rohypnol, the DEA has begun the administrative process of moving Rohypnol from Schedule IV to Schedule I to put the drug in the same category—and have it carry the same penalties—as other dangerous drugs including LSD and heroin.

In an effort to speed up the process of changing Rohypnol's schedule, last week, the Judiciary Committee voted unanimously to reschedule the drug. Despite that vote, this week, we see a brand new bill on the floor without the rescheduling provision?

Why, you might ask, would anyone oppose rescheduling a dangerous drug with no legitimate purpose in the United States and which has been used to facilitate the rape of numerous young women, including many minors? Why would anyone argue for lenient treatment of a drug that has been banned by the FDA and declared dangerous by the DEA?

Because Hoffman-LaRoche, the pharmaceutical company that manufactures Rohypnol and which sells the drug in 64 foreign countries, has worked very hard to see the rescheduling provision dropped. Hoffman-LaRoche stands to lose $100 million if Rohypnol is rescheduled because sales in other countries tend to go down when the United States decides a drug is so dangerous that it belongs on Schedule I.

So in today's legislation, Rohypnol remains a Schedule IV drug not because anyone actually believes it is as safe as other Schedule IV drugs like Valium, but because a drug company has successfully lobbied—to the detriment to women and girls across the country—to keep Rohypnol's Schedule IV status.

I sincerely hope that after this bill has passed, we can go back to the Committee process and pass a bill rescheduling Rohypnol so it is treated as seriously as other dangerous drugs.

## IN HONOR OF WILLIAM F. ZENGA: A TRUE TRAILBLAZER FOR THE DREDGING INDUSTRY IN NEW JERSEY

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an individual whose distinguished service to his community and the labor movement in New Jersey will long be remembered. Mr. William Zenga's efforts will be commemorated on September 28, 1996, when the headquarters of the International Union Operating Engineers is renamed in his honor.

The dedication ceremony of the William F. Zenga Building will be the culmination of a long and notable career. Mr. Zenga's journey to this monumental occasion began upon his graduation from Dickerson High School, Jersey City in 1939 when he became a dredgeman. One year later, he attained the position of operating engineer which he has held continuously, interrupted only by a period of service as a Navy SeeBee during World War II where he earned the rank of chief petty officer.

Mr. Zenga's career in the dredging industry has lasted 56 years. During that time, he has taken up the cause of his fellow dredgemen through his activities with the International Union of Operating Engineers, local 25. Since the inception of local 25, Mr. Zenga has held a number of positions starting as a business agent and executive board member, and progressively moving upward in the labor organization. He has held positions as vice president of the Maritime Port Council of the Delaware Valley and Vicinity, vice president of the Maritime Trades Department of the AFL–CIO, and trustee of the Maritime Port Council of Greater New York.

Commitment to family and community are paramount to Mr. Zenga. He and his wife, Caroline, make their home in Woodbridge, and are the proud parents of three sons: James, an attorney, William, Jr., an oral surgeon, and Jack, a certified public accountant. Mr. Zenga's interest in having our waterway be free for passage by our Nation's shipping fleet has led to involvement in a number of associations that promote the dredging and maritime industry. He currently serves as a board member of the State of New Jersey Maritime Advisory Council, the New York State Coastal Zone Management Advisory Committee, and a member of the New Jersey Alliance for Action.

It is an honor to recognize the important work of this dedicated individuals. His contributions to the dredging industry are of tremendous importance to many of the residents of my district who depend on an unobstructed coastline to make a living. I am certain my colleagues will rise with me and pay tribute to this trailblazer in the dredging industry.

## CONCERNING THE ANNIVERSARY OF THE 1991 MASSACRE IN EAST TIMOR

### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. PORTER. Mr. Speaker, as cochairman of the Congressional Human Rights Caucus, I have long been concerned about the deteriorating human rights situation on the Indonesian island of East Timor.

On November 12, 1996, we will mark the fifth anniversary of the brutal massacre of peaceful, unarmed protesters at the Santa Cruz Cemetery in the capital of East Timor. As many as 273 defenseless citizens were killed by the Indonesian military in a ferocious, unprovoked attack.

The Indonesian security forces who were responsible for this brutal act of terror are still operating with impunity throughout East Timor. This impunity is illustrated by the legal aftermath of the massacre. Those military personnel who were responsible for the massacre received a slap on the wrist; the strongest punishment was house arrest. Compare this with the harsh punishment meted out to those who were convicted of organizing peaceful protests. They received sentences ranging from 9 years to life in prison. They are still in prison as we speak.

The Dili massacre is one of the most egregious, but by no means the only, example of severe repression in East Timor. Arbitrary arrests, militarization of the island, and training and arming young East Timorese loyal to the Indonesian Government are all on the rise.

It is unconscionable that we are considering transfer of high-technology military equipment to a country whose military is responsible for such a reprehensible act against its own people. I hope that Members will consider the consequences for the people of East Timor when we turn a blind eye to horrible acts such as this.

## TRIBUTE TO TONY BEILENSON

### HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. STUDDS. Mr. Speaker, I rise today to honor our retiring colleague, TONY BEILENSON of California. Congressman BEILENSON is one of the most constructive and productive Members of this body. While his diligence has earned his colleagues' respect in a variety of substantive areas, his lifelong legislative passion has been in habitat protection, especially for the endangered African elephant, and the Asian tiger and rhinoceros.

As I noted at a recent Resources Committee hearing on elephants, tigers, and rhinos, Jonathan Swift wrote, in 1793, ''Geographers mapping Africa over unhabitable downs placed elephants for want of towns.'' For better or worse, Europeans saw fit soon to rectify what they viewed as a shortage of towns with the colonization of the African Continent. And along with that colonization came big game hunters and a booming global trade in elephant ivory.

Two hundred and fifty years after Swift penned that little poem, American consumers were indirectly responsible for the deaths of thousands of elephants each year, and the millions of elephants that had once stood on maps in the place of African towns were reduced to fewer than 700,000.

This magnificent species was facing the possibility of extinction in the wild if the slaughter were not stopped. Fortunately, we were able to respond to the pending crisis and diminish, if not completely halt, the uncontrolled killing of African elephants for their dubious honor of emerging from the evolutionary process bearing a resource more precious than gold.

Although habitat protection and the pressures of industrialization continue to pose a threat to African elephant populations, this species appears to be on the rebound, thanks in part to our colleague from California.

I understand that elephants, like the whales found off the coast of Massachusetts, are able to communicate over long distances by making deep rumbling sounds that humans cannot hear. If we could hear them, I am sure the elephants would be thanking Mr. BEILENSON for his extraordinary work on their behalf.

I wish we could be as optimistic about the future of the other species these laws are designed to protect. Due to the continuing demand for rhino horns and tiger bones in traditional Asian medicines, and the deplorable illegal trade in tiger skins, these extraordinary creatures may be gone from the face of the Earth by the time the Democrats regain control of this Congress. There is some hope, however, for both the rhinos and tigers and the Democrats.

The battle to save these species from extinction is far from over, but at least the battle is joined. We must continue to do all we can through international cooperation and environmental education to ensure that rhinos, tigers, and elephants still exist for future generations.

We all know that extinction, like politics, is forever. It is a very special privilege to recognize TONY, whose loss will be immense to this institution and to the country, to say nothing of the heffalumps.

## INTRODUCTION OF COMPREHENSIVE WOMEN'S PENSIONS PROTECTION ACT

### HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mrs. KENNELLY. Mr. Speaker, we are here this morning to announce the introduction of the comprehensive women's pension bill of 1996.

While Republicans spent the 104th Congress trying to deny working American families $40 billion of their hard earned pension money by allowing employers to raid pension plans, Democrats beat back these attempts and worked to ensure that working Americans, particularly women, get the benefits to which they are entitled.

For instance, President Clinton recently signed into law legislation I have championed since 1986 which reduces the vesting period—the period you must work before become entitled to a pension—from 10 to 5 years for multiemployer plans. The moment President Clinton put his signature on the bill, 1 million Americans became entitled to a pension. But there is much more work to be done, particularly for the women of America.

For instance, less than one-third of all women retirees over age 55 receive pension benefits compared to 55 percent of male retirees. Yet the typical American woman who retires can expect to live approximately 19 years. Sadly, over one-third of elderly women living alone live below the poverty line and three-fifths live within 150 percent of the poverty line. Women's pension benefits depend on several factors including: participation in the work force, lifetime earnings relative to those of current or former husbands, and marital history.

There has been a long-term trend toward greater labor market participation by women. In 1940, only 28 percent of all women worked and less than 15 percent of married women worked. By 1993, almost 60 percent of all women worked and married women were slightly more likely than other women to be working. The growth of women in the work force is even more pronounced for women in their prime earning years—ages 25 to 54. The labor force participation rate for these women increased from 42 percent in 1960 to 75 percent in 1993. For married women in this age bracket labor force participation increased from 35 percent in 1960 to 72 percent in 1993.

Not only are more women working, they are staying in the work force longer. For instance, 19 percent of married women with children under age 6 worked in 1960; by 1993, 60 percent of these women were in the work force. Similarly, 39 percent of married women with children between the ages of 6 and 17 were in the work force in 1960 and by 1993, fully 75 percent of these women were in the work force.

Women's median year-round, full-time covered earnings were a relatively constant 60 percent of men's earnings until about 1980. Since that time, women's earnings have risen to roughly 70 percent of men's. This increase will, in time, increase pension benefits for women although this change will be slow because benefits are based on average earnings over a lifetime.

A woman's martial status at retirement is also a critical factor in determining benefits. The Social Security Administration projects that the proportion of women aged 65 to 69 who are married will remain relatively constant over the next 25 years, and that the proportion who are divorced will more than double over this period. There are tremendous inequities in the law with respect to the pension of a widow or divorced spouse. For instance, only about 54 percent of married private pension plan recipients have selected a joint and survivor option, which, in the event of their death, will continue to provide benefits to their spouse.

The face of women in America today has changed; it's time our pension laws recognize those changes. The bill before us today does just that. A number of us have been active in this area. We have been successful in getting small pieces enacted. And today, we pledge to work together in the next Congress to update our pension laws for the women of America.

## SOUND ADVICE ON UNITED STATES-CHINA RELATIONS

### HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. ROTH. Mr. Speaker, as we consider our future trade relations with China, I would like to bring to my colleagues' attention to an excellent speech on the issue by former Secretary of Commerce Barbara Hackman Franklin.

Secretary Franklin not only has long experience in United States trade policy, but she also has particular expertise in United States-Chinese relations. That is why the Heritage Foundation asked her to make a special address on this subject.

In her remarks, Ms. Franklin emphasized that our relationship with China has come to a critical point. She urged us to consider the long term implications of our annual fight over MFN. Further, Ms. Franklin described the significant changes occurring in China and the impact of trade investment on those changes.

As Ms. Franklin pointed out, China is rapidly becoming a global economic power, making it crucial that the United States have a consistent, long-range strategy for stable, constructive relations.

Barbara Franklin has made a major contribution to a better understanding of our relationship with China as well as the implications of MFN for our national interest. I am including a summary of her speech in the CONGRESSIONAL RECORD and I urge my colleagues to read it carefully.

SUMMARY OF REMARKS GIVEN BY THE HONORABLE BARBARA HACKMAN FRANKLIN—''CHINA: FRIEND OR ENEMY?''

(Prepared by the staff of the Committee on International Relations)

The bilateral relationship between the U.S. and China is one of the most important in the world today. We have come to a critical point, where a better understanding between the two countries has become crucial for a stable and predictable relationship for the future.

Change in China is occurring at a tremendous rate and the result of China's transition can affect the U.S. for many reasons. China has the largest population and standing army in the world. It also is strategically positioned in the center of Asia and is a permanent member of the U.N. Security Council, giving China the power to veto decisions in the U.N.

China's growing economic clout is significant for the U.S. as well. Currently, China is rated as the third largest economy in the world, behind Japan and the U.S., and predictions of China's future economic growth show that within the next 15 years it has the potential of becoming the world's largest economy. This has become important for the U.S. because China is the largest market in the world for aircraft, telephones, construction equipment, agriculture products, and increasingly for consumer goods. We can see that China is a market for many of the products sold by the U.S. and, more importantly, the figures show that the demand in China continues to grow rapidly.

At the same time, we cannot ignore the vital concerns many people have brought up about the problems with human rights abuses, nuclear proliferation, and protection of intellectual property rights in China. Our increasing trade deficit has also caused a great deal of anxiety in the U.S., along with the question of both Taiwan and Hong Kong and the intentions of China's military. Many goals are being set by the central government and provinces, ranging from expanding education to strengthening China's agriculture to meeting the basic needs of the Chinese people, to help alleviate the problems and issues that China faces.

Threatening to deny MFN status should not be used as a means of addressing these concerns. Congress should renew MFN for China. Denying MFN status to China or attaching unrelated conditions does not make any sense for many reasons. The economic consequences would be profound, as denial of MFN would hinder trade and increase tariffs and costs for U.S. companies doing business in China. A negative message to the Asia-Pacific region would also result, where there is already concern about whether the U.S. is going to withdraw. Denying MFN would also harm the economies of Taiwan and Hong Kong and, as previously stated, would not correct or erase any of the concerns we have with China. Furthermore, the time has come

to make MFN for China permanent as our strategic and economic relationship with China is too important to continue this heated and controversial debate every year.

It is also important to note that, currently, the U.S.-China relationship is at one of its all-time lowest points. It is characterized by distrust and misunderstanding, stemming in large part from the inconsistent actions of the Clinton Administration in its policies toward China. Many in China's government have interpreted our mixed messages as a policy of ''containment'', which has led to feelings of resentment against the U.S., as well as confusion on the part of the Chinese about what we really mean. We need a strategic framework for our relationship. Clear objectives and expectations for our relationship must be articulated to the Chinese. Dialogues at the highest levels should be used as means by which we can express and push for the goals we have set to achieve. Areas of common interest and agreement, such as commercial relations, provide a good foundation from which we can build.

The U.S. should actively encourage China's economic reform process as well as that country's integration into the world community. The U.S. should help to bring China into the WTO on acceptable terms; that way we can pursue our trade agenda multilaterally as well as bilaterally. The U.S. needs to focus on consistent actions that courage the Chinese to move forward instead of publicly shouting at them, as the Clinton Administration has been doing. We need to stay engaged with China, to use our best diplomatic judgment and skill, to disagree and be tough-minded when we must, while keeping our eye on the goal of achieving a working relationship.

The attitude of the U.S. toward China and the tone of the U.S.-China government relationship can have an influence on which way things go. But using trade as a weapon to address the concerns will not eliminate the problems and may only punish U.S. exports more than they hurt China. Therefore, we must look at the long term, instead of being short sighted, and adopt a consistent policy towards China that intelligibly addresses our concerns and objectives. The future relationship is at hand and if we continue our current, inconsistent approach to China, there is no telling what will result. This is a gamble the U.S. and the world cannot afford to take.

## LIVEMORE PUBLIC LIBRARY TURNS 100

### HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. BAKER of California. Mr. Speaker, in 1896, the Wright Brothers had yet to fly, Henry Ford's mass production line had not yet opened, and Dwight Eisenhower was still a boy on the Kansas prairie. Yet the public-spirited citizens of Livermore, CA were already showing their commitment to building a strong community as they opened the Livermore Public Library.

For 10 decades, the Livermore Library has opened the doors of learning to generations of East Bay residents. The library has survived a Depression, two World Wars, and great social changes. Whatever was occurring in the world outside, the walls of the library were witnessing the quiet, steady flow of knowledge, and the library's resources were helping prepare people of all ages to fulfill their chosen tasks and pursue their personal interests.

Thanks belong to the people of Livermore for all they have done to continue this tradition to the present day. I applaud their commitment to learning, to public service, and to education, and wish them all the best as they celebrate this unique event in the history of the Livermore community.

## A TRIBUTE TO EDWARD LENZ

### HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. ENGLISH of Pennsylvania. Mr. Speaker, too often we forget here in Washington that a pyramid rests on its broad base, not its pinnacle. In like manner, our political system rests not on Congressmen but on those who devote their time to local government: a lot of headaches and little pay.

Ed Lenz was a solid man, a good man, one of those foundation stones of America's democratic system. He shouldered the burden of public service without complaint, and served his family, his community, and his God. Would that we all have the same spirit of public service that Ed did.

Ed passed away after a lifetime of service. He was a Korean war veteran, serving in a too often ignored war in the Army.

He then studied electrical engineering, and worked for General Electric in locomotive testing for 27 years.

Ed was a husband and a father, and was always there for his family and community.

That is why he was a Republican committeeman, a member of the Wesleyville Planning Commission, and a Wesleyville councilman.

Wesleyville is going to miss Ed. In these days of cheap celebrity, I mention Ed because he was a good man, and I think such men should be remembered.

## NATIONAL INSTITUTE OF BIOMEDICAL IMAGING ESTABLISHMENT ACT

### HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. BURR. Mr. Speaker, today I am introducing the National Institute of Biomedical Imaging Establishment Act of behalf of myself and my colleagues Mr. GREENWOOD, Mr. FLAKE, Mr. BROWN of Ohio, Mr. BORSKI, Mr. COBLE, Mr. HEINEMAN, Mr. PAYNE of Virginia, Mr. TAYLOR of North Carolina, Mr. CHAPMAN, and Mr. SMITH of Texas.

As millions of Americans know from personal experience, new developments in medical imaging have revolutionized patient care in the past quarter century. The field is no longer limited to x-rays. Sophisticated new technologies such as computed tomography [CT], magnetic resonance imaging [MRI], positron emission tomography [PET], and ultrasound allow physicians to diagnose and treat disease in ways that would have seemed impossible just a generation ago.

Mammography, for example, has improved the odds enormously for patients through early detection. And now, image-based biopsy methods have made it possible to diagnose many suspicious lumps in women without resorting to expensive and painful surgery.

For children, imaging has meant a dramatic reduction in the need for surgery. In the past, for example, a child brought into a hospital after an automobile accident would often undergo exploratory surgery if internal injuries were suspected. Today, a CT scan immediately after admission to the emergency room often eliminates the need for surgery at all. This not only avoids an expensive and potentially dangerous procedure; it also eliminates unnecessary pain and lengthy recovery periods.

The achievements of medical imaging are remarkable. And the potential for the future is equally dramatic. Imaging research promises breakthroughs in the early detection of such diseases as prostate and colon cancer, as well as the identification of individuals at risk for Alzheimer's disease.

Imaging research is also developing the foundation for the surgical techniques of the 21st century. Virtual reality neurosurgery, robotic surgery, and a whole array of image-guided procedures are revolutionizing surgical practice.

Developments in imaging are also making it possible to deliver better medical services to patients in rural regions and other underserved areas. Through teleradiology, experts in hospitals hundreds or even thousands of miles from patients can read images and make accurate diagnoses.

Americans can reap impressive benefits from future innovations in imaging. But these developments could be delayed significantly, or even lost, if we do not make a renewed commitment to image researching at the National Institutes of Health. The NIH is the premier biomedical institution in the world, but it is not organized to optimize research in this crucial field. The NIH is organized in Institutes, to support research related to specific diseases or body organ systems.

Imaging, however, is not specific to any one disease or organ. It has applications in virtually every area. For that reason, imaging research is conducted at most of the Institutes at NIH, but it is not a priority at any Institute. Instead, it is dispersed throughout the Institutes, producing uncoordinated decisionmaking and resource allocation.

The same is true on a larger scale beyond the NIH. A number of Federal agencies, including the Department of Defense, NASA, the National Science Foundation, the Department of Energy, and the intelligence agencies support imaging research programs. There is, however, no central coordination or direction for this research.

We can fix this problem. We can provide the needed oversight and direction for imaging research at NIH and throughout the Federal Government. We can ensure that taxpayer dollars expended on imaging research produce a greater return. And we can do all of this without additional spending.

The bill we are introducing today creates an organization at NIH to oversee and direct imaging research. But it does not add further layers of bureaucracy. On the contrary, the bill allows the Director of NIH to use existing administrative structures, existing personnel, and existing facilities for the new Institute.

In addition, this bill does not further dilute our increasingly scarce health care resources. Rather than require larger appropriations or create a whole new program with increased overhead, this bill consolidates the imaging research programs that are already in place to ensure more effective decision-making and investment of resources. It also creates a center to coordinate imaging research throughout the Federal Government.

In short, this bill provides an opportunity to improve health care for our citizens and improve efficiency at the same time. It will help us meet both the formidable scientific and budgetary challenges we face.

I fully recognize that there is not sufficient time remaining in the current Congress for the House to act on this legislation. Nevertheless, I believe that it is important to raise this issue now. We will be considering legislation to reauthorize the NIH in the next Congress, and we need to focus on imaging research as we continue the debate on the future of biomedical research in this Nation. I hope that the introduction of this bill now will contribute to that debate, as well as to the construction of a more effective national research program.

## TRIBUTE TO RUTH SALZMAN

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. TOWNS. Mr. Speaker, it is my pleasure to highlight the sterling efforts of Ruth Salzman, executive vice president for the Chase Community Development Corp. [CCDC]. Ruth was named to direct commercial lending for CCDC in 1992. She is tasked with the challenge of providing loans to minority and women-owned small businesses located in low- and moderate-income communities, in addition to addressing the needs of community-based nonprofit organizations.

Businesses in the tristate area of New York, New Jersey, and Connecticut have been recipients of loans from Chase, under the auspices of Ruth Salzman. In an era when it is fashionable to eliminate access to capital for groups desperately in need of access to capital, most notably minorities and women who own small businesses, it is comforting to know that Ruth Salzman is working overtime to support these groups.

Ruth's expertise and training are traceable to her work with Chemical Bank, where she managed a specialized lending portfolio known as the Community Policy Lending Unit, which provided capital loans to nonprofit organizations that developed transitional and permanent housing for people with special needs.

Ms. Salzman is a graduate of the Wharton Graduate Division and received her B.A. from Brooklyn College. She is married to Ira Salzman and is the mother of two children. Ruth's efforts have opened doors for many minority and female small business owners who have known nothing but despair in their efforts to secure commercial loans. Her efforts deserve recognition and commendation, and it is my honor to introduce her to my fellow colleagues.

## TRIBUTE TO OUR LADY OF THE RIDGE VOLLEYBALL CHAMPIONS

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to an outstanding group of volleyball players in my district. This special group of players are students at Our Lady of the Ridge High School in Chicago Ridge, IL. What makes this group stand out and shine is that when other schools were out for the summer, this group of players extended their season into late June and captured their program's first national title. This is truly a momentous triumph and I am very proud to represent such a fine group of young women in Congress.

This year's Amateur Athletic Union Junior National Volleyball Championships were held in Des Moines, IA, on June 21–25. This year, a division was started which included volleyball players ages 10 years and younger. The division was created to allow younger players to compete in the national competition. This year, 10 young ladies from last season's fourth grade team received maximum benefit from the exposure.

The team was led by tournament MVP Jessica Strama and All-Americans Kellie and Katie Pratl. Additionally, Elizabeth Rutan, Cori Omiecinski, Megan Liston, Laura Dirschl, and Katherine Casey played an important role in their aggressive floor play during the game. Stefanie Krawisz and Lauren Uher were top in their field outstanding serving ability during the game. The Our Lady of the Ridge team was coached by Milena Strama and Ron Pratl. The team ended its season with an impressive 77–23 record. Finally, the team could not have come as far as they did if it were not for their many sponsor and supporters from the parish community of Our Lady of the Ridge. As the team coach Ron Pratl said, ''There was a team of supporters that made it possible for us to get here, and then there was the team that won the gold. My hat goes off to all of them.''

Mr. Speaker, I am very proud to have such a fine group of players and supporters in my district. This group of hard working young volleyball players are truly an inspiration and I am pleased to be given the opportunity to honor their hard work today.

## TRIBUTE TO HONOR JANET FASH BY PLACING HER NAME IN THE CONGRESSIONAL RECORD

### HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to a brave and honorable individual, Miss Janet Fash, of Rockaway, NY. Her courage enabled her to save the life of a fellow civilian. Her contributions to the civic life of her community are commendable.

Miss Fash is a lifeguard in Rockaway, NY. While her job is to save lives, she has demonstrated the virtues of a citizen who goes above and beyond the call of duty.

Janet Fash was off-duty when she was walking down the beach. She noticed a crowd and found them attempting to rescue a drowning child from the ocean. Having been pulled out to sea by the tide, the child's life was in grave danger. Miss Fash quickly swam out to sea in order to rescue the child, ultimately saving its life.

For many individuals, this would be a random act of heroism. However, Janet Fash practices these acts for a living, spending the majority of her time saving lives. Her duty to her community is also to be commended, as she is a regular attendant at all community meetings, and is the epitome of a civic-minded individual.

As Janet Fash has been such a notable member of her community, I would encourage my colleagues to join me in congratulating her on her bravery and superior heroism.

## CONDEMNING VIOLENCE IN EAST TIMOR

### HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. REED. Mr. Speaker, there has been growing international concern over the plight of the former Portuguese colony of East Timor, especially since November 12, 1991, when Indonesian troops killed more than 250 defenseless people and wounded hundreds more at Santa Cruz Cemetery in the East Timorese capital of Dili.

Thousands of East Timorese had gathered at the cemetery for a memorial service that turned into a demonstration. In an unprovoked attack, Indonesian forces opened fire on the crowd. A British television journalist filmed part of this tragic event, attracting the attention and indignation of the global community.

Nearly 5 years later, the situation in East Timor remains extremely tense. While the Indonesian officers and soldiers who were responsible for the Santa Cruz massacre received light punishment, when they received any punishment at all, the East Timorese accused of organizing the demonstration received long sentences, ranging from 9 years to life in prison. So far as is known, all of the Indonesian perpetrators have long ago been freed, in contrast to the East Timorese, all of whom were charged with nonviolent activities, but none of whom have been released.

As we near the fifth anniversary of the massacre, it would be fitting for the Indonesian Government to release all those charged with nonviolent activities in connection with the event.

In July 1996, Amnesty International presented a summary analysis of the human rights situation in East Timor to the United Nations Special Committee on Decolonization. I now ask that this important documemt, which underscores the need for concrete action, be placed in the CONGRESSIONAL RECORD:

INDONESIA: HUMAN RIGHTS DETERIORATE IN EAST TIMOR AS UN TALKS GO ON

Another year of talks and vague promises of greater openness by the Indonesian government has brought no relief to the people of East Timor, Amnesty International said today at the United Nations (UN) Special Commission on Decolonization in New York.

Despite the recent completion of the eighth round of talks between the governments of Indonesia and Portugal, and a visit

to Indonesia and East Timor by the UN High Commissioner for Human Rights, the root causes of human rights violations in East Timor remain unaddressed.

Reports of arbitrary arrests, torture, ''disappearance'', extrajudicial killings, the imprisonment of prisoners of conscience, and unfair trials have continued. There is particular concern that the authorities may be using disturbances in the territory as a pretext to arrest people involved in peaceful pro-independence activities.

''Instead of committing itself to taking concrete measures to address gross violations by its security forces, the Indonesian government responds to criticism with cosmetic measures aimed at appeasing international and domestic critics,'' Amnesty International said.

In 1995, for example, the government agreed to a visit by the High Commissioner for Human Rights to Indonesia and East Timor. During the visit the authorities said they were prepared to cooperate further with the mechanisms of UN human rights bodies, but gave no indication of how or when this would be done.

''The international community should not be fooled into thinking this constitutes real progress on human rights in East Timor. Limited concessions as such have not alleviated the deteriorating situation on the ground,'' Amnesty International said.

Concrete action is urgently required to curb arbitrary use of power by the security forces, end the impunity and remove legislation which allows for the detention of prisoners of conscience.

The international community should also fulfill its responsibility to the people of East Timor by holding the Indonesian government accountable for violations whenever they occur.

''The time for talking is over. The Indonesian government must now demonstrate a genuine commitment to human rights in East Timor—and the international community must hold that government to such a commitment,'' Amnesty International said.

## CONGRATULATIONS TO PG&E

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. DELLUMS. Mr. Speaker, two major projects aimed at replenishing the economic vitality of Oakland are the Oakland Inner City Competitiveness Project and the Oakland Communications Business Cluster Incubator. Deeply involved in both of these projects is Pacific Gas & Electric Co. [PG&E], serving Oakland and much of northern and central California. For its leading role in economic development, PG&E received the Edison Electric Institute's [EEI] Common Goals Special Distinction Award for customer satisfaction.

Tapan Munroe, PG&E's chief economist who cochaired an economic forum for Oakland, was in Washington to receive the award from EEI President Thomas R.Kuhn in a Capitol Hill ceremony.

In the face of economic stagnation, military base-closings, and downsizing throughout northern California, PG&E played a key role in bringing stakeholders together to forge a strategic plan for Oakland's future. PG&E and other supporters and businesses funded the forum, and PG&E produced the Proceedings and Action Plan which envision 12,000 new jobs through four strategic areas: Port of Oakland, Downtown Redevelopment Plan, Neighborhood Revitalization, and New and Changing Industries. Now PG&E is taking a leading role in putting the action plan into effect.

I commend all the partners and their good work through the Oakland Economic Action Forum. Congratulations to PG&E on winning the EEI Common Goals Award.

## TRIBUTE TO FREEHOLDER P. MARVIN PADGETT

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. ANDREWS. Mr. Speaker, I rise to honor to Freeholder P. Marvin Padgett, a member of the Cumberland County Board of Chosen Freeholders in New Jersey. Mr. Padgett has announced his retirement. He will be leaving office at the end of his term in 1998.

Mr. Padgett, a resident of Fairfield Township has dedicated his life to public service. He is currently concluding a 9-year stretch as Freeholder, which began in 1988. Prior to this he had served a 3-year term from 1971–73. Mr. Padgett has been affiliated with many Camden County Departments during his illustrious career.

Freeholder Padgett began his community involvement as an active member of the Bridgeton Jaycees in the 1950's and has also held the post of President of that organization. Following his involvement with the Jaycees, the Freeholder was appointed a member of the Bridgeton Housing Authority. Mr. Padgett was later elected to the Fairfield Township Board of Education. In 1964, Mr. Padgett was elected to the first of his two terms as County Coroner. He was later appointed to the Cumberland County Utilities Authority where he served for a total of 8½ years, the final 3 as Chairman. In 1978 he was elected Camden County Democratic Chairman.

Mr. Speaker, I would like to take this opportunity to recognize and thank Mr. Padgett for his lifelong commitment to his community. Through his years of hard work, Freeholder Padgett has shown uncompromising dedication to his family, his colleagues, and to the people of his community.

## IN MEMORY OF FATHER JAMES SAUVE (1932–96)

### HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. MOAKLEY. Mr. Speaker, I rise today with great sadness to honor the memory of a truly great American leader who passed away earlier this week.

Father James Sauve, our country's leading expert on Jesuit education, left this world far too quickly. Lucky for us, in the 64 years he was here, he made more difference; he had more positive contributions, than most people even dream of making.

Father Sauve had just recently been named the executive director of the Association of Jesuit Colleges and Universities. In this, and his many other experiences, he devoted his life to the two greatest goals: justice and education. And he succeeded mightily.

Whether this gentle man was teaching his students mathematics at Marquette University, organizing a worldwide meeting of the leaders in Jesuit higher education, or simply chatting with friends over a good pipe smoke and classical music, Father Sauve always enjoyed his mission in life.

It was his mission to help focus the greatest educational tradition in our country, Jesuit education, and to help ensure its continued prosperity well into the future. For that we should all be very thankful.

The Jesuit mission promotes a service of faith in a world that often makes faith hard to find. In this world, their vocation is to promote a shared, lasting good and to promote justice. According to the Jesuit teachings, ''God challenges His people to act justly, to speak respectfully of serious things, and to counter social conflict.'' Father Sauve embodied these principles through his teachings of the importance of education—education that teaches service to others, justice for all, and peace around the world.

In the Gospel according to John, Jesus says, ''This is my commandment, that you love one another, as I have loved you.'' John 15:12. I believe Father Sauve succeeded better than many of us in breathing life into this commandment and teaching its meaning.

Father Sauve was and still is an inspiration to all of us.

## TRIBUTE TO ST. GABRIEL POSSENTI

### HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. STEARNS. Mr. Speaker, Thomas Jefferson wrote, ''No free man shall ever be debarred the use of arms.'' I, along with many of my colleagues, wholeheartedly agree and have fought attempts to limit a law-abiding citizen's constitutional right to keep and bear arms. Law-abiding citizens have the right to protect themselves, their families, and their property.

As a strong supporter of the second amendment, I would like to take a moment to pay tribute to a courageous, but little known saint, St. Gabriel Possenti, who exemplifies the need for legitimate gun ownership. In 1859, the Catholic seminarian saved the village of Isola, Italy from 20 dangerous terrorists who were terrifying the citizens, burning down the village, and stealing personal possessions.

As one of the terrorists was in the process of assaulting a young woman, Possenti, unarmed and alone, went to face the band of criminals. The terrorist who was about to rape the young woman, looked over and rested his gaze on Possenti and commented on him being all alone. Possenti quickly grabbed the terrorist's weapon from his holster and demanded the release of the young woman. Startled, the terrorist obliged. Possenti then disarmed a second terrorist.

Upon hearing the commotion, the rest of the band came over to Possenti with the intent of overtaking the lone monk. It was at that fateful moment, a lizard ran across the road. When it

stopped midroad, Possenti, using one of the terrorist's revolvers, demonstrated his shooting prowess. He carefully aimed and killed the lizard with a single, clean shot. Possenti, then turned both revolvers on the terrorists and ordered them to douse the fires, return the property and leave the village. Not surprisingly, the bank of brigands was never heard from again.

Possenti, who was thereafter referred to as the Savior of Isola, died in 1862. Pope Benedict XV canonized him in 1920. Possenti's prowess with the revolver protected life and property. His brave actions evidence the necessary right of legitimate self-defense. It is this past conduct of the 19th-century Italian saint that is celebrated and studied by the St. Gabriel Possenti Society, Inc., which seeks his designation as the Patron Saint of Handgunners. I would like to personally thank Mr. John Snyder of the St. Gabriel Possenti Society for his tireless dedication on behalf of the crusade for legitimate self-defense.

I urge all my colleagues to remember this truly amazing story when they are called upon to make decisions regarding a citizen's second amendment right to keep and bear arms. Via the second amendment, citizens have the right to protect themselves, their families and their possessions from those who roam our streets and terrorize whole communities. As stewards of the public trust, we have the obligation to ensure the ability of law-abiding citizens to exercise this important right.

## TAIWAN'S NATIONAL DAY MARKS THE TRIUMPH OF DEMOCRACY

### HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. ROSE. Mr. Speaker, on October 10, 1996, the Republic of China [ROC] on Taiwan celebrates its national day. I salute the great changes that have been undertaken by the people on Taiwan to transform their country into one that guarantees the right of every individual to participate in the election of its leaders.

While Taiwan's National Day is a happy occasion, we in the United States must be concerned by the recent heightened tensions in the region. The People's Republic of China [PRC] has undertaken a program of intimidation toward Taiwan. On the eve of Taiwan's Presidential elections, the PRC launched missiles less than 100 miles off the coast of Taiwan, staged ''island landing'' military exercises, and openly threatened naval blockades. The PRC took these actions because democratic Taiwan continues to seek greater international recognition.

The United States has an important role to play in resolving this matter. We must continue to work to bring the ROC into the World Trade Organization in a timely manner. We also must coordinate with President Clinton to make sure that, within the framework of current treaties, Taiwan borders are secure. And we must continue to promote Taiwan's participation in humanitarian organizations around the world.

Mr. Speaker, Taiwan held open Presidential elections in March of this year. The United States has always promoted the idea of democracy throughout the world. Now that democracy is a reality on Taiwan, the United States must make certain Taiwan is protected from any external threats.

Mr. Speaker, I congratulate Taiwan on its National Day and send warm regards to President Lee Teng Hui on his country's amazing economic and democratic successes.

## TRAGEDY OF EAST TIMOR

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. TORRICELLI. Mr. Speaker, the tragedy in the former Portuguese colony of East Timor is of growing concern to Americans, and in particular, to church and secular human rights organizations in the State of New Jersey. There has been growing interest in this problem in my State dating back to the 1975 invasion of East Timor by Indonesia, which may have claimed more than 200,000 East Timorese lives of a population that was less than 700,000 before the Indonesian occupation. Public interest in my State and around the world has increased since the November 12, 1991, massacre of more than 250 unarmed people by Indonesian troops at Santa Cruz cemetery in the East Timor capital of Dili. The Santa Cruz massacre, filmed in part by a British TV journalist, was televised throughout the world, and alerted international public opinion to the plight of East Timor in an unprecedented manner. Nearly 5 years after the Santa Cruz massacre, East Timor's suffering continues.

An illustrious in the midst of this tragedy is the Roman Catholic Bishop of East Timor, Carlos Ximenes Belo, who has received acclaim for his efforts to bring peace to East Timor. Earlier this year, several international editions of Reader's Digest published a profile of Bishop Belo entitled ''Hero for a Forgotten People.'' Shortly after it appeared, Reader's Digest announced that the edition had been banned from newsstands in Indonesia.

The article is a poignant portrait, and deserves wider attention, especially at this time, as the fifth anniversary of the Santa Cruz massacre approaches. In conclusion, Bishop Belo tells the Reader's Digest writer, ''We beg the outside world not to forget us * * * If that happens, we are doomed.''

The U.S. Congress and administration should do everything within reason to ensure that Bishop Belo's fear does not come to pass.

For the benefit of my colleagues, I request that the text of the March 1996 Far Eastern edition of Reader's Digest be published in the RECORD. I urge all of my colleagues to read this important article.

## HOUSE CONCURRENT RESOLUTION 220—COMMENDING HUNGARY AND ROMANIA ON THE SIGNING OF A TREATY OF UNDERSTANDING, COOPERATION, AND GOOD NEIGHBORLINESS

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. LANTOS. Mr. Speaker, earlier this week, representatives of Hungary and Romania signed a ''Treaty of Understanding, Cooperation and Good Neighborliness'' in the Romanian city of Timisoara/Temesvar. The important document was signed by Hungarian Prime Minister Gyula Horn and Romanian Prime Minister Nicolae Vacaroiu. The treaty represents another milestone in the process of reconciliation and improved relations between these two important Central European countries.

Mr. Speaker, with the support of our distinguished colleague from Ohio, Mr. HOKE, yesterday I introduced House Concurrent Resolution 220 commending the leaders of both countries for this important action. I invite my colleagues to join us in cosponsoring this resolution and ask for their support of this important piece of legislation.

The text of our resolution reads as follows:

H. CON. RES. 220

Commending the Governments of Hungary and Romania on the occasion of the signing of a Treaty of Understanding, Cooperation and Good Neighborliness.

Whereas on September 16, 1996, a ''Treaty of Understanding, Cooperation and good Neighborliness between Romania and the Republic of Hungary'' was signed by Gyula Horn, Prime Minister of the Republic of Hungary, and by Nicolae Vacaroiu, Prime Minister of Romania, in Timisoara/Temesvar, Romania;

Whereas this agreement between the two governments is an important step in contributing to the stability of that region and to reconciliation and cooperation among the nations of Central and Eastern Europe;

Whereas this agreement will enhance the participation of both countries in the Partnership for Peace program and will contribute to and facilitate their closer cooperation with the members of the North Atlantic Treaty Organization and the eventual entry of these countries into full NATO participation; and

Whereas this agreement is a further significant step in the process of reconciliation between Hungary and Romania and reflects the desire and effort of both countries to improve their economic cooperation, to foster the free movement of peoples between their countries, to expand military relationships, and to increase cultural and educational cooperation: Now therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the Congress—

(1) commends the farsighted leadership shown by both the government of Hungary and the government of Romania in reaching agreements on the Treaty of Understanding, Cooperation and Good Neighborliness signed on September 16, 1996;

(2) commends the frank, open, and reasoned political dialogue between officials of Hungary and Romania which led to the treaty;

(3) commends the two countries for their effort to foster improved relations in all fields; and

(4) calls upon the President to utilize all available and appropriate means on behalf of the United States to support the implementation of the provisions of the ''Treaty of Understanding, Cooperation and good Neighborliness between Romania and the Republic of Hungary'' and to promote their efforts for regional cooperation as the best means of bringing these two countries into NATO and to ensure lasting security in the region.

## IN HONOR OF CHARLES F. VANCE

### HON. THOMAS M. DAVIS

OF VIRGINIA

### HON. FRANK R. WOLF

OF VIRGINIA

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. DAVIS. Mr. Speaker, it gives us great pleasure to rise and pay tribute to Mr. Charles F. Vance, who is this year's recipient of the Northern Virginia Community Foundations's [NVCF] Founders Award. Mr. Vance is being honored for his dedicated service to the Northern Virginia community.

The Northern Virginia Community Foundation is a nonprofit public charity which provides donors with a flexible and efficient vehicle for charitable giving to benefit the arts, community improvement, education, health, and youth programs. The Founders Award is NVCF's most prestigious award and is presented annually to an individual who has a record of outstanding community service and dedication to the improvement of Northern Virginia.

This year's recipient, Mr. Charles F. Vance, is the chairman and CEO of Vance International, Inc., a firm he founded in 1984. Vance International provides the private sector a full line of security services, including executive protection, uniformed services, investigations, tactical response teams, training of security personnel, technical surveys, and consulting.

Prior to entering the private security field, Mr. Vance served for 14 years as a special agent and supervisor in the U.S. Secret Service. During his tenure, Mr. Vance was assigned on a permanent basis to President Gerald R. Ford, and Vice Presidents Hubert Humphrey and Spiro Agnew. He also protected several foreign heads of state.

A firm believer that businesses are an integral part of their surrounding communities, Mr. Vance serves on the Northern Virginia roundtable and is a member of the Fairfax County Chamber of Commerce. He is an active member of several business-to-community organizations. He also has been a major supporter of more than 50 charitable organizations, such as Youth for Tomorrow, the American Heart Association, the Close Up Foundations, Fight for Children, Special Olympics, United Cerebral Palsy, America's Smithsonian, and the KFS Memorial Golf Classic.

For his exemplary business and community service, Mr. Vance has been awarded Arthur Anderson's 1995 and 1996 Fast Track Award for revenue growth and their 1996 Enterprise Award for Best Business Practices. Mr. Vance was also awarded Inc. Magazine's 1995 Entrepreneur of the Year Award.

He and his wife, Cynthia Steele, live in Northern Virginia. They have two daughters, Tyne and Heather, and are expecting a baby early next month.

Mr. Speaker, we know our colleagues will join us in saluting the commitment that Mr. Vance has made to helping our community. He is, indeed, well-deserving of this distinguished award.

## ENVIRONMENTAL CRIMES AND ENFORCEMENT ACT OF 1996

### HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. REED. Mr. Speaker, I am pleased to introduce, along with my colleagues Mr. SCHUMER of New York, Mr. PALLONE of New Jersey, and Mr. MILLER of California, President Clinton's Environmental Crimes and Enforcement Act of 1996.

Our Nation's environmental quality is among the best in the world, in part thanks to laws like the Safe Drinking Water Act and the Clean Air Act that we have passed here in Congress. Over the last 25 years, these laws have worked to make our air cleaner, our water safe to drink, our lakes and rivers safe to swim in. But these laws are only pieces of paper. Effective enforcement of these laws is needed to protect public health and environmental quality.

The Environmental Crimes and Enforcement Act will provide new tools to investigate and prosecute environmental crimes.

For example, the bill adds an attempt provision to environmental statutes so that environmental crimes can be prosecuted even when law enforcement agents come upon and stop a crime in progress. Under current law, if agents conducting surveillance of a hazardous waste transporter stop the transporter from illegally dumping the hazardous waste, the perpetrator cannot be prosecuted for illegal dumping because no crime has occurred. Only if the agents were to allow the dumpers to complete their crime, and possibly cause damage to the environment and risk to public health, could the perpetrators be prosecuted. With an attempt provision, illegal dumpers can be stopped before causing environmental damage and still be held responsible for their actions. Also, an attempt provision will allow Federal agents to use benign substitutes for hazardous wastes in undercover operations.

The act would also extend the statute of limitations where the violator has concealed the environmental crime. In one typical incident, a waste hauler buried 55-gallon drums of toxic waste in a vacant lot rather than disposing of them properly. The concealed drums deteriorated and leaked, causing environmental contamination. Because the drums were not discovered within the short statute of limitations, no criminal charges could be brought against the hauler. This provision will ensure that polluters cannot escape justice by hiding their wrongdoing.

The bill would enhance penalties where a criminal violation of environmental law causes a death or serious injury. Police officers, fire fighters, and members of the public can suffer serious injury or death from toxic chemicals or other hazardous materials—it is appropriate to make the punishment fit the crime in these cases.

The bill will also enable Federal courts to ensure that those charged with environmental crimes do not shield or dispose of assets needed to pay for restitution.

In my home State of Rhode Island, the U.S. attorney, the EPA, the State attorney general, and the State Department of Environmental Management have formed a taskforce to target and prioritize environmental enforcement issues. This taskforce is accompanied by a citizen's advisory group that suggests priorities for enforcement. In a State like Rhode Island, where tourism and economic growth depend upon a clean and healthy environment, this type of cooperation is essential. The Environmental Crimes and Enforcement Act will enhance such partnerships between Federal law enforcement and State, local, and tribal governments.

As Attorney General Janet Reno said when announcing this proposal, ''The American people want, and have a right to expect, strong environmental protection. This bill will provide us with better tools'' to achieve those goals.

## TRIBUTE TO ALFREDA H. ABBOTT

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. DELLUMS. Mr. Speaker, I rise today to pay tribute to Ms. Alfreda H. Abbott and her 25 years of dedicated and committed service to our community. A native of Oakland, CA, Ms. Abbott earned a Bachelor of Arts Degree in Social Welfare from the University of California, Berkeley. Ms. Abbott has also been a recipient of many awards including the Allen Temple Baptist Church Outstanding Leadership Award, the Zeta Phi Beta Award, Ella Hill Hutch Political Action Award, Oakland Consumer Council Award, BWOPA Leadership Award and the East Oakland Democratic Club Democrat of the Year Award.

Ms. Abbott played a very active role in the 1950's as an advocate for the Oakland Poverty Program and was an original member of the Oakland Black Caucus. Prior to 1972, Ms. Abbott served as a Deputy Probation Officer for Alameda County, and as a Group Counselor for the Social Services Bureau. Ms. Abbott has also served as Vice Chair of the Oakland Planning Commission. She has been affiliated with many organizations such as, the Oakland Museum Association, the Bay Area Urban League and Planned Parenthood.

Ms. Abbott is also a founder and former Political Action Chairperson and serves currently as the lst Vice President for BWOPA, statewide.

In 1985, Ms. Abbott was elected to the Board of Education, Oakland Unified School District, and in 1990, was elected to serve as Board President.

Most recently, Ms. Abbott has served as the Administrative Aide for Senator Nicholas C. Petris, where she has rendered her outstanding services to the constituents of the 9th Senatorial District, and throughout the State of California.

Because of her dedication and compassion, Ms. Abbott has been an invaluable part of the community and is very deserving of the highest commendations and public appreciation.

It is with great honor that I pay tribute to an exemplary individual, who without fail has

given of herself unselfishly to not only her community but to the State of California. I extend my congratulations on her retirement, and hope that the future holds only good endeavors.

## RUTGERS UNIVERSITY POLICE

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 26, 1996*

Mr. ANDREWS. Mr. Speaker, I invite my colleagues to join me in honoring a group of citizens that glorify the State of New Jersey. On May 14th of this year the city of Camden held its' Police Awards Banquet. The event recognized citizens and police officers that went beyond the call of duty in their particular areas of service. I would like to highlight the officers of the Rutgers University Police Department who protect our communities and place our lives before their own. Their dedication and service to the people enables us to live in safety. Moreover, their example serves as a model for all citizens.

The following Rutgers University Police should be recognized for their meritorious service: Capt. Guy Still, Lt. Edmund Johnson, Sgt. Michael Amorim, Sgt. Louis Capelli, Officer John Denmark, Officer William Singleton, Officer Lynn Vrooman, Officer Tracy McGriff, Officer William Princiotta.

The following officers were killed in the line of duty: Officer George F. Jefferis 1951, Sergeant Carmin Fuscellaro 1961, Officer George Schultz 1969, Officer Charles Sutman 1969, Officer Rand Chandler 1969, Officer Elwood Ridge 1973, Officer Stuart Roberts 1975.

## MILFORD TOWNSHIP CLERK 24 YEARS OF SERVICE

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. KNOLLENBERG. Mr. Speaker, I rise today to honor my friend Elaine Skarritt who will retire after 24 years of dedicated service to Milford Township, MI. A devoted servant and loyal friend to all residents in Milford Township, Elaine has a distinguished career and reputation throughout the State. She was the charter president of the Michigan Association of Clerks and also served as a past president of the Michigan Townships Association.

Elaine is so popular in the community, she was selected by the Huron Valley Chamber of Commerce as Citizen of the Year in 1982, as well as being named a Distinguished Graduate of Milford High School in 1990. The recognition she has received from the community is a testament to her standing in the community. It also shows how much Elaine will be missed.

Since 1972, Elaine has run every election in Milford Township with a fair and even hand. She also achieved accreditation by the International Institute of Municipal Clerks, the highest professional accomplishment for a municipal clerk. She is only the 54th clerk worldwide to receive such an honor.

Elaine Skarritt is a model citizen, community leader, and public servant. Her hard work and dedication is reflected in the praise and friendships she has throughout the community. Congratulations Elaine. We wish you a long and healthy retirement.

## TRIBUTE TO JUDGE EDMUND A. SARGUS, JR.

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Judge Edmund A. Sargus, Jr. will be invested as a United States District Judge in the Southern District of Ohio; and,

Whereas, The Honorable Edmund Sargus has shown exemplary dedication to justice and the practice of law; and,

Whereas, Judge Sargus has honorably served the City of Bellaire and the State of Ohio as a Law Director, United States Attorney and special Council to the Ohio Attorney General; and,

Be it resolved, the residents of Belmont County, with a real sense of pleasure and pride, join me in commending The Honorable Edmund A. Sargus, Jr. for his hard work and commitment to justice and to the law.

## IN HONOR OF MR. ALBIN GRUHN CENTRAL LABOR COUNCIL'S ''LABOR LEADER OF THE YEAR''

### HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. DOOLEY of California. Mr. Speaker, I rise before my colleagues today in order to pay tribute to an important individual from California's Central Valley, Mr. Albin Gruhn. Mr. Gruhn is being honored during a special ceremony in Bakersfield next week as the Central Labor Council's ''Labor Leader of the Year.''

As the 27th recipient of this prestigious award, Mr. Gruhn has joined a legacy of key leaders in the central valley's labor community. With one look at his remarkable record, it's not difficult to determine why he is so deserving of this honor.

For more than six decades, Mr. Gruhn has faithfully devoted himself to organizing successful worker unity campaigns. In July of this year, he retired from 36 years of service as president of the California Labor Federation, AFL–CIO. While this position was perhaps his best known, Mr. Gruhn has also given his talents to the labor community in other capacities.

Mr. Gruhn served as executive board member of Northern California District Council of Laborers for nearly 50 years, in addition to being appointed by State and Federal officials to several commissions and advisory committees.

Mr. Gruhn, who triumphed as a potent force in the labor community more than 60 years after being blacklisted for union activities, is a natural choice for this award. I applaud Mr. Gruhn for his commitment and perseverance, and I hope that his enthusiasm for protecting workers' rights will live on within the valley's labor community.

## THE FRIENDS OF RAOUL WALLENBERG FOUNDATION—ANALYSIS AND ACTION AGAINST OPPRESSION AND HUMAN RIGHTS VIOLATIONS

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. LANTOS. Mr. Speaker, in just a few days we will mark the 15th anniversary of the adoption by the Congress and the signature by the President of legislation making Raoul Wallenberg an honorary citizen of the United States—the second individual after Sir Winston Churchill to be so honored by the Congress and the American people.

As my colleagues know, Raoul Wallenbrg is the Holocaust hero who saved the lives of as many as 100,000 people in Hungary during 1944. His extraordinary achievement has been rightfully and appropriately honored around the world.

Mr. Speaker, among the unique and important ways the memory of Raoul Wallenberg is honored, perpetuated, and memorialized is through the establishment of the Friends of Raoul Wallenberg, a nonprofit foundation organized in Washington, DC. In a statement explaining the purposes which motivated the creation of this foundation, the organizers said: ''The experience of this heroic individual demonstrates that violations of human rights are neither singular nor isolated, and that effective resistance in one such situation may not pertain to another. The Friends of Raoul Wallenberg concerns itself with the comparative analysis of the many forms of resistance and oppression and with the direct application of the resultant knowledge to current situations in which the full exercise of human rights is curtailed or endangered.''

Mr. Speaker, currently the Friends of Raoul Wallenberg Foundation is pursuing a two-part project. The first calls for the establishment of a network of individuals who are qualified and willing to promote the cause of human rights through active, peaceful engagement. The second is the convocation of a major symposium entitled ''Beyond Lamentation: Options in Preventing Genocidal Violence.''

The purpose of the symposium is to identify successful techniques and strategies for preventing and mitigating violence. An important source of these techniques is ''The Roots of Evil,'' an outstanding book by Professor Ervin Staub, a psychologist whose family was rescued from Budapest by Wallenberg himself. Staub—who has spent his professional life studying conflict from the point of view of the victim, the perpetrator, and witnesses—argues that passive bystanding promotes the spread of violence, whereas protest impedes it.

This conference will take place in Stockholm on June 13–16, 1997. The conference will provide an opportunity for agencies and organizations with similar concerns to establish connections, and the ideas of Professor Staub will be examined in some detail. Targets will be identified for a his new army of ''young Raoul Wallenbergs'' who will learn how, when, and where to exert the great potential force of becoming ''active bystanders.''

Case studies that will be considered in detail are South Africa, where bystanders from many nations had a clear impact; the Scandinavian reactions to the Nazi Holocaust,

which evidenced degrees of activity/passivity; the current problems between Israel and the Palestinians; and the case of Bosnia, where healing clearly is a critical need. Several important international leaders have agreed to participate in this conference, including the Dalai Lama, United Nations High Commissioner for Refugees Sadako Ogata, and Richard Holbrooke, the former United States Assistant Secretary of State, who negotiated the Dayton Peace Agreements on Bosnia. In addition to these individuals, journalists, scholars, and interested individuals with experience and background in these issues will also participate.

The Friends of Raoul Wallenberg Foundation does not aim to compete with existing human rights and humanitarian organizations. It seeks to identify and explore the active steps that can be taken beyond the perpetuation of grief and the documentation of abuses. It offers a force and a remedy. History has thus far not shown us a way to eliminate group violence, but there are ways we can reduce that violence, and we must examine patterns and encourage constructive efforts.

The Friends of Raoul Wallenberg is administered by a board consisting of Wilton S. Dillon, long-time director of international studies for the Smithsonian Institution; Stephen P. Goldman, foundation attorney and incorporator of Amnesty International, American Branch; Barry Jagoda, an investigative journalist and head of communications in the Carter White House; and Robert Walker, historian of social change, professor and first director of educational and public programs of the National Endowment for the Humanities.

Mr. Speaker, the Congress of the United States relies for its effectiveness on educated, concerned, and active voters. Similarly, safety and liberty within the community of nations depends on educated and concerned activists capable of turning passive bystanding into active involvement. No action could more fittingly perpetuate and symbolize the honored legacy of Raoul Wallenberg.

## INTRODUCTION OF THE CHILD PASSENGER PROTECTION ACT

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mrs. MORELLA. Mr. Speaker, today I am introducing the Child Passenger Protection Act which would prevent injuries to children in motor vehicles and ultimately save lives through improved child passenger education safety programs. This bill would provide grants to experienced child passenger safety organizations to carry out effective child restraint education programs.

Recently, the National Transportation Safety Board [NTSB] held a press conference during which they released figures relating to the use of child restraints. They discovered that a majority of parents are not properly installing their children's safety seat. With more than 50 different kinds of child restraint designs and numerous seat belt configurations, putting children in properly-used safety seats can be a complex process.

So many combinations of seats and car models exist that parents cannot easily figure out what is safe. A seat that works well in one car may not work well in another. Consequently, too many children riding in child restraint seats are at risk.

I have been working on initiatives to educate families across the country about the safety seat incompatibility problem. I have been working with the National Highway Transportation Safety Administration [NHTSA] in getting the word out about the proper installation of safety seats to parents, grandparents, and anyone who transports a young child. One of my goals is to provide NHTSA with enough money to fully carry out its child passenger safety program.

I also have been working with the D.A.N.A. [Drivers' Appeal for National Awareness] foundation and its founder, Mr. Joseph Colella. D.A.N.A. was established in memory of Dana Hutchinson, age 3, who died in an automobile accident while secured in a child safety seat.

It was a rainy day in the fall of 1994 when Dana's mother strapped her into her child-safety seat for a trip to her grandmother's house. As always, Dana's father checked to make sure that the seat was held tightly, sure that he was doing everything possible to keep his little girl safe.

Dana's mother was driving; the roads were slick and slippery. Their car collided with a pick-up truck. Dana's car seat pitched forward and her head struck the dashboard. The police report stated an opinion that her child safety restraint was improperly secured.

Dana's father, looking for an answer, called his local dealership and was told that everything he did was correct. Then he looked in his owner's manual. After pages of information he found the answer: the seatbelt system in their car was incompatable with their child-safety seat.

Joe Colella is Dana's uncle, and it is through his tireless work and the establishment of the D.A.N.A. foundation that efforts are being made to alert the public about the compatibility and misuse problems that exist between child restraints and vehicle seat belt systems.

I am pleased to introduce the Child Passenger Protection Act, which I call Dana's bill, and I am committed to continue working with Joe Colella and with NHTSA to encourage parents to properly use child restraints to protect our Nation's children.

## UNITED STATES NATIONAL TOURISM ORGANIZATION ACT OF 1996

### HON. RANDY ''DUKE'' CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. CUNNINGHAM. Mr. Speaker, I strongly support the United States Travel and Tourism Partnership Act (H.R. 2579). This important legislation will use the entrepreneurial spirit of the private sector with the international reach of the Federal Government. This private/public partnership will improve the promotion of international travel and tourism to the United States.

H.R. 2579 establishes a National Tourism Board to oversee and regulate the National Tourism Organization. The NTB would be comprised of 36 members appointed by the President and their mission will be responsible to utilize the joint private/public partnership for travel and tourism policy making; develop a national travel and tourism strategy for increasing travel and tourism to and within the United States; advise the President, Congress, and the travel and tourism industry on strategies to improve tourism; and provide guidance to the National Tourism Organization.

The National Tourism Organization will be the successor to the now disposed United States Travel and Tourism Administration. The NTO would be established by Federal charter as a not-for-profit organization. The board of directors for the NTO will be comprised of 45 travel and tourism industry leaders appointed by the President and accountable to the NTB. The NTO's mission will focus on increasing the U.S. share of the global tourism market; operating travel and tourism promotion programs outside the United States in partnership with the travel and tourism industry; establishing a travel-tourism data bank which would collect international market data for distribution to the U.S. travel and tourism industry; and promoting U.S. travel and tourism at international trade shows.

Last year, travel and tourism contributed nearly $430 billion to the U.S. economy. In my District of San Diego, CA, the tourism industry is the second largest employer accounting for one out of every eight jobs and adds $3.8 billion to the local economy.

I would like to thank the gentleman from Wisconsin [Mr. ROTH] for his work on this issue. It is through his leadership as chairman of the Travel and Tourism Caucus that we are here today moving America's travel and tourism industry forward into the 21st century.

## TRIBUTE TO DR. LYUSHUN SHEN, DIRECTOR OF CONGRESSIONAL AFFAIRS, TAIWAN MISSION

### HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. SCARBOROUGH. Mr. Speaker, earlier today I paid tribute to the brave people of the Republic of China on Taiwan. I should now like to single out for particular mention one citizen of that nation who has distinguished himself in its service.

Dr. Lyushun Shen has served for the last 2 years as the Director of Congressional Affairs for the Taipei Economic and Cultural Office in the United States. In that capacity, Dr. Shen has proven to be a most able diplomat, making a substantive and important contribution to the betterment of relations between Taipei and Washington, DC. In the continuing effort to bring amity and greater understanding between the Republic of China on Taiwan and the United States, Dr. Shen has been a crucial player.

Dr. Shen is now leaving to return to Taipei for a promotion. I am sure I join all of my colleagues who have worked with Dr. Shen in wishing him Godspeed and best wishes in his next assignment.

## SITUATION IN EAST TIMOR OF INCREASING CONCERN

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Ms. PELOSI. Mr. Speaker, the situation in East Timor, which was invaded and occupied by the Indonesian Government in 1975, has been of increasing concern to Americans in recent years. Five years ago, on November 12, 1991, in full view of a British television journalist, Indonesian troops opened fire on thousands of predominantly young East Timorese at a church cemetery. The Santa Cruz massacre became known throughout the world as a result of this shocking televised film. Now, nearly 5 years later, the Timor situation still cries out for a solution.

One heroic figure in the midst of this grim tragedy is Bishop Carlos Felipe Ximenes Belo, the head of the Roman Catholic Church in East Timor. At the time of the Santa Cruz massacre, Bishop Belo helped hundreds of young East Timorese avert a violent end. To this day, Bishop Belo continues to work tirelessly to defend his people. Bishop Belo deserves our strong support for his efforts to defend human rights and to promote a just and peaceful solution to the conflict in East Timor.

As we approach the fifth anniversary of the tragic Santa Cruz massacre, I hope the administration will encourage the release of all East Timorese prisoners still being held in connection with the Santa Cruz events. Such a gesture of reconciliation would be in keeping with the portion on Humanitarianism of Indonesia's state philosophy, the Panca Sila. It would also be in keeping with Bishop Belo's extraordinary work for peace and human rights.

The United States Catholic Conference, the public policy unit of the National Conference of Catholic Bishops, has long taken a strong interest in East Timor. In 1994, the Catholic Conference issued a statement of solidarity with the East Timor Church. This statement is still relevant today. I request that the Bishops' statement be published in the RECORD and urge my colleagues to read it.

STATEMENT ON EAST TIMOR

(By Bishop Daniel P. Reilly, Chairman)

Small nations oppressed by larger neighbors often draw sympathetic responses from the world community, but seldom has a population as small, and as distant from us, as East Timor held our attention as that tiny community continues to do. A population of some 650,000 Timorese has, for almost twenty years, lived under the control, and the abusive, harsh and often violent treatment, of their Indonesian military overseers.

These people have survived the brutal invasion of December 7, 1975 and the subsequent policies which have been described by serious observers as nearly genocidal. More than 100,000 people—some estimates are much higher—perished in the early years as a direct result of Indonesian military rule. The massacre of unarmed and non-violent demonstrators at the Santa Cruz cemetery on November 12, 1991, captured in horrifying detail on film by a foreign filmmaker, is now etched in the consciousness of many. Repressive policies and actions directed especially against the young people of East Timor, and often against the Catholic church there, are a continuing reality.

We admire the people of East Timor for their bravery, their suffering and their determination to preserve their culture against overwhelming odds, but we also feel the special bond with them that comes from our shared Catholic faith. The Church of East Timor, led by Bishop Carlos Ximenes Belo, S.D.B., has become a source of hope and encouragement for all the people. It is instructive to note that, during the 400 years of Portuguese colonial rule, Catholics remained a relatively small minority among the largely animist population, whereas today over 90% of all East Timor is now Catholic. It is surely a testament to the fidelity of that local church to the Gospel of Jesus Christ and to the church's commitment to the defense of human rights and the dignity of every person.

East Timor continues to pose a political challenge to the community of nations. It presents a set of conflicting interests and rights not unlike other situations in the world today. Some of these areas of conflict, as in South Africa, the Middle East, and Central America, have witnessed extraordinary breakthroughs in just the last years; others, as in the Balkans and parts of Africa, remain apparently intractable. East Timor, it seems to us, represents a far less thorny problem than many others; it is a problem that can and should be solved.

The mechanism that is already in place, namely the ministerial meetings between the governments of Indonesia and Portugal under the auspices of the United Nations, is the appropriate vehicle to advance the negotiations. Ever since 1983, the U.N. Secretary General has been entrusted with the task of finding a settlement to the dispute. The recent meetings, held in Rome and New York last year and in Geneva this May, thus far without participation of Timorese representatives, appear not to be moved by a sense of urgency. It seems appropriate for the Secretary General to press for more vigorous action to come from these meetings, and we urge him to do so.

The United States and Indonesia are very important partners of one another. We recognize that our government has made a number of useful overtures to Jakarta concerning East Timor, for which we are grateful. We urge, however, that new initiatives be undertaken, to encourage both the resolution of the political crisis and full compliance on issues of human rights.

We recognize that differing proposals for resolving the region's status may exist among the people, some apparently favoring annexation, others full independence, and the rest calling for a process that would eventually lead to a referendum determining the relationship. Prior to any political resolution, however, all can agree that there must be an end to the kind of political and even religious persecution and violation of human rights that continue to plague that tortured community.

A year ago, Pope John Pall II expressed to the Indonesian foreign minister his wish that new talks on the future of East Timor might promote ''the well-being of that people in respect of their rights and cultural and religious traditions.'' We invite our Catholic people to pray for the well-being of our Timorese brothers and sisters, that they may continue to grow in their rich cultural and religious traditions, free of outside pressures and coercion. And we express our fraternal solidarity with Bishop Belo and all the church of Dili, asking God's blessing on their ministry to the people of East Timor.

## SUPPORT FREEDOM OF INFORMATION—PERMIT RELEASE OF GOVERNMENT FILES ON NAZI WAR CRIMINALS

### HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. SCHUMER. Mr. Speaker, it is a disgrace that 50 years after the end of World War II and the tragedy of the Holocaust that U.S. intelligence files remain closed on Nazi war criminals.

The War Crimes Disclosure Act attempts to remedy this black out by improving the public's access to information. The bill expands the Freedom of Information Act and, specifically, prevents Government agencies from concealing information about people who are on the Immigration and Naturalization Service ''Watch List'' for their wartime activities.

Rather than take this opportunity to shed light on the activities of those commiting wartime atrocities, the CIA is electing to protract the information blackout. It has attempted to stall this legislation, demanding repeated iterations in its development. It has attempted to weaken the legislation, attenuating the language of legislation to reduce its potency.

Why is the CIA thwarting this legislation? Only the CIA knows. Regardless of their rationale, they should reconsider their opposition, recognizing the value of public trust engendered by disclosure. Case in point, public outrage over CIA foreknowledge of the nefarious wartime activities of Kurt Waldheim. Had the public access to information that this bill would allow, the past of Kurt Waldheim may have been brought to the light of public debate, rather than shrouded in the veiled secrecy of intelligence files.

Recognizing the value of information to a democratic public, the Soviet Union has begun to open its Nazi era records. On this issue of critical importance to a democratic nation, the United States is not a leader. Unfortunately, we haven't even decided if we're followers.

## HONORING DOM BADOLATO FOR HIS YEARS OF PUBLIC SERVICE

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Ms. DELAURO. Mr. Speaker, on Tuesday, November 19, 1996 the Connecticut State AFL–CIO will hold a tribute dinner to honor Dominic J. Badolato. Dom is executive vice president of the Connecticut State AFL–CIO and president of AFSCME 1303. I have known Dom for a number of years and it gives me great pleasure to acknowledge his years of leadership and service to the public in his capacities on both the State and local level.

I'm not sure where to begin when honoring Dom, he has contributed so much to the State and people of Connecticut. Dom began his career in the Connecticut General Assembly in 1954. He served as a State Representative for 22 years, representing his constituent's interests on a number of important issues like, fair labor laws and education. Indeed, Dom's most

important and lasting legacy in the general assembly is his commitment to passing labor legislation. Dom worked on the passage of legislation which assured that Connecticut's minimum wage is always higher than the Federal minimum wage requirement. This permitted Connecticut public employees to be covered for the first time, and also provided them coverage under the Connecticut Fair Labor Standards Act. Dom worked to pass legislation which eliminated the waiting period for qualifying for unemployment compensation benefits, expanded the number of people covered by the law and included public employees under the law for the first time, as well as employees of nonprofit institutions. His legislation established a benefit level at 60 percent of taxable wages earned and expanded the number of unemployment compensation offices.

Dom has been an untiring advocate of public employees. His efforts and leadership won public employees the right to collective bargaining. He also saw to the enactment of the Connecticut Municipal Employees Relations Act, the State Employees Relations Act, and the Teachers Collective Bargaining Act. In addition to being a champion for public employees in the general assembly, Dom has been a leader of the AFSCME Connecticut Council 4. Dom became a staff representative for AFSCME in 1961 and, in 1968, was elected to the post of executive director, a position he still holds. What is clear is that the issues that affect public employees have remained central to Dom's work and life.

I am proud to join Dom's friends, family and colleagues as they honor his extraordinary commitment to the workers of the State of Connecticut. He has truly embodied the spirit of what it means to be a public servant and I applaud his unparalleled dedication.

## TRIBUTE TO HERB AND CHARLOTTE REED

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. VISCLOSKY. Mr. Speaker, one of the remarkable qualities of Indiana's First Congressional District is the harmony between its massive industries and its exquisite natural treasures. One of the northwest Indiana's jewels is the Indiana Dunes National Lakeshore [IDNL] on the shores of Lake Michigan. Two outstanding individuals, who have dedicated their lives to successfully preserving the beauty of northwest Indiana, are Herb and Charlotte Reed. Herb and Charlotte are two of a select few people in the country to be named ''American Heros'' for their work to protect our national public lands.

Herb's direct involvement with the Indiana Dunes began in 1952, when he joined the Save the Dunes Council. Save the Dunes was formed to establish a dunes national park, as well as to preserve the Indiana Dunes, which were threatened by powerful political and economic interests trying to industrialize all of Indiana's Lake Michigan shoreline. As a result of the fine work of the Save the Dunes Council, the 5,800-acres Indiana Dunes National Lakeshore was established in 1966. Today, the park consists of approximately 15,000 acres, 2,182 of which are located in Indiana Dunes State Park and managed by the Indiana Department of Natural Resources.

In 1966, Charlotte joined the fight after Congress agreed to authorize the IDNL. She served as one of the very first park rangers and later became the Save the Dunes Council's first paid staffer. Since that time, Charlotte served as the Council's executive director from 1974 to 1992, and she currently serves as its assistant executive director.

Over the years, Herb and Charlotte have been actively involved in several other environmental organizations. In the late 1950's, Herb founded the Porter County Chapter of the Izaak Walton League, which is one of the region's strongest voices for environmental action. Charlotte is confounder of the Hoosier Environmental Council.

Charlotte is a recipient of the Indiana Department of Environmental Management's [IDEM] Environmental Impact Award. She was chosen for this honor as a result of her advocacy on behalf of environmental protection issues during IDEM's formative years. Herb and Charlotte have both been recognized by several organizations for their joint efforts to preserve our natural treasures. Awards bestowed upon them include the 1990 Gold Cup Award from the Hoosier Environmental Council, the 1991 Gold Cup Award from the Hoosier Sierra Club, and two industry-sponsored awards.

As a result of the Reeds' work, a State and national park will forever protect 15,000 acres of Indiana's dunes, home to giant sand dunes, river forests, prairie lands, and bogs. The national lakeshore contains 1,400 plant species—only four national parks contain more plant diversity.

## TRIBUTE TO RAYMOND SAVEL

### HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to a hard-working Pennsylvanian who has endlessly devoted his time and energy to a noble cause. Raymond Savel has been president for 20 years of the Mosquito Creek Sportsmen's Association located in Frenchville, PA. The mission of this organization was described by a member, as well as a Pennsylvania Fish and Boat Commission official, as being, ''dedicated to conservation, sporting ethics, education, and accountability of our natural heritage.''

The Mosquito Creek Sportsmen's Association began as a small club in 1946. The stage was set after World War II to look ahead for a brighter future after 4 years of sacrifice, struggle, and global mayhem. A town meeting in Frenchville was called on May 26, 1946, and 40 sportsmen from the area attended the first meeting to discuss setting up a club that would serve the area and pay tribute to their most esteemed and valued outdoor sports: hunting, trapping, fishing, and other related outdoor activities. A club charter was signed by the new members and the organization was named after the premier trout stream in the area at the time, Mosquito Creek.

By 1976, after 30 years of existence, the club had grown to 650 members. In the year of our Nation's bicentennial, Ray Savel took over as president of the club. Under Savel's leadership the organization's number has grown to an incredible 5,016 members today. However, the success of Mosquito Creek is truly measured in their accomplishments thus far.

Clearfield County and the surrounding area is a better place to live because of President Savel's and Mosquito Creek's efforts. For 20 years, Ray Savel has organized massive cleanups, annual rallies for support and education of the surrounding area, letter writing campaigns, and newsletters. Also they perform activities such as stocking lakes and steams, fishing derbies, hunting events and safety, and just about every other outdoor sports activity.

Perhaps one of the greatest accomplishments by Mosquito Creek and President Savel has been their tireless efforts to save and preserve one of Pennsylvania's most pristine wildlife areas, the Quehanna Wild Area. Thanks to Ray and Mosquito Creek, the wild area has been preserved and nearly restored to its original State.

Mr. Speaker, I will close by once again thanking Ray Savel for his outstanding service to the area in which he lives. President Savel is a true community leader and his continuous efforts are a testament to his firm commitment to the sportsmen of Pennsylvania.

## THE ANIMAL WELFARE ACT AMENDMENTS OF 1996

### HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. GUNDERSON. Mr. Speaker, on August 1, 1996, the House Livestock, Dairy and Poultry Subcommittee, which I chair, held a hearing on two different versions of the Pet Protection Act—H.R. 3393 introduced by the gentleman from Pennsylvania [Mr. FOX] and H.R. 3398 introduced by the gentleman from Florida [Mr. CANADY].

At that time, I asked USDA to provide me with draft legislation that would enhance and expedite their enforcement of the Animal Welfare Act. Today I am introducing the language I received from USDA in fulfillment of that request.

I should note for the record that this language was furnished by USDA without comment or endorsement. They have not indicated whether they will support or oppose the same at some future date.

While we do not have time remaining in the 104th Congress to move pet protection legislation this year, I am introducing the Animal Welfare Act Amendments of 1996 today to preserve these proposed changes for future Congresses and commend the attention of my colleagues to this legislation.

## OUTSTANDING SERVICE TO COMMERCE TOWNSHIP

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. KNOLLENBERG. Mr. Speaker, I rise today to honor my friend Robert H. Long who

will retire next week after 29 years of dedicated service to Commerce Township, MI. A lifelong resident of Commerce, public service has come naturally to Bob, just as it did for his father, a former township supervisor and State legislator. After being appointed as Commerce Township supervisor in 1967, he was elected in 1968 and began his distinguished career. Bob has also served as a member of several boards and associations, including the Michigan Townships Association and the Oakland County Board of Commissioners.

For over a quarter of a century, Bob Long has been a model supervisor. He has balanced the budget with one of the lowest tax rates in the area, still managing to implement impressive improvements in the roads, sewers, drainage, and other infrastructure projects.

In the years of development and growth, Bob Long has met the challenges of the times with professionalism and compassion. He has maintained Commerce Township's environment by securing the preservation of vulnerable wetlands areas and acquiring a 500-acre natural park with 15,000 newly planted trees. Bob led the fight to prevent annexation of sections of Commerce to neighboring cities. And he was instrumental in bringing a senior center and full-service hospital to the Lakes area.

Bob Long is a model citizen and public servant. His hard work and dedication are reflected not only in the books, but the beauty of Commerce Township. Congratulations, Bob. We wish you a long and healthy retirement.

## IN HONOR OF THE KERN COUNTY HISPANIC CHAMBER OF COMMERCE

### HON. CALVIN M. DOOLEY

OF CALIFONRIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. DOOLEY of California. Mr. Speaker, I rise before my colleagues today in order to pay tribute to an organization that is known in California's central valley for its wonderful entrepreneurial spirit. This organization is the Kern County Hispanic Chamber of Commerce.

More than a decade after its inception, the Kern County Hispanic Chamber of Commerce has diligently served owners of minority businesses and has proven its effectiveness as a leader in the greater business community of Kern County.

The Hispanic chamber came from rather humble beginnings—just 15 members attended its first meeting in 1985—but its founders were not lacking in vision nor in perseverance. The Hispanic chamber now proudly boasts an impressive 250 members and is still growing strong.

I ask my colleagues to join me in saluting the Kern County Hispanic Chamber of Commerce for providing the Latino business community with such outstanding leadership. I hope that Kern County residents will continue to support vigorously the members and businesses of this well-respected organization.

## UNITED STATES FRIENDSHIP WITH TAIWAN—THE NATIONAL DAY OF THE REPUBLIC ON CHINA ON TAIWAN

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 27, 1996*

Mr. LANTOS. Mr. Speaker, since we all expect that the Congress will adjourn within the next few days, I want to take this opportunity to extend my congratulations to the Republic of China on Taiwan just a few days early. The national holiday is celebrated on October 10. October 10 of this year marks the 85th anniversary of the Chinese revolution of 1911 and the formation of the Republic of China.

Mr. Speaker, this past year was an important but a difficult one for the people of Taiwan and the Government of Taiwan. The people of Taiwan faced a severe test when the Government went forward with open and democratic presidential elections while the People's Republic of China launched missiles less than 50 miles off the coast of Taiwan in an effort to intimidate the voters and the Government.

Despite the Beijing government's attempts to bully and intimidate the voters of Taiwan, the Taiwanese electorate ignored the threat of military attack and participated in that election in overwhelming numbers. More than two-thirds of the eligible voters went to the polls. President Lee Teng-Hui won 54 percent of the vote in a four-way race and became the first popularly elected President in the history of the Republic of China.

Mr. Speaker, Taiwan's continued independence and security is crucial to the United States economically, militarily, and politically. Economically, Taiwan is the sixth largest trading partner of the United States, and Taiwan is one of the only nations in Asia that has successfully reduced its trade deficit with our Nation every year for the past 10 years—an action that has been taken with the active support of the Taipei government.

Militarily, Taiwan's survival is important to maintain balance in the Pacific region, and its continued military strength is an important element in contributing to the reduction of tensions throughout the region. Politically, Taiwan represents one of the finest examples in the world of the success of efforts to foster democracy and freedom and respect for human and civil rights. Taiwan began as a country desperately in need of American assistance for food, infrastructure, and military assistance. Now Taiwan is an example of incredible success—Taiwan now is an important source of assistance to other emerging democracies. Simply put, it is in the United State's interest to help maintain the independence and integrity of the democratic Republic of China on Taiwan.

Mr. Speaker, I would also like to take this occasion to welcome the new Representative of Taiwan in the United States, Dr. Jason Hu. Dr. Hu previously served as the head of the Government Information Office in Taipei and was a principal advisor to President Lee Teng-hui. His presence here is a clear signal that the Government of Taiwan greatly values a continuing, strong relationship between our two countries. I would also like to note that two of Taiwan's best diplomats are leaving positions here in Washington to take new senior positions in the Foreign Ministry in Taipei—Dr. Lyushen Shen and Mr. James Huang. Both of these senior have served their country well here in Washington and those of us who have had the opportunity to work with them will miss their knowledge, skill, and commitment.

I invite my colleagues to join me in congratulating the people of the Republic of China on Taiwan on the occasion of the National Day this October 10. May the friendship and strong relations that have bound our two countries for many generations continue for many, many more.

# *Daily Digest*

HIGHLIGHTS

House agreed to FAA Authorization Conference Report.

House agreed to Coast Guard Authorization Conference Report.

House took action on 28 measures.

# Senate

## *Chamber Action*

*Routine Proceedings, pages S11469–S11609*

Measures Introduced: Seventeen bills and two resolutions were introduced, as follows: S. 2136–2152, and S. Con. Res. 72 and 73.

**Pages S11539–40**

Measures Passed:

*FERC Project Extension:* Senate passed H.R. 2501, to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 1014, to authorize extension of time limitation for a FERC-issued hydroelectric license, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 1290, to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 657, to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 2695, to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 1011, to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 1335, to provide for the extension of a hydroelectric project located in the State of West Virginia, clearing the bill for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 1366, to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project, clearing the measure for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 2773, to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, clearing the measure for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 680, to extend the time for construction of certain FERC licensed hydro projects, clearing the measure for the President. **Page S11571**

*FERC Project Extension:* Senate passed H.R. 2630, to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, clearing the measure for the President.

**Pages S11571–72**

*FERC Project Extension:* Senate passed H.R. 2816, to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, clearing the measure for the President.

**Pages S11571–72**

*FERC Project Extension:* Senate passed H.R. 2869, to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky, clearing the measure for the President.

**Pages S11571–72**

*FERC Project Extension:* Senate passed S. 737, to extend the deadlines applicable to certain hydroelectric projects, after agreeing to the following amendment proposed thereto: **Pages S11572–73**

Nickles (for Murkowski) Amendment No. 5412, in the nature of a substitute. **Pages S11572–73**

*Portrait Monument Relocation:* Senate agreed to H. Con. Res. 216, providing for relocation of the Portrait Monument. **Page S11573**

*Medicaid Certification Act:* Senate passed H.R. 1791, to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, clearing the measure for the President. **Page S11573**

*David H. Pryor Post Office Building:* Senate passed H.R. 3877, to designate the United States Post Office building in Camden, Arkansas, as the ''Honorable David H. Pryor Post Office Building'', clearing the measure for the President. **Page S11573**

*Federal Aid Highway Exemption:* Senate passed H.R. 2988, to amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency rules, clearing the measure for the President. **Page S11583**

*Extension of Free Trade Benefits to the West Bank and Gaza Strip:* Senate passed H.R. 3074, to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone, after rejecting the committee amendment in the nature of a substitute, thus clearing the measure for the President.

**Pages S11583–S11604**

*Journeyman Boxers Safety:* Senate passed H.R. 4167, to provide for the safety of journeyman boxers, clearing the measure for the President. **Page S11605**

Water Resources Development Act—Conference Report: Senate agreed to the conference report on S. 640, to provide for the conservation and development of water and related resources, and to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, clearing the measure for the President. **Pages S11519–27**

Child Abuse Prevention and Treatment Act: Senate concurred in the amendment of the House to S. 919, to modify and reauthorize the Child Abuse Prevention and Treatment Act, clearing the measure for the President. **Pages S11573–82**

Water Desalinization Research and Development Act: Senate concurred in the amendments of the House to S. 811, to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, clearing the measure for the President. **Pages S11582–83**

False Statements Penalty Restoration Act: Senate concurred in the amendment of the House to the amendments of the Senate to H.R. 3166, to prohibit false statements to Congress, and to clarify congressional authority to obtain truthful testimony, clearing the measure for the President. **Pages S11605–09**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting the annual report of the Railroad Retirement Board for fiscal year 1995; referred to the Committee on Labor and Human Resources. (PM–172). **Page S11537**

Transmitting the annual report of the Federal Labor Relations Authority for fiscal year 1995; referred to the Committee on Governmental Affairs. (PM–173). **Page S11537**

Transmitting, a draft of proposed legislation entitled ''The Family-Friendly Workplace Act of 1996''; to the Committee on Labor and Human Resources. (PM–174). **Page S11537**

Nominations Received: Senate received the following nominations: Magdalena G. Jacobsen, of Oregon, to be a Member of the National Mediation Board for a term expiring July 1, 1999.

Routine lists in the Coast Guard, Marine Corps. **Page S11609**

Messages From the President: **Page S11537**

Messages From the House: **Pages S11537–38**

Measures Referred: **Page S11538**

Measures Read First Time: **Page S11538**

Communications: **Page S11539**

Statements on Introduced Bills: **Pages S11540–57**

Additional Cosponsors: **Pages S11557–58**

Amendments Submitted: **Page S11559**

Additional Statements: **Pages S11560–61**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:54 p.m., until 10 a.m., on Saturday, September 28, 1996. (For Senate's program, see the remarks of the Assistant Majority Leader in today's Record on page S11609.)

## Committee Meetings

No committee meetings were held.

# House of Representatives

## Chamber Action

Bills Introduced: 45 public bills, H.R. 4228–4272; 1 private bill, H.R. 4273; and 11 resolutions, H. Con. Res. 224–228, and H. Res. 544–545, 547–550, were introduced. **Pages H11525–27**

Reports Filed: Reports were filed as follows:

Conference report on S. 1004, to authorize appropriations for the United States Coast Guard (H. Rept. 104–854);

H. Res. 546, providing for consideration of certain resolutions in preparation for the adjournment of the second session sine die (H. Rept. 104–855);

H.R. 4067, to provide for representation of the Northern Mariana Islands by a nonvoting Delegate in the House of Representatives, amended (H. Rept. 104–856);

Year 2000 Computer Software Conversion: Summary of Oversight Findings and Recommendations (H. Rept. 104–857); and

Crude Oil Undervaluation: The Ineffective Response of the Minerals Management Service (H. Rept. 104–858). **Pages H11485–H11524, H11525**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Inglis of South Carolina to act as Speaker pro tempore for today. **Page H11397**

Order of Business: Pursuant to H. Res. 525, the rule providing for expedited procedures for the remainder of the 2nd Session of the 104th Congress:

Representative Mica announced the consideration today of H. Con. Res. 218; **Page H11408**

Representative Linder announced the consideration today of H.R. 4000, H.R. 4041, H.R. 3219, S. 1004, S. 1505, H.R. 2729, and S. 1972; **Page H11466**

Representative Longley announced the consideration today of S. 1918; and **Page H11467**

Representative Goodling announced the consideration today of H.R. 4139. **Page H11476**

FAA Authorization: By a yea-and-nay vote of 218 yeas to 198 nays, Roll No. 446, the House agreed to the conference report on H.R. 3539, to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration. **Pages H11455–66**

H. Res. 540, the rule waiving points of order against consideration of the conference report, was agreed to earlier by a yea-and-nay vote of 222 yeas to 187 nays, Roll No. 445. **Pages H11452–55**

Suspensions: The House voted to suspend the rules and take the following actions:

*Health Centers Consolidation:* Passed S. 1044, to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers; **Pages H11402–08**

*Historical Records Commission:* Passed S. 1577, to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001. **Pages H11408–09**

*Walhalla National Fish Hatchery:* Agreed to the Senate amendments to H.R. 3546, to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina—clearing the measure for the President. **Page H11410**

*Indian Health Care Improvement:* Agreed to H. Res. 544, providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 3378, to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors. **Pages H11416–18**

*Fishery Conservation:* Passed S. 39, to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management—clearing the measure for the President (passed by a yea-and-nay vote of 384 yeas to 30 nays, Roll No. 448); **Pages H11418–45, H11468–69**

*Supreme Court Security:* Passed H.R. 4164, to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police; **Pages H11445–46**

*Dispute Resolution:* Passed H.R. 4194, to reauthorize alternative means of dispute resolution in the Federal administrative process; **Pages H11446–52**

*Dos Palos, California Land Conveyance:* Passed H.R. 4041, to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school; **Pages H11469–70**

*Restoring POW/MIA Provisions:* Passed H.R. 4000, amended, to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 (passed by a yea-and-nay vote of 404 yeas, Roll No. 449); **Pages H11470–76 (continued next issue)**

*Older Americans Act Relating to Indians:* Passed S. 1972, to amend the Older Americans Act of 1965 to improve the provisions relating to Indians;

**Pages H11476–85**

*Bass Conservation:* Passed H.R. 4139, to reauthorize and amend the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act. **(See next issue.)**

*Pipeline Transportation:* Passed S. 1505, to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids (passed by a yea and nay vote of 276 yeas to 125 nays, Roll No. 450)—clearing the measure for the President; **(See next issue.)**

Suspension Failed:

*National Underground Railroad Center:* House failed to suspend the rules and pass H.R. 4073, to authorize the National Park Service to coordinate programs with, provide technical assistance to, and enter into cooperative agreements with, the National Underground Railroad Freedom Center in Cincinnati, Ohio (failed to pass by a yea-and-nay vote of 244 yeas to 170 nays, Roll No. 447, two-thirds required to pass). **Pages H11410–16, H11468**

Unanimous-Consent Consideration: By unanimous consent, the House agreed to consider the following measures:

Supreme Court Security: House passed S. 2100, to provide for the extension of certain authority for the Marshall of the Supreme Court and the Supreme Court Police. Subsequently H. 4164, a similar House-passed bill was laid on the table—clearing the measure for the President; **(See next issue.)**

Coast Guard Authorization: Agreed to the conference report on S. 1004, to authorize appropriations for fiscal year 1996 for the Coast Guard;

**(See next issue.)**

Operation Sail: Passed S.J. Res. 64, to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

**(See next issue.)**

Civil Service Reform: Passed H.R. 3841, to amend the civil service laws of the United States. Agreed to the Mica amendment in the nature of a substitute that strikes section 201 dealing with seniority and performance in a reduction-in-force; **(See next issue.)**

L. Clure Morton United States Post Office Courthouse: Passed S. 1931, to provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the ''L. Clure Morton United States Post Office Courthouse'';

**(See next issue.)**

Ted Weiss United States Courthouse: Passed H.R. 4042, to designate the United States courthouse located at 500 Pearl Street in New York City, New York, as the ''Ted Weiss United States Courthouse''; **(See next issue.)**

William Augustus Bootle Federal Building and United States Courthouse: Passed H.R. 4119, to designate the Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, as the ''William Augustus Bootle Federal Building and United States Courthouse'';

**(See next issue.)**

Carl B. Stokes United States Courthouse: Passed H.R. 4133, to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the ''Carl B. Stokes United States Courthouse''; **(See next issue.)**

Robert Kurtz Rodibaugh Bankruptcy Courthouse: Passed H.R. 3576, to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert Kurtz Rodibaugh United States Courthouse''. Agreed to the committee amendment, and agreed to amend the title. Earlier, vacated the proceedings on the passage of the bill on September 26; and **(See next issue.)**

Martin Luther King, Jr. Memorial: Passed H.J. Res. 70, A joint resolution authorizing the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia or its environs. **(See next issue.)**

Senate Bill Returned: House agreed to H. Res. 545, returning to the Senate, S. 1311, to establish a National Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports. **Pages H11466–67**

Presidential Messages: Read the following messages from the President:

*Railroad Retirement Board:* Message wherein he transmits his annual report of the Railroad Retirement Board—referred to the Committees on Transportation and Infrastructure, and Ways and Means;

**(See next issue.)**

*Federal Labor Relations Authority:* Message wherein he transmits his annual report of the Federal Labor Relations Authority—referred to the Committee on Government Reform and Oversight; and

**(See next issue.)**

*Legislative Proposal:* Message wherein he transmits his proposed legislation on the Family Friendly

Workplace Act of 1996—referred to the Committee on Economic and Educational Opportunities and ordered printed (H. Doc. 104–270). **(See next issue.)**

Private Calendar: On the call of the Private Calendar, the House passed the following bills:

Sent to the Senate, amended: H.R. 1031 and H.R. 1087.

Passed over without prejudice: H.R. 4025.

**(See next issue.)**

Committee Resignation: Read a letter from Representative Richardson wherein he resigns as a member of the Permanent Select Committee on Intelligence. **(See next issue.)**

Subsequently, the Chair announced the Speaker's appointment of Representative Harman to the Permanent Select Committee on Intelligence.

**(See next issue.)**

Legislative Program: Pursuant to H.Res. 525, the rule providing for expedited procedures for the remainder of the 2nd Session of the 104th Congress, Representative Wolf announced measures for consideration under suspension of the rules for Saturday, September 28: H.R. 4233, Metric Conversion; S. 1918, Normal Trade Relations; H.R. 3219, Native American Housing, and H.R. 4088, Stanislaus County, California Land Conveyance. **(See next issue.)**

Senate Messages: Messages received from the Senate appear on pages H11397–98.

Quorum Calls—Votes: Six yea-and-nay votes developed during the proceedings of the House today and are found on pages H11454–55, H11466, H11468, H11468–69 (continued next issue). There were no quorum calls.

Adjournment: Met at 9:00 a.m. and adjourned at 10:24 p.m.

# *Committee Meetings*

## COMMITTEE BUSINESS

*Committee on Commerce:* Subcommittee on Oversight and Investigations met and approved pending Subcommittee business.

## POLITICAL MURDERS IN HAITI

*Committee on International Relations:* Concluded hearings on Administration Actions and Political Murders in Haiti: Part II. Testimony was heard from Representatives Kennedy of Massachusetts, Foglietta and Conyers; the following officials of the Department of State: Eric J. Boswell, Assistant Secretary, Diplomatic Security; Joseph Sullivan, Special Haiti Coordinator; and Ambassador William L. Swing, U.S. Ambassador to Haiti.

## BALLISTIC MISSILE DEFENSE PLANS

*Committee on National Security:* Subcommittee on Military Procurement and Subcommittee on Military Research and Development held a joint hearing on Ballistic Missile Defense plans, programs, and policies. Testimony was heard from the following officials of the Department of Defense: Paul Kaminski, Under Secretary, Acquisition and Technology; and Gen. William Ralston, USAF, Vice Chairman, Joint Chiefs of Staff; and public witnesses.

## CERTAIN RESOLUTIONS IN PREPARATION FOR SINE DIE ADJOURNMENT

*Committee on Rules:* Granted, by voice vote, a rule providing for the consideration of certain resolutions for the adjournment sine die of the second session of the 104th Congress. These include: (1) a joint resolution waiving certain enrollment requirements for any appropriations bill, subject to one-hour of consideration in the House; (2) a joint resolution appointing the day for the convening of the first session of the 105th Congress and a day for counting the electoral votes for President and Vice President, subject to one-hour of debate in the House; (3) the self-executed adoption of a House resolution authorizing the commencement of organizing caucuses for the 105th Congress on or after November 15, 1996; (4) the self-executed adoption of a House resolution providing for the printing of a revised edition of the House Rules and Manual for the 105th Congress; (6) authorizing the filing of committee investigative reports after the adjournment sine die of the second session; (6) authorizing the filing and printing of committee activity reports; (7) authorizing the Speaker and Minority Leader to accept resignations and make certain appointments following the adjournment sine die of the 104th Congress; (8) authorizing committee and subcommittee chairmen and ranking minority members to revise and extend their remarks in the Record summarizing the work of their committees; and (9) authorizing all House Members to revise and extend their remarks in the Record on matters that occur prior to the sine die adjournment of the second session.

## COMMITTEE BUSINESS

*Committee on Standards of Official Conduct:* Met in executive session to consider pending business.

## MISCELLANEOUS MEASURES AND RESOLUTIONS

*Committee on Transportation and Infrastructure:* Ordered reported the following bills: S. 1931, to provide that the U.S. Post Office building that is to be located at 9 East Broad Street, Cookeville, TN, shall be known and designated as the ''L. Clure Morton Post Office and Courthouse''; H.R. 4042, to designate the

U.S. courthouse located at 500 Pearl Street in New York City, NY, as the ''Ted Weiss United States Courthouse''; H.R. 4119, to designate the Federal building and U.S. courthouse located at 475 Mulberry Street in Macon, GA, as the ''William Augustus Bootle Federal Building and United States Courthouse''; and H.R. 4113, to designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the ''Carl B. Stokes United States Courthouse.''

The Committee also approved the following resolutions: 18 lease; 12 construction; and 5 site acquisition.

# *Joint Meetings*

## AUTHORIZATION—U.S. COAST GUARD

*Conferees* agreed to file a conference report on the differences between the Senate- and House-passed versions of S. 1004, to authorize appropriations for the United States Coast Guard.

## NEW PUBLIC LAWS

*(For last listing of Public Laws, see* DAILY DIGEST *p. D1013)*

H.R. 3666, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997. Signed September 26, 1996. (P.L. 104–204)

## CONGRESSIONAL PROGRAM AHEAD

### Week of September 30 through October 5, 1996

### Senate Chamber

On *Monday,* Senate is scheduled to vote on a motion to close further debate on the conference report on H.R. 2202, Illegal Immigration Reform.

### Senate Committees

*(Committee meetings are open unless otherwise indicated)*

*Committee on Agriculture, Nutrition, and Forestry:* October 2, to hold hearings to examine renewable fuels and the future security of United States energy supplies, 9 a.m., SD–628.

*Committee on Environment and Public Works:* October 2, Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety, to hold oversight hearings to examine the Federal Emergency Management Agency response to Hurricane Fran, 9:30 a.m., SD–406.

*Committee on Foreign Relations:* October 1, Subcommittee on European Affairs, to hold hearings to examine the current situation in Bosnia, 9:30 a.m., SD–419.

*Committee on the Judiciary:* October 2, Subcommittee on Immigration, to hold oversight hearings on activities of the Immigration and Naturalization Service, 10 a.m., SD–226.

*Committee on Indian Affairs:* October 2, to hold oversight hearings on the regulatory activities of the National Indian Gaming Commission, 9:30 a.m., SH–216.

*Select Committee on Intelligence:* September 30, closed business meeting, to consider pending committee business, 4:30 p.m., S–216, Capitol.

### House Committees

*Committee on Government Reform and Oversight,* October 1, Subcommittee on National Security, International Affairs and Criminal Justice, hearing on Review of Internal Administration Study Critical of the Administration's Drug Policy, and White House Suppression of Study, 10 a.m., 2154 Rayburn.

October 3, Subcommittee on Civil Service, hearing on Campaigning at Taxpayer Expense: Politicizing the Federal Workplace, 9 a.m., 2154 Rayburn.

October 3, Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, hearing on White House Data Base (WhoDB), 10 a.m., 2247 Longworth.

*Next Meeting of the* SENATE

10 a.m., Saturday, September 28

Senate Chamber

Program for Saturday: Senate will consider any items cleared for consideration.

*Next Meeting of the* HOUSE OF REPRESENTATIVES

9 a.m. Saturday, September 28

House Chamber

Program for Saturday: Consideration of 4 Suspensions:

1. H.R. 4233, Metric Conversion;
2. S. 1918, Normal Trade Relations;
3. H.R. 3219, Native American Housing; and
4. H.R. 4088, Stanislaus County, California Land Conveyance.

## Extensions of Remarks, as inserted in this issue

HOUSE



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