(B) by adding at the end the following:

''(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.''.

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: ''The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).''.

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting ''operator or'' before ''contracting entity'' each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

''SEC. 229. MEMORANDUM OF UNDERSTANDING.

''The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.''.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Mrs. FEINSTEIN, Mrs. MURRAY and Ms. MOSELEY-BRAUN):

S. 1799. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services; to the Committee on Labor and Human Resources.

WOMEN'S HEALTH EQUITY ACT OF 1996

Ms. SNOWE. Mr. President, I am extremely pleased to join with Senator MIKULSKI in introducing the Women's Health Equity Act of 1996. I believe that this event is historic, not only because of the impressive breadth and depth of this legislation, but because five women Senators, including Senators FEINSTEIN, MURRAY, and MOSELEY-BRAUN, have joined together to set an agenda for congressional action to improve women's health.

For too many years, women's health care needs were ignored or poorly understood, and women were systematically excluded from important health research. One famous medical study on breast cancer examined hundreds of men. And another federally funded study examined the ability of aspirin to prevent heart attacks in 20,000 medical doctors, all of whom were men, despite the fact that heart disease is the leading cause of death among women.

Today, Members and the American public understand the importance of ensuring that both genders benefit equally from the fruits of medical research and the delivery of health care services. Unfortunately, equity does not yet exist in health care, and we have a long way to go. Knowledge about appropriate course of treatment for women lags far behind that for men for many diseases. Research into diseases affecting predominately women, such as breast cancer, for years went grossly underfunded. And many women do not have access to critical reproductive and other health services.

Throughout my tenure in the House and Senate, I have worked hard to expose and eliminate this health care gender gap and improve women's access to affordable, quality health services. And under my leadership as the co-chair of the Congressional Caucus for Women's Issues, women legislators in the House called for a GAO investigation into the inclusion of women and minorities in medical research at the National Institute of Health. This study documented the widespread exclusion of women from medical research, and spurred the caucus to introduce the first Women's Health Equity Act [WHEA] in 1990. This comprehensive legislation provided Congress with its first broad, forward looking health agenda intended to redress the historical inequities that face women in medical research, prevention and services.

Since the initial introduction of WHEA in the 101st Congress, women legislators have made important strides on behalf of women's health. Legislation from that first package was signed into law as part of the NIH Revitalization Act in June 1993, mandating the inclusion of women and minorities in clinical trials at NIH. We established the Office of Research on Women's Health at NIH, and secured dramatic funding increases for research into breast cancer, osteoporosis, and cervical cancer.

Today, I have joined forces with many of my women colleagues on a bipartisan basis to take the next crucial step on the road to achieving equity in health care. The Women's Health Equity Act of 1996 is comprised of 39 bills devoted to research and services in areas of critical importance to women's health. I have already introduced several of the bills contained in WHEA in the Senate: the Consumer Involvement in Breast Cancer Research Act; the Women's Health Office Act; the Genetic Information Nondiscrimination in Health Insurance Act of 1996; the Patient Access to Clinical Studies Act; the Medicare Bone Mass Measurement Coverage Act; and the Accurate Mammography Guidelines Act. Together, these 39 bills represent the high-water mark for legislation on women's health.

The research bills contained in title I of WHEA continue to push for increased biomedical research in women's health at NIH and other Federal agencies, and address the need for social policy to keep pace with scientific technology. The impact of the environment of women's health, women and AIDS, osteoporosis, and lupus are all addressed in this title.

The service-oriented bills contained in title II of WHEA target new areas such as the prevention of insurance discrimination based on genetic information or participation in clinical research as well as insurance protection for victims of domestic violence. Several bills address the need for education and training of health professionals and the importance of providing information about health risks and prevention to women. Adolescent health, eating disorders, postreproductive health, and breast and cervical prevention are also addressed, as well as the need to designate obstetrician-gynecologists as primary care providers for insurance purposes and to provide for minimum hospital stays for mothers and their newborns.

Improving the health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment, and the delivery of services. I believe that the 39 bills comprising the Women's Health Equity Act will take a giant step in this direction, and the passage of this legislation will help ensure that women's health will never again be a missing page in America's medical textbook.

Ms. MIKULSKI. Mr. President, I am honored to join my good friends Senators SNOWE, BOXER, FEINSTEIN, MURRAY, and MOSELY-BRAUN in introducing the Women's Health Equity Act. This years' bill, composed of 37 separate bills, will improve the status of women's health in the areas of research, services and prevention. The package builds on past successes. It brings resources and expertise to bear on the unmet health needs of America's women. This bill sets an agenda. It's where women's health care needs to go as we enter the 21st century.

There has been a pattern of neglect and a history of indifference to women's health needs. It's astonishing that between 1979 and 1986 the death rate from breast cancer was up 24 percent. No one knew why. Yet there was no research being done—the research community was ignoring this very significant problem. I worked with colleagues to change that by making sure that breast cancer research got its fair share of research dollars.

I was frustrated when I found out that America's flagship medical research center, the National Institutes of Health [NIH], was supporting research that systematically excluded women. Less than a decade ago, only 14 percent of every research dollar was going to study the health problems of 51 percent of the American population. I wanted to change that. And I did. With the help of my colleagues, I was successful in setting up the Office of Women's Health Research at NIH. This office is turning these statistics around. Women are now routinely included in clinical trials.

Despite all our progress, we have a long way to go. We have to change outdated attitudes. It's not easy to reverse gender biases. We take a few steps forward and then a few steps back.

I want to make sure that women's health care needs are met comprehensively and equitably. The NIH must allocate sufficient resources to women's diseases. It should continue to include women in clinical trials. It must continue to expand access to health services for women. We must aggressively pursue prevention in women's diseases. I pledge to fight for new attitudes and find new ways to end the needless pain and death that too many American women face.

I am proud to introduce this bill with a great group of Senators that care equally about women's health. This bill confirms our intent to move forward in women's health equity. It is an outline, a framework, an agenda. No doubt, it will take time, but I'm sure we will succeed.

Mrs. MURRAY. Mr. President, I rise in strong support of the Women's Health Equity Act. I am proud to join my colleagues, Senators SNOWE, MIKULSKI, FEINSTEIN, and MOSELEY-BRAUN, in offering this package of 39 legislative initiatives of critical importance to the health of women and their children. Today we are sending a powerful and united message. We are more committed than ever to keeping the spotlight on the important issues surrounding women's health research, treatment and education.

There are so many worthy pieces to this bill that I won't go into each and every one separately. This bill underscores the lack of attention that has been paid to women's health issues and the many obstacles we face in getting accurate, vital information about our health, the health of our children and the health care system as it effects us.

Women face an array of unique and serious health risks. We must do more to ensure that adequate research and education programs are maintained, supported and enriched. We have much more to learn about diseases like osteoporosis, lupus, and breast cancer that devastate the lives of women across this country. And we need to continue to broaden the scope of current efforts in research into AIDS, cardiovascular disease and alcoholism to better understand how women are impacted. We must enable women to protect themselves and their daughters.

Mr. President, our bill recognizes the need for supporting this kind of research and specifically addresses all of these conditions which jeopardize the health of women. We must encourage a coordinated and committed effort from the top level of our government to make sure that women's health issues receive the attention they deserve. For too long, our concerns were ignored or given second-class status. If we continue to allow this to happen—women will die, our children will get sick, and future generations will be shortchanged of valuable information about ways to prevent health-related tragedies.

And our bill acknowledges another critical health issue which disproportionately affects women—domestic violence. The Women's Health Equity Act includes a number of provisions which seek to protect women who are victims of violence from being discriminated against when seeking health insurance. Family violence is a public health crisis which tears families apart and often prevents women, especially low-income women, from providing their children with a safe, nurturing environment in which to learn and grow.

As you know Mr. President, one of my biggest concerns as a Senator is the well being of our Nation's young people. I am proud that this bill includes provisions which encourage: adolescent health demonstration projects; eating disorders research and education initiatives; fetal alcohol syndrome research and prevention programs; and demonstration projects to prevent smoking in WIC clinics. These efforts are critical and send our young people an important message that we care about them, their health, and their futures.

I am particularly pleased that the Newborns' and Mothers' Health Protection Act was included in this act. By allowing longer hospital stays after child-birth, we will see improved health for both mother and baby. Women will receive essential information about care for their newborn and if there are any health complications, mother and baby will receive the attention they need.

Mr. President, I want to commend Senator SNOWE for her leadership in coordinating this effort and for all she has done for women's health and health care. I am proud to be an original cosponsor of this bill and I urge all of my colleagues to join and help move these initiatives forward. Together, we can improve the lives and health of women and children in our Nation, continue the important work we have started and celebrate the great strides we have made. I look forward to this challenge.

By Mr. D'AMATO (for himself, Mr. KERRY, Mrs. BOXER, Mr. BRYAN, Ms. MOSELEY-BRAUN, and Mrs. MURRAY):

S. 1800. A bill to amend the Electronic Fund Transfer Act to limit fees charged by financial institutions for the use of automatic teller machines, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FAIR ATM FEES FOR CONSUMERS ACT OF 1996

Mr. D'AMATO. Mr. President, I rise today with Senators KERRY and MURRAY as my primary cosponsor to introduce legislation to protect consumers from excessive and redundant fees imposed by automated teller machine (ATM) operators. I am also pleased that Senators BOXER, BRYAN, and MOSELEY-BRAUN have joined in cosponsoring this important initiative.

Traditionally, a bank or financial institution, let's call it Integrity Bank, agrees to provide a consumer with a package of services in exchange for the use of the consumer's money. These services typically include access to an ATM network, such as MOST, CIRRUS, or PLUS, which consists of any Integrity Bank ATM's as well as ATM's operated by other banks or financial institutions. Integrity Bank and the consumer have an agreement about whether Integrity Bank will charge the consumer for using ATM's not owned by Integrity Bank. Integrity Bank, in turn, is responsible for paying the network a fee for transactions completed by its consumers on ATM's not owned by Integrity Bank.

Changes which took effect in April of this year may force the consumer to pay new fees. Until April 1, the major electronic banking networks prohibited the assessment of ATM user fees by the bank which owned the ATM. The networks have revoked this policy, opening the door to a new and outrageous practice beyond the control of Integrity Bank and its customer. Now, despite the fact that Integrity Bank pays fees to the ATM network, ATM owners and operators can now charge non-customers who use their ATM's—a service that consumers thought was included in any charges imposed by Integrity Bank—their bank.

Now many ATM users may be caught in the middle. Their own banks can continue to impose fees while the operators of the ATM's they use are entitled to ransack consumers' accounts. What is next, explicit and redundant fees for deposit envelopes? A nighttime ATM surcharge? I will refrain from offering banks any further suggestions on how to pick the pockets of American consumers.

Mr. President, this double-dipping is unfair and unconscionable. Consumers should not be charged twice for a single ATM transaction and should certainly not be charged a fee which has nothing to do with the relationship between the consumer and his or her financial institution.

Banks and other financial service providers argue that these surcharges are necessary to cover the costs of ATM operation. In-branch ATM's present minimal expense to financial institutions. How can banks argue with straight faces that surcharges are necessary to cover costs of operation?

Mr. President, the rules change which permits this extra fee was enacted only recently. While some banks have already imposed the surcharge, many others are testing the waters before they take advantage of the rule change. Congress should act before this unfair practice spreads like a wildfire.

It is hard to believe that banks are so strapped when industry profits have never been higher. For the fourth straight year in 1995, commercial banks reported record earnings. Last year, commercial banks reported profits of $48.8 billion, exceeding the previous year's record of $44.6 billion by

9.4 percent. These skyrocketing earnings are primarily the result of increased interest and fee income. On top of this, commercial banks now pay nearly nothing to receive deposit insurance.

Are banks really losing money on ATM operations or is this new fee just an easy way to gouge the consumer? The U.S. Public Interest Research Group and the Center for the Responsive Law recently reported that ATM's generated $3.1 billion in transaction fees for banks in 1995. Though ATM transactions cost banks $3.2 billion, the report said, profits increased by $2.2 billion as a result of the labor savings. This new ATM surcharge is nothing more than a thinly veiled attempt to artificially inflate profits at the consumer's expense.

Banks have spent the past 20 years enticing consumers to use ATMs to reduce the need for branch offices. Banks have told regulators and the Congress that branch closings save money without decreasing service because ATM's fill the role once served by branch offices. Now it appears providing that service comes only with an added cost to the consumer and more profit for the provider.

Let me just say a few words about the impact of this fee on community banks. These banks have already agreed to pay fees to ATM networks in order to ensure that their customers have access to funds at convenient locations. Now community banks face the threat of losing customers to large banks with large ATM networks. Since community bank customers depend on other institutions' ATM's, large banks can use ATM user fees to steal community bank customers.

This moves comes at a time when some banks are charging their customers a premium for teller service. These banks justify this teller fee with claims that teller service is more expensive to provide than ATM service. Now, some banks are squeezing consumers even harder with new ATM user fees. Consumers are getting nickel-and-dimed to death and it has got to stop.

Mr. President, the bill I introduce today would prohibit user fees imposed by ATM operators. Under this bill, for example, banks would remain free to charge their own customers for using the ATM's of other banks. Other ATM owners and operators, however, would be prohibited from taking a second bite out of the consumer.

There is congressional precedent for this type of legislation. Congress originally passed legislation banning surcharges in the credit card industry in 1976 and renewed the ban twice in 1978 and 1981. In that instance, Congress prohibited retail institutions from charging consumers surcharges on their credit card purchases. To allow additional charges and fees for card use after the consumer had paid for the use of the credit card would have forced customers to pay twice and permitted some unscrupulous merchant to engage in deceptive advertising and other harmful practices. This is analogous to our current ATM situation.

I understand that some businesses that rely on retail sales through credit and ATM cards may be concerned about this bill. They need not worry. The sole purpose of this legislation is to prohibit excessive fees to ATM users. I recognize that there may be some off-site ATM's that are costly to maintain and have historically charged fees. I am willing to consider necessary accommodations to this bill. However, I will draw the line in cases where it is clear the consumer is being fleeced.

Mr. KERRY. Mr. President, I am pleased to join my colleague from New York, the chairman of the Banking Committee, Senator D'AMATO, in introducing this important piece of legislation.

It is not often that Senator D'AMATO and I agree on issues on this floor or in the Banking Committee, and when we do, there is justification for strong bipartisan support. That is indeed the case on this legislation, and I am pleased to join with my colleague, and I congratulate him on his leadership in moving to protect consumers against the potential of double-bank-fees that amount to a banking-penalty tax on consumers.

Why do we need this legislation now? Because, on April 1 of this year, American depositors had a cruel April Fool's joke played on them. That's the day Visa and MasterCard—owners of two of the largest automated teller network—began letting their member banks charge a fee to other banks' customers who use their automated tellers. Some banking analysts tell me that across the country this surcharge can range from 50 cents to $2.50. Consumers can be charged an increased fee by both their bank and the bank whose machine they are using which could cost as much as $5 to make a deposit, a withdrawal, or to check your balance.

Our legislation has a simple purpose: it prohibits a transaction fee assessed by the owner or operator of an ATM machine. This bill will stop double fees.

It gives consumers negotiating power with a financial services industry which is consolidating and downsizing—laying off tellers, shutting branches and reducing bank-lobby hours; it helps the small banker from being run out of business by the big banks; and it bolsters congressional oversight of antitrust violations.

Mr. President, Massachusetts is in a unique situation. Because of pending bank mergers and consolidations the 2 largest banks will soon own 2,200 of the 3,500 ATM machines in the State—about 65 percent.

In no other State does one bank control more than 15 percent of the ATM's. I applaud the banking industry which has grown and is healthy and strong, and there is room in financial services for large institutions and for small credit unions and neighborhood savings and loans. This bill not only protects consumers, but it protects small banks that don't own more than a few ATM's from being run out of business by the larger banks who can offer free transactions at thousands of machines.

Let me put this in perspective. In a survey of just 228 of the 3,500 machines in my State—less than 10 percent of all the machines—it was reported that 400,742 transactions per month would be subject to the new surcharge—almost 5 million transactions per year at just 10 percent of the ATM's in my State.

If the larger financial institutions could offer no fee if a consumer took their money out of a smaller institution, the fate of the smaller institutions in an increasingly automated environment is obviously in question, and we have to address this problem now. And to save the community banks and avoid the 1990's version of the 1980's S&L crisis.

Mr. President, in a recent USA Today interview with an executive of one of the Nation's largest banks, when asked ''are you instituting surcharges on non-customers who use your automated teller machines?'' the answer was somewhat disturbing.

It was:

> We're going to do it . . . The reason is frankly pretty self-evident. You've got a community bank that likes to tell you they're going to give you this wonderful service and you can shake the President's hand and get a doughnut and a cup of coffee in the lobby and so on. When you go in to open an account they say we don't have any ATM's but don't worry about it, here's our card and you can use anybody's ATM in the country. So we're subsidizing the community banks. We're not going to do that anymore.

Well, Mr. President, I ask, what's wrong with community banks. I like the idea of neighborhood credit unions and having a cup of coffee and a doughnut in the lobby. What this response tells me is that there is more to the surcharge than meets the eye. And we should be aware of the what lies around the corner as we head down the road.

You will hear from representatives of the industry, Mr. President. Some of the biggest banks will lobby heavily saying that this fee is an issue of convenience. But I suspect that other forces are at play. Commercial banks posted record profits last year. This new fee is not designed to raise profits.

Yet, community and cooperative bankers will tell you a different story—a constituent of mine in Dorchester, MA, owns a profitable bank with one ATM machine. He runs the bank well and serves the community. But he is no match against far bigger competitors. He knows that once these surcharges become pervasive and the big banks start charging his customers to use their ATM's, they will just move their accounts to the big banks to avoid the charge.

So, this is not an issue of establishing prices and fees; this is an antitrust issue. I want to set the marker down clearly—the Congress needs to do a

better job in monitoring and preventing the trend of consolidation from running the smaller banks out of business.

I want to be clear about what else this bill does, and what it does not do. This legislation does not regulate fees and prices, and does not curtail the widespread use of ATM's especially in lower income areas.

Mr. President, I do not believe that it is the business of the U.S. Senate to set prices and fees at banks and other financial institutions. I am a great believer in the free market—not the Federal Government—dictating fee structures. But there is a general sense of fairness that is being violated in this new surcharge.

When a depositor opens an account, he or she knows the fees associated with transactions. It is current Federal law—found in statutes like the Electronic Funds Transfer Act, the Truth-in-Savings Act and the Truth-in-Lending Act—that mandates fees to be disclosed to the consumer. So, when we open a bank account, we will know how much each transaction will cost.

But now, with this new surcharge, we are left in the dark. We don't find out how much it will cost to use an ATM machine, not associated with our particular bank, until our statement appears in the mail, long after the ATM transaction is completed.

That is bad for consumers and it is bad precedent. And the trend is not favorable. Historic mergers, consolidations and acquisitions have taken place in financial service industry. Consumers have less choice, not more. Bank lobby hours have been curtailed so drastically, tellers replaced by machines, that we are forced to use ATM's. This is the direction of the industry and at some point the Congress must step in and let the banks know enough is enough.

Thank you and I yield the floor.

By Mr. MCCAIN:

S. 1801. A bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal year 1997, to reform the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OMNIBUS AVIATION ACT OF 1996

Mr. MCCAIN. Mr. President, today, I am introducing the Omnibus Aviation Act of 1996. This legislation reauthorizes for one year several key programs of the Federal Aviation Administration, including the vital Airport Improvement Program. It also provides needed, comprehensive FAA reform, including the development of a stable, long-term funding system for the FAA, and addresses other critical safety and airport concerns. Specifically, this legislation would:

Reauthorize AIP at $1.8 billion for one year;

Expand the prohibition on airport revenue diversion;

Provide for thorough reform of the FAA;

Encourage Congress to meet the FAA's short-term funding needs;

Enhance airline safety by requiring airlines to share employment and performance records before hiring new pilots; and

Abolish the MWAA Board of Review.

Significantly, this bill expresses the sense of the Senate that Congress must act immediately to address the short-term funding needs of the FAA. Mr. President, we have all heard by now that certain aviation excise taxes that make up most of the Airport and Airway Trust Fund, which provides nearly all of the FAA's funding, expired at the end of last year. Since then, no money has been going into the aviation trust fund. Yet, the FAA has determined that since the beginning of this year, approximately half a billion dollars has been spent each month from the existing trust fund balance. The FAA advises that at this rate, all of the money in the trust fund will be spent by December. Without immediate action by Congress to provide interim, short-term funding for the FAA, confidence in the FAA and our nation's air traffic control system could erode.

The legislation that I am introducing today not only encourages quick resolution of the FAA's immediate funding problem, but also sets out a plan for complete FAA reform. In specific, this bill incorporates the Air Traffic Management System Performance Improvement Act, which I have cosponsored with Senator FORD and Senator HOLLINGS, to create a more autonomous and accountable FAA that can continue to ensure the safety of the traveling public while, at the same time, meet the needs of the growing aviation industry.

This FAA reform measure is particularly important because while the interim, short-term funding is in place and during the one-year reauthorization of FAA programs, the FAA will be able to set up a performance-based fee system to satisfy the FAA's long-term funding needs. This FAA reform proposal would ensure that the new FAA funding system must consider the FAA's costs of providing air traffic control services and must increase the efficiency with which air traffic control services are produced or used, without jeopardizing safety.

The existing aviation excise tax system does not enable the FAA to determine whether the air traffic control system is becoming more or less costly per flight, or whether air traffic control system productivity is increasing or decreasing. By contrast, establishing a user fee funding system under this bill would compel the FAA to establish a cost accounting system, which would enable it to determine the efficiency and costs of the FAA and the air traffic control system, and develop investment and modernization programs that are viable.

This legislation also addresses other critical aviation issues. First, it contains provisions intended to reverse the disturbing trend of illegal diversion of airport revenues. To ensure that airport revenues are used only for airport purposes, this legislation would expand the prohibition on revenue diversion to cover more instances of diversion. It also would establish clear penalties and stronger mechanisms to enforce Federal laws prohibiting revenue diversion. In addition, the bill would impose additional reporting requirements so that illegal revenue diversion is easily identified and verified. It also would provide important protections for whistleblowers.

To enhance the safety of the Nation's air transportation system, this legislation also contains provisions that would require air carriers to request and receive, after obtaining written consent from a pilot application, relevant employment and performance records before hiring someone as a pilot. These provisions focus on encouraging and facilitating the flow of information between employers so that safety is not compromised in any way.

To ensure that the burden of these pilot recordsharing provisions does not fall on employers and the legal system, when a transfer is requested and complied with, both the employer who turns over the requested records and the prospective employer who receives them will be immune from lawsuits related to the transferred information, unless the employer who provides the information knows it is false. Complete immunity is critical—without it, the airlines simply will not share records. The legislation therefore could not achieve its objective of making it a common practice of prospective employers to research to the greatest extent the experience of pilots, and to learn significant information that could affect air carrier hiring decisions and, ultimately, airline safety.

Finally, this legislation makes certain changes to the Metropolitan Washington Airports Authority required following recent Federal court rulings. In specific, the bill would abolish the MWAA Board of Review, and increase the number of presidentially appointed members of the MWAA Board of Directors. It also conveys the sense of the Senate that the MWAA should not provide free, reserved parking areas at either Washington National Airport or Washington Dulles International Airport for Members of Congress and other government officials or diplomats.

Mr. President, certain unfortunate, recent events have raised questions about the safety of our nation's air transportation system. We must do our part to reassure the traveling public that we have the world's safest system. This comprehensive legislation will go a long way in reassuring the public that the system is safe, and will provide the FAA with a stable, predictable, and sufficient funding stream for the long term.

By Mr. THOMAS (for himself and Mr. SIMPSON):

S. 1802. A bill 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; to the Committee on Environment and Public Works.

RANCH A CROOK COUNTY, WYOMING LEGISLATION

Mr. THOMAS. Mr. President, I rise today along with my colleague from Wyoming, Senator SIMPSON, to introduce legislation to protect public land in our State. This bill would transfer 680 acres of land currently administered by the United States Fish and Wildlife Service to the State of Wyoming. This property commonly known as Ranch A is located in Crook County, WY, and is scheduled to be disposed of by the General Services Administration in the coming months. Since the area is unique and possesses many historic and distinctive characteristics, the State of Wyoming would like to have the property transferred to it so that the property and facilities on the land can be preserved for the public for many years to come.

The Ranch A lodge, which sits on 680 acres of property, was constructed by a private developer in the 1930's and acquired by the U.S. Fish and Wildlife Service in 1963. Since the area has an abundant supply of spring-fed water, it is ideal for trout research and the study of trout genetics. The Fish and Wildlife Service continued its research operations at Ranch A until 1980 when all of the agency's trout research work was transferred to Bozeman, MT. Since that time, the Service has maintained the facility but has leased the area to a variety of groups including the Wyoming Game and Fish Department and the South Dakota School of Mines.

Although the area has significant historical and cultural values, in 1995 the Department of Interior took action to divest itself of ownership of Ranch A. Recently, the Fish and Wildlife Service declared the property as ''surplus'' and is planning to dispose of Ranch A through the General Services Administration. No formal action has been taken on the disposal request and the property is still owned and maintained by the Fish and Wildlife Service.

The State of Wyoming is interested in protecting Ranch A and working to ensure the area is protected for future generations. Earlier this year, the Wyoming congressional delegation was approached by Gov. Jim Geringer and asked if we could introduce legislation to have the property transferred to the State of Wyoming. The State is willing to assume ownership of the area and maintain the facility and the adjacent land for educational, historical and wildlife management purposes.

The legislation I am introducing today would achieve that goal. The bill would transfer all right and title of the 680 acres and all buildings on the Ranch A property to the State of Wyoming. The State would assume control of the property and would be required to manage the area for public purposes including fish and wildlife management, education and historical uses. In order to ensure the area remains public, the legislation contains a reverter clause that requires the State of Wyoming to manage the property for public uses or it would be transferred back to Federal ownership.

The bill is the product of long negotiations between the State of Wyoming and the Fish and Wildlife Service. Initially, the State would only accept the land if Federal funds were authorized to refurbish the area. However, by working with the State, the Federal Government and local officials, we have been able to craft a compromise that does not require any Federal expenditures and keeps the land public.

Mr. President, the Ranch A property is a truly unique facility that should be kept in public ownership. The area has significant historic and cultural value in addition to its wildlife and research opportunities. Keeping the area clean and pure is a goal of the residents in the region who hope to preserve the beauty of the facility and surrounding land for future generations to enjoy. The State of Wyoming is willing to take on the responsibility of protecting this wonderful property and I strongly support their efforts to ensure that Ranch A is protected for many years to come.

Instead of allowing the Federal Government to dispose of this unique property that has such a variety of uses, I urge Congress to take action and allow the State of Wyoming to protect Ranch A. The choice is clear—either we pass this bill and keep the area open to the public, or we allow the Federal Government to move forward and dispose of the land into private ownership. I hope we can move quickly to support this outstanding area and pass this legislation in the near future.

By Mr. MURKOWSKI (for himself, Mr. JOHNSTON and Mr. AKAKA):

S. 1804. A bill to make technical and other changes to the laws dealing with the territories and freely associated States of the United States; to the Committee on Energy and Natural Resources.

TERRITORIES AND FREELY ASSOCIATED STATES LEGISLATION

Mr. MURKOWSKI. Mr. President, today I am introducing legislation that will address several concerns that were brought to my attention by the leadership in some of the United States territories and in the nations in free association with the United States. I am pleased that this legislation is cosponsored by the Ranking Member and former Chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, as well as by Senator AKAKA, who has also had a long and abiding interest in the welfare of the territories and freely associated States.

During the February recess, I had the opportunity to meet with the chief executives of the United States territories of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands as well as the Presidents of the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. I want to express my appreciation to all of them for their courtesies and their willingness to meet with Senator AKAKA and myself and for their assistance in arranging full and frank discussions.

I was impressed by the diversity within the Pacific and the magnitude of the problems facing these island governments. I have some appreciation for their problems in dealing with Washington because I can recall the days of territorial administration for Alaska. I was also able to point out that Statehood is not a complete remedy for those who still think Alaska is their private reserve. Alaska, like the islands, is noncontiguous and must deal with standards developed for the lower 48 States. We have the problem of servicing small remote populations, much like the Republic of the Marshalls and the Federated States of Micronesia have.

The legislation that I am introducing today would address the following issues:

Section 1 extends the supplemental food assistance program for Enewetak and Bikini for an additional 5 years. Enewetak and Bikini were the sites for the United States atmospheric nuclear testing program in the Marshall Islands and the food assistance program is necessary to supplement local food supplies while the populations resettle their atolls. The difficulty that Enewetak has experienced in establishing a local food supply should be ample warning to the population of Bikini of the environmental consequences of a scrape, and I sincerely hope that we can avoid that environmental degradation. While Enewetak is making significant strides in reestablishing a local food supply, it is clear that a continuation of the agriculture assistance is needed. The language would also require the United States to ensure that the program is designed to meet the actual needs of the populations. I understand that the program is running at the same level as it did 10 years ago without taking into account the change in population.

A concern was also raised over the medical care and monitoring program that the Department of Energy runs in the Northern Marshalls. At the same time that I am introducing this legislation, I am also introducing an amendment that would extend the program to Bikini and Enewetak. While I do not want to jeopardize the effectiveness of the program for the affected populations of Rongelap and Utirik, I also want to ensure that the objectives of the four atoll program are being met. This language will also provide the Committee with an opportunity to review the administration of the program

since it was shifted out of defense programs and into environmental health within DOE. I appreciate that the four atoll health program was to be administered by the Tribunal established under the Compact of Free Association, but I am also mindful of the special responsibility that the United States has for the populations of the four affected atolls. Under the terms of the Compact, we authorized further ex gratia assistance if justified, and I think it is time for the Committee on Energy and Natural Resources to examine how the programs—those being provided by the Republic of the Marshall Islands and those provided by the United States—are being implemented. I was very impressed by my visit to Bikini and am grateful for the courtesies and hospitality extended by the Mayor, the Council, and Senator Balos. During the hearings on this legislation, I also want to examine what role the Public Health Service can play in improving health care not only to the four atolls, but throughout the Republic of the Marshall Islands and also to the Federated States of Micronesia and the Republic of Palau. I again want to emphasize that in no way do I want to jeopardize the overriding objective of the health care being provided by Brookhaven to the 133 exposed Marshallese, but I do not want to pass over the opportunity to see if the populations of Bikini and Enewetak could bootstrap onto the program using their trust funds.

Section 2 of the legislation would repeal a provision of law that authorizes the government of the Commonwealth of the Northern Mariana Islands to take over the American Memorial Park in Saipan. Senator AKAKA and I participated in a wreath laying at the park, and I was impressed with the development of the area, especially in light of staff descriptions of the site only a few short years ago. Ambassador Haydn Williams deserves a great deal of credit for his persistence and commitment to seeing the park established. While I am not opposed to proposals for other arrangements, it seems to me that the area is now a part of the National Park System and should remain so until the lease expires unless some concrete proposal is brought forward that will maintain the objectives and purposes for the memorial. I fully expect that we will need to modify this provision to permit the commonwealth the ability to develop the marina area, but at least for the time being, I think the National Park Service should continue to operate and maintain the memorial.

Section 3 is a technical amendment to the legislation dealing with the land grant status of the College of Micronesia and was brought to my attention by Susan Moses, the president of the college. The amendment would provide separate land grant status to the three successor institutions to the former College of Micronesia—the College of Micronesia—FSM, the College of the Marshall Islands, and the Palau Community College. This amendment will hopefully eliminate some administrative headaches for the college.

Section 4 amends the Guam Organic Act to guarantee that any lands acquired by the United States for Federal purposes will be made available to the Government of Guam when those purposes have expired. The Federal Government, principally the Department of Defense, controls about one-third of the available land area in Guam. Those lands were acquired for defense needs, and when those needs no longer exist, the lands should be returned to Guam. I was particularly troubled by the situation at Ritidian Point where the Fish and Wildlife Service, seemingly in the dead of night, effectively stole land that the Department of Defense and the Government of Guam had negotiated for transfer. Whatever the justification for Fish and Wildlife's interest, there is no excuse for the insensitivity shown by the Department of the Interior in that acquisition. Rather than spending their time enlarging their empire, the Fish and Wildlife Service could make better use of their resources by going after the brown tree snake. At the rate they are going, they will have the only wildlife refuge dedicated to extinct species. I especially want to thank Congressman UNDERWOOD for his assistance in developing this approach to guarantee a role for the Government of Guam in any further Federal land disposal in Guam. The Governor of Guam made an excellent presentation of the problems created by the actions of the Fish and Wildlife Service and I think this is a situation that needs to be addressed and I am grateful for the comprehensive briefing he provided us during our brief visit to Guam.

Section 5 would repeal a provision of law that limits the use of lands transferred to Guam. Again, I want to thank Congressman UNDERWOOD for suggesting this amendment. I cannot think of any restriction more onerous than transferring property for which the Federal Government has no further need and then denying the Government of Guam the ability to derive the economic benefits of its use and development.

Section 6 was suggested by the Resident Representative of the Commonwealth of the Northern Mariana Islands and would provide State-like treatment for the commonwealth, the Virgin Islands, and American Samoa for certain drug enforcement programs. Guam and Puerto Rico presently have State-like treatment, and this amendment simply provides uniform treatment for all the territories.

Section 7 of the legislation would amend the Revised Organic Act of the Virgin Islands at the request of the Governor of the Virgin Islands. The first amendment would provide that the Governor would retain his powers as Governor when he is temporarily absent from the territory on official business. This amendment recognizes that with modern communications and transportation, the current limitations are archaic and impede continuity in the operations of the executive branch in the Virgin Islands.

The second amendment would reform the authority granted to the Virgin Islands in 1976 to issue bonds secured by the matching fund. The debt is now priority debt, not parity debt. Priority debt places a premium value on the earliest debt, while parity debt places all bond holders on a level playing field. Although most communities now issue parity debt, the current limitation handicaps the Virgin Islands by requiring a higher fee and interest rate on subsequent issues as well as over collateralization. The amendment would permit the Virgin Islands to issue parity debt and allows for a transition to permit the Virgin Islands to refinance their current priority debt. This would reduce the debt service and free up needed revenues for school improvements and emergency repairs made necessary by Hurricane Marilyn. I want to emphasize that current bond holders will be fully protected.

Section 8 was suggested by Senator JOHNSTON to begin to look at what the economic future of the Virgin Islands will be in light of the changes that are happening both politically and economically in the Caribbean and what the Federal Government can do to provide a stable and self-sustaining local economic base. I fully agree with Senator JOHNSTON that the time to do that analysis is now.

Mr. President, upon my return from my visit to the Pacific, I wrote the President on what I thought was a fairly significant concern raised by the Presidents of the Republic of the Marshall Islands and the Federated States of Micronesia. While the political relationship under the Compacts of Free Association is of indefinite duration, certain provisions are subject to renegotiation and expire at the end of 15 years. The compacts require renegotiation in the 13th year and the Presidents quite correctly pointed out that was not sufficient time to conclude negotiations and obtain the necessary ratifications by the United States and their governments. Like the Governor of the Virgin Islands and Senator JOHNSTON, they are looking to the future and trying to plan for it. They asked if I would request the administration to begin the process of formulating the U.S. position and begin discussion while there was a degree of time. Given the number of years it took for the original ratification, that seemed like a reasonable request. I will not comment on the President's response, other than to ask unanimous consent that a copy of my letter and his response be included in the RECORD.

Mr. President, I appreciate that we are late in this session of the Congress, but these are important matters that require the attention of the Congress. I

want to announce that the Committee on Energy and Natural Resources will hold a hearing on this legislation on June 25, 1996 and at the same time we will review the report on the law enforcement initiative in the commonwealth of the Northern Mariana Islands. I will not go into great detail on the situation in the Commonwealth other than to say that reforms need to be implemented. We had extensive and detailed briefings and discussions with the Governor's staff, the Federal officials on the island, the Chamber of Commerce, the legislature, the U.S. attorney and Federal judiciary. It is my intention to move expeditiously on this legislation immediately after the hearing is concluded.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

S. 1804

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

SECTION 1. MARSHALL ISLANDS AGRICULTURAL AND FOOD PROGRAMS.

Paragraph (2) of subsection (h) of section 103 of Public Law 99–239, as amended, is further amended by striking the word ''ten'' and inserting in lieu thereof the word ''fifteen'' and by adding at the end of subparagraph (B) ''Such technical assistance, programs and services shall ensure, on an ongoing basis, that the commodities provided reflect the changes in the population that have occurred since the effective date of the Compact.''.

SEC. 2. AMERICAN MEMORIAL PARK.

Section 5 of Public Law 95–348 is amended by striking subsection (f), and renumbering subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 3. TERRITORIAL LAND GRANT COLLEGES—TECHNICAL AMENDMENT.

Subsection (b) of section 1361 of Public Law 96-374 is amended by striking the words ''August 30, 1980 (7 U.S.C. 327), commonly referred to as the Second'' and inserting in lieu thereof the words ''July 2, 1862 (7 U.S.C. 305), commonly referred to as the First''.

SEC. 4. AMENDMENT TO THE GUAM ORGANIC ACT.

The Organic Act of Guam (48 U.S.C. 1421 et seq.), as amended, is further amended by adding at the end thereof the following new section:

''SEC. 36. (a) At least 180 days before transferring to any Federal agency excess real property located in Guam, the Administrator of General Services shall notify the government of Guam that the property is available under this section.

''(b) The Administrator shall transfer to the government of Guam all right, title, and interest of the United States in and to excess real property located in Guam, by quit claim deed and without reimbursement, if the government of Guam, within 180 days after receiving notification under subsection (a) regarding the property, notifies the Administrator that the government of Guam intends to acquire the property under this section.

''(c) For purposes of this section, the term 'excess real property' means excess property (as that term is defined in section 3 of the Federal Property and Administrative Services Act of 1949, as in effect on the date of enactment of the Guam Land Return Act) that is real property.''.

SEC. 5. REPEAL OF LIMITATION ON USE OF LANDS BY THE GOVERNMENT OF GUAM.

(a) IN GENERAL.—Section 818(b)(2) of Public Law 96–418 (94 Stat. 1782), is repealed.

(b) EXECUTION OF INSTRUMENTS.—The Secretary of the Navy and the Administrator General Services shall execute all instruments necessary to implement this section.

SEC. 6. CLARIFICATION OF ALLOTMENT FOR TERRITORIES.

Section 901(a), Part 1, title I of the Act of June 19, 1968 (42 U.S.C. 3791(a)), as amended, is further amended in paragraph (2) by changing the proviso to read as follows: ''(2) ''State'' means any State of the United States, the District of Columbia, The Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.''

SEC. 7. AMENDMENTS TO THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS.

(a) Section 7(a) of P.L. 90-496 (82 Stat. 839), as amended, is futher amended by adding at the end thereof ''As used in this section, the term 'temporary absence' shall not be construed as being physically absent from the territory while on official Government business.''

(b) Section 3 of P.L. 94–392 (90 Stat. 1195), as amended, is further amended to read as follows:

(1) by inserting ''hereinafter'' between ''obligations'' and ''issued'';

(2) by deleting ''priority for payment'' and inserting in lieu thereof ''a parity lien with every other issue of bonds or other obligations hereinafter issued for payment''; and

(3) by deleting ''in the order of the date of issue''.

(c) The provisions of section 149(d)(3)(A)(i)(I) and 149(d)(2) of the Internal Revenue Code of 1986, as amended, shall not apply to bonds issued:

(1) by an authority created by statute of the Virgin Islands legislature, the proceeds of which will be used to advance refund certain bonds issued by such authority on July 8, 1992; or

(2) by an authority created by statute of the Virgin Islands Legislature, the proceeds of which will be used to advance refund certain bonds issued by such authority on November 3, 1994.

(d) The amendments made by subsections (b) and (c) shall apply to obligations issued on or after the date of enactment of this section.

SEC. 8. COMMISSION ON THE ECONOMIC FUTURE OF THE VIRGIN ISLANDS.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) There is hereby established a Commission on the Economic Future of the Virgin Islands (the ''Commission''). The Commission shall consist of six members appointed by the President, two of whom shall be selected from nominations made by the Governor of the Virgin Islands. The President shall designate one of the members of the Commission to be Chairman.

(2) In addition to the six members appointed under paragraph (1), the Secretary of the Interior shall be an ex-officio member of the Commission.

(3) Members of the Commission appointed by the President shall be persons who by virtue of their background and experience are particularly suited to contribute to achievement of the purposes of the Commission.

(4) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in the performance of their duties.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(b) PURPOSE AND REPORT.—

(1) The purpose of the Commission is to make recommendations to the President and Congress on the policies and programs necessary to provide for a secure and self-sustaining future for the local economy of the Virgin Islands through 2020 and on the role of the federal government in providing for that future. In developing recommendations, the Commission shall—

(A) solicit information and advice from persons and entities that the Commission determines have expertise to assist the Commission in its work;

(B) examine and analyze historical data since 1970 on expenditures for infrastructure and services;

(C) analyze the sources of funds for such expenditures;

(D) assemble relevant demographic and economic data, including trends and projections for the future; and

(E) estimate future needs of the Virgin Islands, including needs for capital improvements, educational needs and social, health and environmental requirements.

(2) The recommendations of the Commission shall be transmitted to the President, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives no later than December 1, 1997. The recommendations shall be accompanied by a report that sets forth the basis for the recommendations and includes an analysis of the capability of the Virgin Islands to meet projected needs based on reasonable alternative economic, political and social conditions in the Caribbean, including the opening in the near future of Cuba to trade, tourism and development.

(c) POWERS.—

(1) The Commission may—

(A) hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as it may deem advisable;

(B) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(C) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in such manner; and

(D) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions.

(2) The Secretary of the Interior shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require and shall provide to the Commission financial and administrative services, including those related to budgeting, accounting, financial reporting, personnel and procurement.

(3) The President, upon request of the Commission, may direct the head of any federal agency of department to assist the Commission and if so directed such head shall—

(A) furnish the Commission to the extent permitted by law and within available appropriations such information as may be necessary for carrying out the functions of the Commission and as may be available to or procurable by such department or agency; and

(B) detail to temporary duty with the Commission on a reimbursable bases such personnel within his administrative jurisdiction as the Commission may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay or other employee status.

(d) CHAIRMAN.—Subject to general policies that the Commission may adopt, the Chairman of the Commission shall be the chief executive officer of the Commission and shall exercise its executive and administrative powers. The Chairman may make such provisions as he may deem appropriate authorizing the performance of his executive and administrative functions by the staff of the Commission.

(e) APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) TERMINATION.—The Commission shall terminate three months after the transmission of the report and recommendations under subsection (b)(2).

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington DC, March 11, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Recently Senator Akaka and I had the opportunity to meet with President Amata Kabua of the Republic of the Marshall Islands and his Cabinet and later with President Bailey Olter of the Federated States of Micronesia and the Speaker of their legislature. While we had frank and informative meetings, one issue arose in both meetings that we wanted to bring to your attention and request your support.

As you know, in 1986, the Republic of the Marshall Islands and the Federated States of Micronesia emerged from the former United Nations Trust Territory of the Pacific Islands as sovereign nations in free association with the United States. That status had been requested by the Micronesian governments in the late 1960's and negotiated with the United States over more than a decade. Congress approved the Compacts of Free Association for these two areas in Public Law 99–239, signed by the President on January 14, 1986. That approval came after several years of Congressional consideration.

Under the terms of the Compacts, the political relationship is open ended, but the federal assistance provisions terminate after fifteen years, in 2001, with a possible two year extension if negotiations on such assistance have not concluded. Under section 231 of the Compacts, negotiations on those provisions that expire at the end of fifteen years shall commence no later than in year thirteen, in 1999. The leadership in both countries strongly urged that discussions begin prior to that time. I support that request.

In addition to the critical strategic and policy interests of the United States in each of these areas, we have developed a close and, I hope, an enduring relationship based on mutually shared values. the political development of the freely associated states and their emergence from the United Nations trusteeship system was done peacefully. The option of free association was a decision made by the Micronesians at a time when full independence was the mark of decolonization elsewhere in the world. While there have been significant developments in the ten years of the Compacts, the process of nation-building is not simple nor without setbacks and problems. The relationship is unique, and while I understand that there are some who find it troubling, I think an honest review would demonstrate that it has exceeded the expectations of all parties.

I do have some concerns with how the present relationship has been implemented, not the least of which is the failure of the Department of the Interior to assign an individual to each of the freely associated states to provide assistance and monitor the various federal programs and grants that have been provided despite the clear intent of the Congress in approving section 108 of P.L. 101–219 and explicit appropriations. That is a situation that should be rectified immediately. Some of the present economic problems might have been avoided with a continuing presence from the Department. While I support the Administration's economic policy reforms being carried out in cooperation with the Asian Development Bank, those reforms do not obviate the need for a full time presence from the Department of the Interior in responding to the problems.

I think it is clear, however, that the United States has much to offer the micronesian governments consistent with their sovereignty and our fiscal limitations. Technical and other assistance in marine resources and tourism will be important as these countries attempt to develop their economic potential while preserving their culture and traditions. Continued assistance in fiscal management will also be vital.

I strongly suggest that you begin consideration of the Administration's policy with respect to future assistance to the freely associated states now and that you do so in close consultation with the Congress. The history of the original approval of the Compacts indicates that the two years provided in section 231 is wholly inadequate for negotiations and Congressional consideration. It would be even worse if the Administration waited any longer to begin to formulate its position.

I do want to emphasize the need for close Congressional consultations. This Committee, as well as the relevant House Committees, were involved in the discussions and negotiations that led to the passage of the Covenant for the Northern Mariana Islands and the Compacts for the three freely associated states, and many of our concerns are reflected in the final documents.

Sincerely,

FRANK H. MURKOWSKI,
Chairman.

THE WHITE HOUSE,
Washington, April 10, 1996.

Hon. FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC

DEAR MR. CHAIRMAN: Thank you for your letter regrading U.S. policy toward the Federated States of Micronesia and the Republic of the Marshall Islands. These former parts of the Trust Territory of the Pacific Islands make an important contribution to our security presence in the Asia-Pacific region.

We are working closely with Micronesia and the Marshall Islands to ensure the nearly $2 billion in scheduled U.S. assistance from over forty agencies is effectively and efficiently used. The Interior Department has dedicated substantial personnel resources for this purpose.

I look forward to working with you and other members of your committee to support the exciting process of nation-building that is taking place in these former parts of the Trust Territories.

Sincerely,

BILL CLINTON.●

● Mr. JOHNSTON, Mr. President, I am pleased to join in the introduction of this legislation that will address several important areas of concern in the territories and freely associated states. Many of the provisions result from a recent trip that the chairman of the Committee on Energy and Natural Resources, Senator MURKOWSKI, and Senator AKAKA recently took to most of the Pacific insular areas.

It is almost 24 years since I first came to the Senate and assumed the chairmanship of the Subcommittee on Territories of the then Committee on Interior and Insular Affairs. I thought it was important to visit the areas under the committee's jurisdiction and meet with the leadership. There is nothing that can replace that first-hand knowledge. Given the enormous workload of the committee and the critical nature of the legislation before us, it is often easy to overlook the needs of the territories and freely associated states. I sincerely hope that other members of the committee will also visit these areas and come to appreciate the unique needs and problems that confront the residents. The responsibility for these areas is one of those unique constitutional authorities entrusted to Congress by article IV.

In the time that I have been involved with the insular areas, Congress has enacted legislation providing full local self-government to the Virgin Islands, Guam, and American Samoa—including the election of non-voting delegates to the House of Representatives. We have also terminated the Trust Territory of the Pacific Islands, leader to the emergence of three sovereign nations in free association with the United States and a fully locally self-governing territory—the Commonwealth of the Northern Mariana Islands. I also had the privilege of serving on the Ad Hoc Advisory Group of Puerto Rico with our former colleague Marlow Cook and former Governor Luis Munoz Marin.

I want to focus on one provision of this legislation, and that is the study of the future economic needs of the Virgin Islands. Since 1960, the Virgin Islands has experienced enormous growth and development. In large part, that growth resulted from increased tourism after the closure of Cuba and also from improved transportation links to the Islands. Another component was the favorable trade status of the Virgin Islands, which is outside the customs territory of the United States. Those underpinnings are about to disappear. NAFTA and other trade agreements are eroding the trade advantages that the Virgin Islands has enjoyed. Within the foreseeable future, we will have a post-Castro Cuba that will likely challenge the Virgin Islands tourist industry. Rather than waiting for those events to happen, it is essential that we—the Virgin Islands and the federal government—begin to plan for the future. This legislation calls for the creation of a Commission on the Economic Future of the Virgin Islands. The Commission would carry out an in-depth study of what will need to be done to provide a transition for the Virgin Islands to a fully self-sustaining local economy and what the federal government needs to do to facilitate that transition.

I am pleased to cosponsor this legislation and I look forward to the hearings that the Committee will conduct

in the next several weeks. At that time we will also review the report from the Administration on the law enforcement initiative in the Commonwealth of the Northern Mariana Islands. I was the floor manager for the Covenant, and I take particular pride in the accomplishments that have occurred in the past twenty years. The Northern Marianas entered territorial status heavily dependent on federal support for basic government operations. In twenty years, the territory has progressed to the point that it no longer requires direct assistance in operations and is capable of matching federal grants for capital infrastructure. That progress has had a price, however, and I intend to very carefully examine the labor situation and the continued reports of abuse, especially in the garment industry. While I fully support the authority for local self-government conferred under the Covenant, that grant also included the responsibility for exercising that authority properly.

In that context, on July 20, 1995, the Senate passed S. 638, a bill containing, among other things, significant provisions addressing labor issues in the Commonwealth of the Northern Mariana Islands. The House has not yet responded to this important legislative initiative. My hope is that we can obtain House action on S. 638 soon—in time for the 104th Congress to act to address these problems.●

By Mr. GRAMS:

S. 1805. A bill to provide for the management of Voyageurs National Park, and for other purposes; to the Committee on Energy and Natural Resources.

VOYAGEURS NATIONAL PARK ACCESSIBILITY AND PARTNERSHIP ACT

Mr. GRAMS. Mr. President, there is a march toward democracy afoot in America today.

That statement may seem surprising; after all, why would such a movement be needed? We Americans take pride in the fact that our Government is based on the pursuit of democracy—in the words of Abraham Lincoln, ''a government of the people, by the people and for the people.'' And that principle should have as much relevance today as it did when President Lincoln delivered the Gettysburg Address 130 years ago—but does it?

In theory perhaps, but as a practical matter, it seems that the words of Lincoln have been steadily eroded by the recent surge in the size and power of the Federal Government. And with that growth in Washington has come the slow but unmistakable shift in power from the people to the government.

Under a democracy, government is needed to establish and enforce the fundamental rules by which our society operates—with the express support of the people. It is there to protect the rights of individuals and to step in when those rights come into conflict—to resolve disputes between people, not to create them.

But in recent years, the American people have been forced to watch Government expand its role in our daily lives through the use of laws, rules, and regulations—to the point of interference. Instead of receiving its power from the people, it has usurped that authority and as a result, abandoned any sense of public accountability.

As a result, many people believe that they have lost control of their Government—indeed a growing number of us feel that the Government now controls us.

There is no better example of this shift in power than in the Federal Government's management of our natural resources and public lands, particularly as it has affected the people of my home state in the controversy surrounding Voyageurs National Park.

The Park, now comprising 218,000 acres in northern Minnesota, was created in 1971 and established as part of the National Park System in 1975 following years of contentious debate and public hearings. While a number of local residents supported the creation of the park, they did so after promises by the Federal Government of increased economic growth in the region; maintenance of the Park as a multiple recreational use facility, for recreational activities like snowmobiling; and the continued use of input from the public into the management of the park.

But as the years passed, those promises fell by the wayside, leaving local residents out in the cold and understandably distrustful of government bureaucrats who have been unaccountable to the people they are supposed to serve and unresponsive to their needs. Instead of working for the people, the Federal Government has consistently ignored their concerns and in some cases, actually worked against them.

For example, the people of northern Minnesota were promised that in exchange for giving up their rights to the land that would comprise the Park, they would receive opportunities to boost their local economy. In fact, upon creation of the Park, Federal officials estimated that it would host over 1.3 million visitors each year, thereby providing much-needed economic growth for the surrounding communities.

But the road toward economic prosperity never found its way through Voyageurs National Park. Park officials currently estimate the annual number of visitors at 200,000—less than one-sixth their initial projection. Even worse, the Park Service has tried to cover its tracks by suggesting that the park—despite its low visitor rate—is not underutilized.

While the facts and figures certainly counter the Park Service's assertion, nothing beats a first-hand assessment of park use. So, on a beautiful Saturday last July, I visited Voyageurs National Park. While admiring the beauty and historical significance of the lands and waters enclosed within the park, I was struck by the fact that hardly anyone—with the exception of park officials and a few scattered visitors—was there. It was only when I drove through the neighboring city of International Falls, MN, that I did see a number of tourists and visitors—in line—waiting to pass through customs—on their way to Canada.

In 1983, Congress called for the Park Service to create a comprehensive visitor use and facilities plan which would lay out a strategy to increase park use. In spite of Congress' directive, no attempt to carry out the study ever occurred—perhaps due to the Park Service's belief that the park was not being underutilized, bureaucratic stonewalling, or maybe just out of simple negligence. Whatever the reason, Voyageurs National Park today remains underutilized—an isolated enclave—with the people of northern Minnesota forced to pay the price of the National Park Service's mismanagement.

The Park Service and the U.S. Fish and Wildlife Service have also worked together to curtail legitimate visitor access to and use in the Park. Under the guise of the Endangered Species Act, certain bays were shut off to snowmobiling in order to protect the nesting habitat of bald eagles. While everyone agreed that the eagles should be protected, many believed that both agencies failed to give valid, scientific reasons for closing off the bays. Recently, a Federal district judge ruled that Federal bureaucrats had abused the Endangered Species Act to unfairly restrict snowmobile access in the bays. It is sadly ironic that it took a Federal judge to recognize a legitimate use in the Park—something the Park Service and Fish and Wildlife Service have failed to comprehend.

But perhaps the greatest example of arrogance on the part of the Federal Government concerns the question of wilderness designation within the Park. Despite the clearly expressed intent of Congress that Voyageurs National Park was to be a multiple recreational use facility, the Park Service has continued to manage certain portions of the Park for wilderness study characteristics. One need go no further than to ask my colleague from Minnesota, Representative JIM OBERSTAR, who helped create the Park when he served as a Congressional staffer, about the intent of Congress that it was to be open for multiple use. Yet, major segments of the Park continue to be shut off to legitimate and recognized multiple uses—such as snowmobiling, boating and dog sledding—further breaking the long-standing commitments made to northern Minnesotans.

Mr. President, as much as we would like to, we cannot rewrite the history of Voyageurs National Park or simply wave a magic wand to right the wrongs to which the people of northern Minnesota have been subjected over the last 25 years. But we can and must take action to ensure that history does not repeat itself—that future management

of the Park be conducted in accordance with the views of the people.

For that reason, today, I am introducing legislation which would help resolve this controversy by bringing democracy and government accountability back to Voyageurs National Park.

Under my legislation, a new Planning and Management Council will be charged with developing and monitoring a comprehensive management plan. It will consist of 11 members appointed by the Secretary of the Interior and will include representatives from Federal, State, local and tribal governments.

The management council will be authorized to create Advisory Councils made up of individuals representing diverse interests. All council meetings will be open to the public, who will be given opportunities to provide comment on agenda items.

Mr. President, under my bill, public input will no longer be ignored—in fact, it will be encouraged as part of the management process.

Finally, my legislation will prohibit the Park Service from issuing any additional regulations regarding the Park between enactment of this bill and the Secretary's final approval of the management plan, except in cases of routine administration, law enforcement need and emergencies.

To better understand how this new management council will improve the situation in northern Minnesota, one need look no further than the recent ban that was proposed by the National Park Service on the use of live bait within the interior lakes of Voyageurs National Park—one imposed without the solicitation of public input or notification to area fisherman and the Minnesota Department of Natural Resources.

This unilateral action taken by the Park Service naturally created enormous controversy and outrage in northern Minnesota. As one State official said at the time, ''It was a big surprise to us * * *. There was no prior discussion with us on the ban. There's a longstanding tradition in the park of being able to use live bait.''

After many of us raised our objections and outrage over the ban, the Park Service backpedaled, then lifted the ban, stating that it had misread the law. In doing so, the Superintendent of the Park was quoted in the papers saying, ''I had no idea this was going to be a problem. If I had known, trust me, I would have dealt with it differently.''

Mr. President, think about those words for a second. According to the Park Service, if they had just known, they never would have tried to impose their will on the people. If they had just known, just listened, just sought input, none of this would have happened. That is exactly what we are seeking today.

My legislation would avoid such embarrassments in the future by bringing everyone together to ensure that management of the Park is conducted by agreement, not edict. It will ensure that everyone has a seat at the table when the decisions are made. Above all, this new management council will return democracy to the preservation of Voyageurs National Park. It will return to the people of northern Minnesota a voice in how the park is operated and its impact on their communities, economy and livelihood.

Mr. President, I spoke earlier today of a growing movement toward democracy in America—born in the heartland of our Nation, led by the American people, and headed toward Washington. Since holding two public field hearings in Minnesota on this issue last year, I have heard from numerous citizen organizations, community leaders, and average Minnesotans about the management of the park and how their daily lives are affected by it.

Their message is simple: Let us have a say in how our natural resources are maintained—return some of the power to the people—give us back our government and our country. The silent majority, which has been suppressed for so many years, is now finding its voice again—and it is our responsibility to listen to it and act upon it. By conducting our field hearings, which attracted well over 2,000 Minnesotans, we took the first step by listening. Now, we must move ahead and take action.

During those hearings, I heard a number of people give profound and often moving testimony. Many presented facts and figures—invaluable data about the history and management about the park. But what struck me the most during the hearings were the personal stories—the real-life accounts about how the Federal Government and its mismanagement of Voyageurs National Park has truly changed the lives of the people it was created to serve.

One of these stories belonged to Carol Selsaas of Cohasset, MN. In her testimony, Carol described the work of her late father, George Esslinger, who was one of the strongest supporters in northern Minnesota for the creation of Voyageurs National Park.

Carol said:

> For over 9 years, my father worked with other men and women to fight for the creation of the park. He assisted the Department of the Interior in physically identifying the boundaries of the park. He traveled and spoke in favor of the park. He gave his heart and soul to the park. He believed the area he supported for a national park should be maintained for the enjoyment of all people: snowmobilers, cross country skiers, boaters, hikers, fishermen, hunters, yes and even dog sledders. He felt that this would be a park for everyone who had respect for this land, not one locked up except for a chosen few.

Carol went on to describe how her father supported the park with the understanding that the trails and roads already established—over 200 miles on the Kabetogama Peninsula alone—would be maintained. To date, all but 12 miles are now closed off to public access. On one of those closed off trails, Carol said, rests a memorial to her father placed by the Park Service. With tears in her eyes, she said that because of the inaccessibility of the trail, she has never been able to visit her father's memorial.

''My father died knowing that he had been lied to,'' said Carol. ''He died apologizing to me, his grandson, his community. On his death bed, I promised that I would fulfill his wish and tell the story of how he was misled in his support for Voyageurs National Park.''

Indeed, she did—as did many other of my fellow Minnesotans. We cannot forget their words or discard their testimonies. In the sterile halls of the Federal buildings here in Washington, the words of Carol Selsaas and others may not mean much, but to me, they describe the heartfelt emotions and passions about the culture of northern Minnesota—a culture that Washington may not understand, but cannot take for granted.

Nor can we hide in the halls of Congress from the march of democracy that is spreading throughout the heartland of our country. If we are truly committed to operating as the open democracy described by President Lincoln, we must turn the tide and return power back to its legitimate source in America: the people.

The legislation I introduce today is a necessary step in bringing the principles of democracy back to one small, but important region of our Nation. Let us no longer obstruct the march of democracy but help pave the way for it across America.

Mr. President, I ask unanimous consent that the test 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. 1805

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 ''Voyageurs National Park Accessibility and Partnership Act of 1996''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Voyageurs National Park serves as a unique federal park unit in 1 of the Nation's distinguished natural ecosystems;

(2) Voyageurs National Park shall serve as a year-round multiple-use recreational unit as mandated under Public Law 91–661;

(3) current management of Voyageurs National Park has unilaterally restricted use and accessibility within certain portions of the park;

(4) intergovernmental cooperation that respects and emphasizes the role of State, local, and tribal governments in land management decision-making processes is essential to optimize the protection and development of social, historical, cultural, and recreational resources; and

(5) the national interest is served by—

(A) improving the management and protection of Voyageurs National Park;

(B) ensuring appropriate public access, enjoyment, and use throughout Voyageurs National Park; and

(C) allowing Federal, State, local, and tribal governments to engage in an innovative management partnership in Federal land management decisionmaking processes.

SEC. 3. PLANNING AND MANAGEMENT COUNCIL.

Public Law 91–661 (16 U.S.C. 160 et seq.) is amended—

(1) by redesignating sections 304 and 305 (16 U.S.C. 160i and 160j) as sections 306 and 307, respectively; and

(2) by inserting after section 303 (16 U.S.C. 160h) the following:

"SEC. 304. PLANNING AND MANAGEMENT COUNCIL.

''(a) ESTABLISHMENT.—There is established the Voyageurs National Park Intergovernmental Council (referred to in this Act as the 'Council').

''(b) DUTIES OF THE COUNCIL.—The Council shall develop and monitor a comprehensive management plan for the park in accordance with section 305.

''(c) MEMBERSHIP.—The Council shall be composed of 11 members, appointed by the Secretary, of whom—

''(1) 1 member shall be the Assistant Secretary for Fish and Wildlife and Parks, or a designee;

''(2) 3 members shall be appointed, from recommendations by the Governor of Minnesota, to represent the Department of Natural Resources, the Office of Tourism, and the Environmental Quality Board, of the State of Minnesota;

''(3) 1 member shall be a commissioner from each of the counties of Koochiching and Saint Louis, appointed from recommendations by each of the county boards of commissioners;

''(4) 1 member shall be a representative from the cities of International Falls and Orr, appointed from recommendations by each of the city councils;

''(5) 1 member shall be a State senator who represents a legislative district that contains a portion of the park, appointed from a recommendation by the Governor of Minnesota;

''(6) 1 member shall be a State representative who represents a legislative district that contains a portion of the park, appointed from a recommendation by the Governor of Minnesota;

''(7) 1 member shall be an elected official from the Northern Counties Land-Use Coordinating Board, appointed from recommendations by the Board; and

''(8) 1 member shall be an elected official of the Native American community to represent the 1854 Treaty Authority, appointed from recommendations by the Authority.

''(d) ADVISORY COMMITTEES.—

''(1) IN GENERAL.—The Council may establish 1 or more advisory committees for consultation, including committees consisting of members of conservation, sportsperson, business, professional, civic, and citizen organizations.

''(2) FUNDING.—An advisory committee established under paragraph (1) may not receive any amounts made available to carry out this Act.

''(e) QUORUM.—A majority of the members of the Council shall constitute a quorum.

''(f) CHAIRPERSON.—

''(1) ELECTION.—The members of the Council shall elect a chairperson of the Council from among the members of the Council.

''(2) TERMS.—The chairperson shall serve not more than 2 terms of 2 years each.

''(g) MEETINGS.—The Council shall meet at the call of the chairperson or a majority of the members of the Council.

''(h) STAFF AND SERVICES.—

''(1) STAFF OF THE COUNCIL.—The Council may appoint and fix the compensation of such staff as the Council considers necessary to carry out this Act.

''(2) PROCUREMENT OF TEMPORARY SERVICES.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council requests.

''(4) PROVISION BY THE SECRETARY.—On a request by the Council, the Secretary shall provide personnel, information, and services to the Council to carry out this Act.

''(5) PROVISION BY OTHER FEDERAL DEPARTMENTS AND AGENCIES.—A Federal agency shall provide to the Council, on a reimbursable basis, such information and services as the Council requests.

''(6) PROVISION BY THE GOVERNOR.—The Governor of Minnesota may provide to the Council, on a reimbursable basis, such personnel and information as the Council may request.

''(7) SUBPOENAS.—The Council may not issue a subpoena nor exercise any subpoena authority.

''(i) PROCEDURAL MATTERS.—

''(1) GUIDELINES FOR CONDUCT OF BUSINESS.—The following guidelines apply with respect to the conduct of business at meetings of the Council:

''(A) OPEN MEETINGS.—Each meeting shall be open to the public.

''(B) PUBLIC NOTICE.—Timely public notice of each meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers and such notice may be given by such other means as will result in wide publicity.

''(C) PUBLIC PARTICIPATION.—Interested persons shall be permitted to give oral or written statements regarding the matters on the agenda at meetings.

''(D) MINUTES.—Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of all proceedings and matters discussed and conclusions reached, and copies of all statements filed.

''(E) PUBLIC INSPECTION OF RECORD.—The administrative record, including minutes required under subparagraph (D), of each meeting, and records or other documents that were made available to or prepared for or by the Council incident to the meeting, shall be available for public inspection and copying at a single location.

''(2) NEW INFORMATION.—At any time when the Council determines it appropriate to consider new information from a Federal, State, or local agency or from a Council advisory body, the Council shall give full consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on management measures.

''(j) COMPENSATION.—

''(1) IN GENERAL.—A member of the Council who is not an officer or employee of the Federal government shall serve without pay when carrying out duties pursuant to this Act.

''(2) TRAVEL EXPENSES.—While away from the home or regular place of business of the member in the performance of services for the Council, a member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

''(k) FUNDING.—Of amounts appropriated to the National Park Service for a fiscal year, the Secretary shall make available such amounts as the Council shall request, not to exceed $150,000 for the fiscal year.

''(l) TERMINATION OF COUNCIL.—The Council shall terminate on the date that is 10 years after the date of enactment of this subsection.

"SEC. 305. MANAGEMENT PLAN.

''(a) SCHEDULE.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection, the Council shall submit to the Secretary and the Governor of Minnesota a comprehensive management plan (referred to in this section as the 'plan') for the park, to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions.

''(2) PRELIMINARY REPORT.—Not later than 1 year after the date of the first meeting of the Council, the Council shall submit a preliminary report to the Secretary describing the process to be used to develop the plan.

''(b) DEVELOPMENT OF PLAN.—

''(1) IN GENERAL.—In developing the plan, the Council shall examine all relevant issues, including—

''(A) appropriate public access and recreational use, including—

''(i) snowmobiling opportunities;

''(ii) campsites and trails;

''(iii) the management policies of harvesting fish and wildlife;

''(iv) aircraft access throughout the park;

''(v) policies affecting hiking, bicycling, snoeshoeing, skiing, current watercraft opportunities, and other recreational activities the Council considers appropriate for the park; and

''(vi) visitation and services at the Kettle Falls facilities;

''(B) the proper distribution of visitors in the park;

''(C) a comprehensive visitor education program; and

''(D) the need for wilderness management for certain areas of the park.

''(2) CONDITIONS.—In carrying out subparagraphs (A) through (D) of paragraph (1), the Council shall—

''(A) be subject to relevant environmental law;

''(B) consult on a regular basis with appropriate officials of each international, Federal, or State agency or local government that has jurisdiction over land or water in the park;

''(C) consult with interested conservation, sportsperson, business, professional, civic, and citizen organizations; and

''(D) conduct public meetings at appropriate places to provide interested persons the opportunity to comment on matters to be addressed by the plan.

''(3) PROHIBITED CONSIDERATIONS.—The Council may not consider—

''(A) removing park designation; or

''(B) allowing mining, logging, or commercial or residential development.

''(4) REPORT.—The Council shall report to the International Joint Commission on water levels in the Rainy Lake Watershed, pursuant to the Convention Providing for Emergency Regulation of the Level of Rainy Lake and of Certain Other Boundary Waters, signed at Ottawa September 15, 1938 (54 Stat. 1800).

''(c) APPROVAL OF PLAN.—

''(1) SUBMISSION TO SECRETARY AND GOVERNOR.—The Council shall submit the plan to the Secretary and the Governor of Minnesota for review.

''(2) APPROVAL OR DISAPPROVAL BY SECRETARY.—

''(A) REVIEW BY THE GOVERNOR.—The Governor may comment on the plan not later than 60 days after receipt of the plan from the Council.

''(B) SECRETARY.—

''(i) IN GENERAL.—The Secretary shall approve or disapprove the plan not later than 90 days after receipt of the plan from the Council.

''(ii) CRITERIA FOR REVIEW.—In reviewing the plan, the Secretary shall consider—

''(I) the adequacy of public participation;

''(II) assurances of plan implementation from State and local officials in Minnesota;

''(III) the adequacy of regulatory and financial tools that are in place to implement the plan;

''(IV) provisions of the plan for continuing oversight by the Council of implementation of the plan; and

''(V) the consistency of the plan with Federal law.

''(iii) NOTIFICATION OF DISAPPROVAL.—If the Secretary disapproves the plan, the Secretary shall, not later than 30 days after the date of disapproval, notify the Council in writing of the reasons for the disapproval and provide recommendations for revision of the plan.

''(C) REVISION AND RESUBMISSION.—Not later than 60 days after receipt of a notice of disapproval under subparagraph (B) or (D), the Council shall revise and resubmit the plan to the Secretary for review.

''(D) APPROVAL OR DISAPPROVAL OF REVISION.—The Secretary shall approve or disapprove a plan submitted under subparagraph (C) not later than 30 days after receipt of the plan from the Council.

''(d) REVIEW AND MODIFICATION OF IMPLEMENTATION OF PLAN.—The Council—

''(1) shall review and monitor the implementation of the plan; and

''(2) may, after providing for public comment and after approval by the Secretary, modify the plan, if the Council and the Secretary determine that the modification is necessary to carry out this Act.

''(e) INTERIM PROGRAM.—Before the approval of the plan, the Council shall advise and cooperate with appropriate Federal, State, local, and tribal governmental entities to minimize adverse impacts on the park.

''(f) NATIONAL PARK SERVICE REGULATIONS.—During the period beginning on the date of enactment of this subsection and ending on the date a management plan is approved by the Secretary under subsection (c)(2), the Secretary may not issue any regulation that relates to the park, except for—

''(1) regulations required for routine business, such as maintenance, visitor education, and law enforcement; and

''(2) emergency regulations.

''(g) STATE AND LOCAL JURISDICTION.—Nothing in this Act diminishes, enlarges, or modifies any right of the State of Minnesota or any political subdivision of the State to—

''(1) exercise civil and criminal jurisdiction;

''(2) carry out State fish and wildlife laws in the park; or

''(3) tax persons, corporations, franchises, or private property on land and water included in the park.''.

By Mr. D'AMATO (for himself, Mr. DODD and Mr. FRIST):

S. 1806. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify that any dietary supplement that claims to produce euphoria, heightened awareness or similar mental or psychological effects shall be treated as a drug under the Act, and for other purposes; to the Committee on Labor and Human Resources.

LEGISLATION TO CONTROL HERBAL STREET DRUGS

● Mr. D'AMATO. Mr. President, today I am introducing legislation—along with my colleagues Senators DODD and FRIST—to control the growing problem of dangerous herbal stimulants that are marketed and sold as alternatives to powerful and illegal street drugs. This carefully-drafted bill will make these herbal street drugs subject to pre-market safety reviews and allow the Food and Drug Administration, the FDA, to take prompt and decisive action against this narrow class of products.

I strongly support the right of the American people to have access to legitimate dietary supplements, and I want to clearly state that this bill will not limit that access. However, herbal street drugs are not legitimate dietary supplements. They are quite simply dangerous products masquerading as dietary supplements to evade Government review and sanctions.

Mr. President, on March 7, 1996, one of these products, called Ultimate Xphoria, killed 20-year-old Peter Schlendorf of Northport, NY. Peter, a junior at the State University of New York at Albany, died from a lethal combination of herbal stimulants found in this product. A statement issued by the medical examiner's office in Panama City, FL, where Peter died, specifically states that Peter's death ''was a result of the use of Ultimate Xphoria, an herbal product containing Ma Huang.'' Ma Huang—also known as Ephedra—is a botanical source of the powerful stimulant ephedrine. The medical examiner's statement lists Peter's cause of death as the ''synergistic effect of ephedrine'' and several other herbal stimulants contained in this product. The statement further explains that these stimulants ''can have an adverse effect on the heart and central nervous system.''

Mr. President, I am committed to doing everything that I can to ensure that no more young people die from these dangerous herbal street drugs. And let me be perfectly clear: if Congress fails to act, it will just be a matter of time before these products kill more young people.

This is a battle to protect our children. The slick peddlers of these herbal street drugs have specifically targeted young people. They sell their products in novelty shops, using flashy signs and posters that appeal to and attract adolescents. They give their products names like Cloud 9, Herbal Ecstacy, Ultimate Xphoria, Magic Mushrooms and E-Ludes.

Using the Internet and showy brochures, they hawk their dangerous wares with promises of ''euphoric stimulation, highly increased energy levels, tingly skin sensations, increased sexual sensations, enhanced sensory processing and mood elevations.'' One product, called Herbal Ecstacy, even claims that it is ''a carefully formulated and thoroughly tested organic alternative to actual MDMA or Ecstacy''—a dangerous, illegal street drug. The marketing brochure for this product further states that it ''acts on the same basis as MDMA, triggering similar, but not identical, physical reactions in the body.'' This is just outrageous.

In addition, many of these products falsely claim to be safe and tested. Some are even advertised as ''100 percent and FDA approved'' and as ''100 percent natural . . . with no side effects''. As Peter's death clearly demonstrates, however, these products can be deadly, and none are FDA-approved. How can the producers of these herbal street drugs claim that they are safe and tested when they can produce such tragic results? This is wrong and must be stopped.

The manner in which these products are marketed invites misuse by unsuspecting young people. These products are advertised as alternatives to street drugs. They are intended to get young people high. And what happens when the recommended dosage doesn't achieve the desired high? Then, the claims that these products are safe, natural and thoroughly tested lure young people into taking larger dosages. Indeed, some sellers are telling people to take two, three and four times the recommended dosage to achieve the desired high.

Mr. President, the legislation that I am introducing today will help to ensure that no more young people die from these dangerous products. The bill amends the Federal Food, Drug, and Cosmetic Act to clarify that a dietary supplement shall be considered a drug if its label or labeling claims or implies that the dietary supplement produces euphoria, heightened awareness or similar mental or psychological effects. As a result, this narrow class of dangerous products will be subject to the same premarket safety reviews as other drugs, and the FDA will have enhanced authority to take prompt and decisive action against them. Now, the FDA will be able to quickly pull these herbal street drugs, like the one that killed Peter Schlendorf, from stores before they kill again. This legislation is necessary to protect the health of the American public, particularly its youth, who are obviously the target of these dangerous herbal street drugs.

Again, let me clearly state that this bill has been carefully drafted to maintain the public's continued access to legitimate dietary supplements. For example, it will not limit access to either over-the-counter drugs, such as Sudafed, or legitimate dietary supplements, such as herbal teas, that contain ephedra or its related products.

I am certain that no Member of Congress envisioned that the Dietary Supplement Health and Education Act of 1994—the Dietary Supplement Act—would protect dangerous products like these herbal street drugs, but these products are currently covered by the literal language of that act. Since these products are considered dietary

supplements under current law, the FDA's authority to regulate them is significantly limited. For example, these products are not currently subject to premarket safety reviews. In addition, the FDA cannot regulate herbal street drugs as a class, but instead must take action against each product individually. Indeed, the FDA must prove that a particular formulation of an herbal street drug ''presents a significant or unreasonable risk of illness or injury'' before it can take any action against the product. This is a lengthy process that can take years.

Moreover, under current law, an herbal street drug manufacturer can easily evade an FDA enforcement action simply by changing the composition of its product, while continuing to make the same labeling claims for drug-like mental and psychological effects. Each time the product formula changes, the FDA must evaluate the new formula and build its case from the beginning. The product formula thus becomes a moving target that the FDA must chase. The FDA should not have to chase herbal street drugs.

Some will argue that this legislation is unnecessary and that the FDA already has the authority to take action against herbal street drugs, but the clever producers and marketers of these herbal street drugs have been careful to take advantage of the protections afforded legitimate dietary supplements under the Dietary Supplement Act. For example, under that act, a dietary supplement is not subject to regulation as a drug simply because its label or labeling bears a truthful, nonmisleading claim regarding its effect on the body. This provision significantly limits the FDA's ability to take action against the peddlers of herbal street drugs who use carefully worded labels to evade FDA review and control.

Other options available to the FDA would also be ineffective against herbal street drugs. For example, the Dietary Supplement Act gives the Secretary of Health and Human Services the authority to declare that a dietary supplement poses an imminent hazard to public health or safety. Once such a declaration is made, the dietary supplement can be banned. A formal imminent hazard declaration requires lengthy formal rulemaking procedures, however, including a trial-type hearing before an administrative law judge. In addition, because what sells an herbal street drug is its claims rather than its ingredients, the imminent hazard declaration can easily be defeated by a formulation change without any label change. One can easily imagine the slick peddlers of these products switching a single ingredient—for example, from ephedra to kava-kava, another powerful herbal stimulant—just as the FDA is knocking on their door.

Mr. President, the marketing of herbal street drugs as dietary supplements, rather than as drugs, does not promote any of the goals identified by Congress in the Dietary Supplement Act. That act was intended to promote the public health. Congressional findings in section 2 of the act cite the role of a healthy diet, including safe dietary supplements in disease prevention, long-term good health, and reducing health care costs. Far from promoting the public health, herbal street drugs endanger the health and safety of consumers and give rise to unnecessary medical costs.

These dangerous products are not taken for nutritional purposes or to otherwise improve health and thus are not within the intended coverage of the Dietary Supplement Act. The manufacturers of herbal street drugs should not be permitted to abuse the Dietary Supplement Act by using it to legitimize the marketing of dangerous products. A narrowly drafted statutory amendment to correct the inclusion of herbal street drugs in the language of the act would achieve the intent of Congress by closing a loophole that Congress never intended to create.

Herbal street drugs killed young Peter Schlendorf. We have to make sure that this does not happen again. We have carefully drafted this legislation to target the narrow class of products that killed Peter—products that are being marketed and sold to young people as safe and legal alternatives to dangerous, illegal street drugs. We must take action quickly. I urge my fellow Senators to support this effort and quickly pass this legislation. If we wait, herbal street drugs will end more promising, young lives.●

● Mr. DODD. Mr. President, I am proud to sponsor this very important legislation with my colleagues, Senators D'AMATO and FRIST. In my view, the legislation is necessary to protect the American public, and particularly our Nation's youth, from what amount to common street drugs.

The makers of these products make no attempt to sell them as products to improve health or nutrition. The products carry names like ''Herbal Ecstacy,'' ''Ultimate X-Phoria,'' and ''Cloud 9.'' One product claims ''It is a carefully formulated and thoroughly tested organic alternative to actual MDMA or Ecstacy.'' I hardly think any of us believe that our Nation's children should be able to go into any novelty store and buy the equivalent of a powerful, dangerous, and I might add, illegal street drug.

Let me share with you the claims and promotional language of these products, lest there be any doubt what there purpose is for:

> The effects of Herbal Ecstacy beyond smart drug capacity include: Euphoric stimulation; highly increased energy levels; tingly skin sensations; enhanced sensory processing; mood elevations.
>
> Herbal Ecstacy acts on the same basis as MDMA, triggering similar but not identical physical reactions in the body.
>
> Our herbs are 100% natural and are uniquely formulated to give you a floaty, energetic, mind expanding, euphoric experience.

And listen to what is presented on a brochure as endorsements by users:

> They don't call it ''ultimate'' for nothing!
>
> This puts everything else I've tried to shame!!

Now, Mr. President, I guess we might feel differently if we knew these products were without risk. But the fact is, they have proven deadly. Peter Schlendorf, a 20-year-old from York, FL, died because he took one of these products. The cause of death was identified by the medical examiner's office in the Florida town where Peter died.

The makers of these products claim they are nutritional supplements, legitimately sold and promoted. They point to a law passed a couple of years ago that was meant to govern legitimate dietary supplements, that improve health and nutrition. But make no mistake. These products do nothing to improve health and nutrition.

So, the legislation we are proposing today is very simple. It says that products claiming to produce euphoria, heightened awareness or similar mental or psychological effects shall be treated as a drug. It would make the products subject to the same review, by the U.S. Food and Drug Administration, as other drugs. The products are not banned. And the bill will have no effect on legitimate dietary supplements. It only will affect products that are marketed and sold as alternatives to powerful street drugs.

Mr. President, it is my hope that we can act quickly on this legislation and prevent the kind of tragedy experienced by the Schlendorfs.●

● Mr. FRIST. Mr. President, I rise today to join my distinguished colleague from New York in introducing legislation to address an alarming problem facing our children today.

A new class of street drugs is endangering our Nation's young people. These products are being portrayed as safe, natural alternatives to illegal street drugs, but they are far from safe.

As a medical doctor who specialized in heart ailments, I am familiar with the powerful and even life-threatening effect some of these products can have on the human heart and central nervous system. And as the father of three young boys of the ages 8, 10 and 12, I am outraged at the way these products are being blatantly marketed toward children and young adults.

Therefore, I have joined Senators D'AMATO and DODD in introducing a bill that will control the growing problem of herbal street drugs. This bill will classify as drugs products marketed and sold, particularly to young people, as alternatives to illegal street drugs. As a result these products will be subject to the same Federal review and sanctions as other pharmaceuticals.

This bill will not limit public access to legitimate dietary supplements and over-the-counter medications. It is not drafted to limit public access to products that contain particular ingredients. The producers of legitimate products that make truthful claims about their product have nothing to fear from

this bill. To the contrary, they should support the intent of this bill because it addresses the problem of unscrupulous manufacturers who are giving the dietary supplement industry a bad name and abusing the very laws which permit dietary supplement manufacturers to place truthful and nonmisleading claims on their products.

These herbal street drugs pose significant health risks to consumers. These products are marketed under a variety of brand names, including Cloud 9, Herbal Ecstasy and Ultimate Xphoria, with labels that claim or imply that they produce such effects as euphoria, heightened awareness and other effects. These labels often portray the products as legal alternatives to illegal street drugs such as ''ecstasy.'' ''Ecstasy'' is the street name for MDMA (4-methyl-2, dimethoxyamphetamine), which produces euphoria.

These products often contain botanical sources of ephedrine. Ephedrine is an amphetamine-like stimulant that can have potentially dangerous effects on the heart and central nervous system. Possible adverse effects range from clinically significant effects such as heart attack, stroke, seizures, psychosis and death, to clinically less significant effects that may indicate the potential for more serious effects. These effects can include dizziness, headache, gastrointestinal distress, irregular heartbeat, and heart palpitations. The labels on these herbal street drugs may list one or more ephedrine-containing ingredients, including ma huang, Chinese ephedra, ma huang extract, ephedra, Ephedra sinica, ephedra extract, ephedra herb powder, epitonin or ephedrine.

Ephedrine and its related products are also available in many legitimate forms that will not be affected by this bill. For example, ephedrine can be useful for treating mild forms of seasonal or chronic asthma and is also FDA-approved for treating enursesis hypotension, nasal congestion and sisustitis.

According to a statement by the Panama City, Florida medical examiner, 20-year-old Peter Schlendorf died ''as a result of the use of Ultimate Xphoria, an herbal product containing Ma Huang''. Peter's cause of death was listed as the ''synergistic effect of ephedrine, pseudo-ephedrine, phenylpropanolamine and caffeine''. There is no question that this combination of stimulants can have an adverse effect on the heart and central nervous system.

As lawmakers, we have a responsibility to make sure that no more young people die from these herbal street drugs. This bill provokes debate on this important issue. I have already been contacted by a major trade association, the Council for Responsible Nutrition [CRN], and the Nutritional Health Alliance, an industry and consumer coalition, expressing a desire to work with us to reach an effective solution to this issue. I urge all interested parties to come to the table and address the serious consequences of allowing these herbal street drugs to fall into the hands of our children.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1807. A bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation public interest land exchange; to the Committee on Energy and Natural Resources.

KAKE LAND EXCHANGE LEGISLATION

● Mr. MURKOWSKI. Mr. President, today I introduce the Kake Tribal Land Exchange Act on behalf of myself and Senator STEVENS. This legislation would amend the Alaska Native Claims Settlement Act which authorized the transfer of 23,040 acres of land from the U.S. Government to Kake Tribal Corporation.

The land was transferred to Kake to recognize ''an immediate need for a fair and just settlement''

Unfortunately, Kake has not received the full beneficial use of its 23,040 acres because the city's watershed—over 2,400 acres—rest within Kake Tribal's lands. In order to protect the city's watershed and still receive beneficial use of their 23,040 acres we are proposing an acre-for-acre land exchange. This will assist the people of Kake, AK, as they move toward a safer, cleaner, and healthier future.

Under this proposal, Kake Tribal would exchange the watershed for 2,427 acres in southeast Alaska, thereby allowing Kake to receive its full entitlement under ANCSA. This legislation is of great importance to the residents of the community of Kake, AK.

This legislation will ensure protection of the Gunnuk Creek watershed which is the main water supply for the city of Kake as well as protect critical habitat for the Gunnuk Creek hatchery.

The legislation has received wide support in Alaska from diverse groups such as: The Southeast Alaska Conservation Council, the city of Kake, AK, the Organized Village of Kake, the Kake non-profit fishery, the Alaska Federation of Natives, and Sealaska Corporation.

Additionally, the Governor of Alaska has written to me in support of this exchange. Attached are copies of some of the letters of support I have received for the record at this time.

Because this is an acre-for-acre exchange there will be no cost to the Federal Government. I introduced this legislation with the confidence that it is in the best interest of not only the citizens of Kake but with the knowledge that it is in the best interest of all Americans to protect drinking water for our communities. Lastly, this legislation will help fulfill our commitment to the Natives of Alaska that they will be treated fairly and justly under the Alaska Native Claims Settlement Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1807

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 ''Kake Tribal Corporation Land Exchange Act.''

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92–203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601 et seq.), as amended, is further amended by adding a new section to read:

SEC. 40. KAKE TRIBAL CORPORATION LAND EXCHANGE.

(a) To provide Kake Tribal Corporation with land suitable for development, to acknowledge the corporation's return to public ownership land needed as a municipal watershed area, and to promote the public interest, the Secretary shall convey to the corporation approximately 2, 427 acres of Federal land as described in subsection (c). The land to be conveyed includes:

(1) up to 388 acres in the Slate Lakes area, as described in (c)(2) of this section, if, within five years after the effective date of this section, the corporation has entered into an agreement to lease or otherwise convey some or all of the land to the operator of the Jualin Mine; or,

(2) at the corporation's option, the 388 acres mentioned in (1) of this subsection and the remaining 2,039 acres may be conveyed from the acres described in (c)(3) of this section.

(b) TITLE TO SURFACE AND SUBSURFACE.—Subject to valid existing rights and easements, the Secretary shall, no later than the deadlines specified in (c)(2) and (3) of this section, convey to Kake Tribal Corporation title to the surface estate in this land and convey to Sealaska Corporation title to the subsurface estate in that land.

(c) DESCRIPTION AND DEADLINES.—The land covered by this section is in the Copper River Meridian and is further described as follows:

(1) the land to be conveyed by Kake Tribal Corporation to the United States, no later than 90 days after the effective date of this section, as shown on the map dated _____ and labeled Attachment A, is the municipal watershed area and is described as follows:

Municipal watershed

Section	*Approximate acres*
T56S, R72E	
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

(2) Kake Tribal Corporation shall have the option to select up to 388 acres in the Slate Lakes area, as shown on the map dated _____ and labeled Attachment B. This option shall remain in effect for five years after the date of enactment of this section. The land to be conveyed is identified on the following maps as:

Slake lakes area

Section	*Description*	*Approximate acres*
	T35S, R62E	
22	E½	27
23	W½	152
26	W½	119
27	E½	23
	T36S, R62E	
1	W½, NW¼	38
Two utility corridors: One beginning in the northwest quarter of section 1, T36S, R62E, heading northwest through the northeast quarter of section 2, then heading northwest through section 26, T35S, R62E; another beginning in section 23, T35S, R62E, heading northeast, then heading northwest through section 23, then northwest through the southwest quarter of section 15, then northwest through section 16, then turning northeast in the northeast quarter of section 16 to the Jualin patented group.		
Approximate total.		388

(3) the remaining 2,039 acres of land to be conveyed to Kake Tribal Corporation, or the entire 2,427 acres if the option on the 388 acres mentioned in (2) of this subsection is not exercised, shall be land in the Hamilton Bay and Saginaw Bay areas and shall be conveyed within 90 days after the effective date of this section; this land is shown on the maps dated _____ and labeled Attachments C and D.

(d) TIMBER MANUFACTURING.—Notwithstanding any other provision of law, timber harvested from lands conveyed to Kake Tribal Council pursuant to this Act shall not be available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey such logs to any other person for the purpose of exporting such logs from their.

(e) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section is, for all purposes, considered land conveyed under the Alaska Native Claims Settlement Act.

(f) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.●

By Mr. MURKOWSKI (for himself and Mr. JOHNSTON):

S. 1808. A bill to amend the Act of October 15, 1966 (80 stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation, and for other purpose; to the Committee on Energy and Natural Resources.

THE NATIONAL HISTORIC PRESERVATION ACT OF 1966 AMENDMENT ACT OF 1996

● Mr. MURKOWSKI. Mr. President, on behalf of Senator JOHNSTON and myself, I introduce a bill to amend the National Historic Preservation Act of 1966, that, when enacted, will continue the appropriations authorization for the Advisory Council on Historic Preservation.

Established in 1966, the Council is an independent Federal agency responsible for advising the President and the Congress on historic preservation matters and commenting to Federal agencies on the effects of their activities upon historic properties.

Mr. President, over the past three decades, the Congress has made a substantial commitment to the preservation and encouragement of our national heritage. Established by the National Historic Preservation Act, the Advisory Council on Historic Preservation has served to improve the effectiveness and coordination of public and private efforts in historic preservation.

Historic preservation safeguards physical links to the past. It is through these links that our important cultural resources are preserved and passed on to succeeding generations. Destruction of our significant cultural and historic resources serves no purpose. Our memory of important history only becomes more difficult without the various fabrics to view, touch and or experience.

Congress recognized this principle in the National Historic Preservation Act of 1966: ''The historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people.''

Mr. President, in addition to many educational programs, one of the most important functions of the Advisory Council is mediating between any Federal agency issuing a permit and the individual who is planning to develop his property. Under the terms of Section 106 of the National Historic Preservation Act, the Council seeks to negotiate a memorandum of agreement in such cases, setting forth what will be done to reduce or avoid and adverse effects the undertaking will have.

While the section 106 process has often been described as contentious by private property rights advocates and others, I believe the Advisory Council can and should serve as a solution to resolving conflicts between a sometimes over-reaching bureaucracy and the individual property owner.

It is my hope that the committee hearing process will shed light on the problems, address the issues, as well as the successes of the Council; and that we can move forward on this important program in a positive and constructive manner.

The Council's appropriations authorization expires with the current fiscal year. This legislation will authorize the continuing work of the Council by providing appropriations authority from fiscal year 1997 through fiscal year 2002.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1808

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. Section 470 et seq.) is further amended as follows:

(a) Section 212(a) is amended by deleting the last sentence and inserting in lieu thereof the sentence ''There are authorized to be appropriated not to exceed $5,000,000 in each fiscal year 1997 through 2002.''●

By Mr. MURKOWSKI:

S. 1809. A bill entitled the ''Aleutian World War II National Historic Areas Act of 1996''; to the Committee on Energy and Natural Resources.

THE ALEUTIAN WORLD WAR II NATIONAL HISTORIC AREAS ACT OF 1996

● Mr. MURKOWSKI. Mr. President, I introduce a bill entitled the ''Aleutian World War II National Historic Areas Act of 1996.''

Mr. President, the Ounalashka Corporation is the Alaska Native village corporation for the Unalaska region of the Western Aleutian Islands. The Corporation is the major land owner of Amaknak Island, where the City of Unalaska is located. The Corporation has been working closely with municipal officials of the City of Unalaska to identify Corporation land which would be Federally recognized and designated as a unique ''historic area''.

Many have forgotten that during World War II, Unalaska came under attack. Unalaska was raided and bombed by Japanese aircraft in one of the few sieges on U.S. territory. This area of Amaknak Island was heavily fortified, and much of the original bunkers, tunnels, and buildings remain. The Corporation owns the majority of land and facilities occupied by U.S. military forces on Amaknak Island during the war.

The area is rich in history and memories. In recent years World War II veterans who were stationed in Unalaska, and in some cases family members, have made pilgrimages back to honor fallen friends and relive the past.

In addition to the historic significance of Unalaska during the War, there is also a compelling story of the Aleutian Islands indigenous people which is not well known. Alaska Native people from 23 villages were evacuated from the region during the War, and many were interned in relocation camps. As a result of the devastating bombing by the Japanese, the city of Unalaska was the only village that was re-inhabited following the World War II effort.

The Aleut people made substantial contributions to the war effort and yet suffered hardships similar to those of the Japanese-Americans throughout the war.

The Corporation, the City of Unalaska, and many historians believe that the history of the Aleut people and the war effort in the region are

intertwined. In response to the increased interest of the World War II veterans and their survivors who have visited Unalaska, the Corporation is considering constructing a World War II Historic Center on the Island of Amaknak to tell this unique, but little known history of the war in the Aleutians and the Aleut people to the rest of the world.

Mr. President, this legislation, when enacted, will establish the ''Aleutian World War II National Historic Area''. I am very cognizant of the adverse effects that new units of the National Park System can create on existing units of the System. This legislation provides us with a unique opportunity to work with and for the private sector in the development and operation of this important historic resources.

There will be no land acquisition or day-to-day operational expenses normally associated with other units of the National Park System. The Ounakashka Corporation has exclusive ownership and control of the lands, buildings and historic structures which would comprise the historic area.

The Corporation is not seeking land exchanges with the Department of the Interior and does not desire to convey or encumber title to, or control of, its lands to the Federal Government. The Corporation only wants to work with the Federal Government to save this significant piece of the history of the United States. The expense to the National Park Service would be minimal, and would consist of technical assistance and training. The contribution to the public will be a historic site that is preserved for the enjoyment and education of all Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1809

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Aleutian World War II National Historic Areas Act of 1996''.

SEC. 2. PURPOSE.

The purpose of this Act is to designate and preserve the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

SEC. 3. BOUNDARIES.

The Aleutian World War II National Historic Area shall be comprised of areas on Amaknak island depicted on the map entitled ''Aleutian World War II National Historic Area''.

SEC. 4. TERMS AND CONDITIONS.

Nothing in this Act shall—

(a) authorize the conveyance of lands between the Ounalaska Corporation and the U.S. Department of the Interior, nor remove land or structures appurtenant to the land from the exclusive control of the Ounalaska Corporation; or

(b) provide authority for the Department of the Interior to assume the duties associated with the daily operation of the Historic Area or any of its facilities or structures.

SEC. 5. TECHNICAL ASSISTANCE.

The Secretary of the Interior may award grants and provide technical assistance to the Ounalaska Corporation and the City of Unalaska to assist with the planning, development, and historic preservation from any program funds authorized by law for technical assistance, land use planning or historic preservation.●

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 1810. A bill to expand the boundary of the Snoqualmie National Forest and for other purposes; to the Committee on Energy and Natural Resources.

THE SNOQUALMIE NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 1996

● Mr. GORTON. Mr. President, today I am joined by junior Senator from Washington State, Mrs. MURRAY, in introducing the ''Snoqualmie National Forest Boundary Adjustment Act of 1996.'' Earlier this week Representative JENNIFER DUNN, of Washington State, introduced identical legislation in the House.

This legislation will facilitate the exchange of land between the Weyerhaeuser Company and the Forest Service by adjusting a National Forest Boundary. As Chairman of the Interior Appropriations Subcommittee, which funds our National Forest and Parks, land exchanges result in less expense to the Federal taxpayer than do land acquisitions.

I will be working over the course of the next few months to get this legislation passed by both the House and Senate, and I encourage my colleagues to support this legislation.●

● Mrs. MURRAY. Mr. President, I fully support this landmark agreement negotiated by the Sierra Club's Cascade Checkerboard Project, the Weyerhaeuser Company, and the Forest Service. I particularly applaud the Weyerhaeuser Company's donation of approximately 1,900 acres of land, 900 acres of which will become part of the Alpine Lakes Wilderness Area.

This exchange will give Weyerhaeuser 7,200 acres of 80- to 100-year-old trees within the Mount Baker-Snoqualmie National Forest in Pierce County, WA, in exchange for 33,000 acres of company's land. Essentially, the company gets timber to cut now, and the public gets much more land upon which future forests will be grown. Both Weyerhaeuser and the Forest Service will also be better able to manage their lands as ecosystems and reduce costs and administrative burdens of checkerboard management.

I strongly support such negotiated trades. I believe it is in all of our interests to reduce the checkerboard pattern of ownership—which Congress created through a massive land grant to the Northern Pacific Railroad in 1864. I will continue to encourage cooperation between public and private landowner, and environmental and timber interests. Such agreements provide models for resolution of natural resources disputes and other environmental issues.

Mr. President, I urge the Senate to take expeditious action on this bill, which simply alters the boundary of Mount Baker-Snoqualmie National Forest. The boundary change is needed before the exchange can occur. I thank my colleagues for any support they can give to their bipartisan, non-controversial bill.●

By Mr. MACK (for himself, Mr. BRADLEY, Mr. ROTH, Mr. LAUTENBERG and Mr. BIDEN):

S. 1811. A bill to amend the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'' to confirm and clarify the authority and responsibility of the Secretary of the Army, acting through the Chief of Engineers, to promote and carry out shore protection projects, including beach nourishment projects, and for other purposes; to the Committee on Environment and Public Works.

THE SHORE PROTECTION ACT OF 1996

Mr. MACK. Mr. President, I rise today to announce legislation I am introducing—along with Senator BRADLEY and others—to reaffirm the Federal role in beach preservation and renourishment. I want to thank the Senator from New Jersey for his steadfast efforts on this issue and for all he did to make this bill possible.

Mr. President, in my State of Florida, healthy beaches mean a healthy economy. Each year, millions of people travel from around the world to enjoy the recreational benefits of my State's coastlines. This tourist activity sustains our economy and provides hundreds of thousands of jobs for Floridians. As a consequence, people in Florida care deeply about the future of our beaches and look to us to ensure that they are properly maintained.

For 60 years, Mr. President, the U.S. Army Corps of Engineers worked in partnership with the Congress, the States, and coastal communities to devise a workable policy on sandy beach renourishment. The Corps brought to this partnership a wealth of accumulated technical expertise and institutional knowledge about beach preservation. Further, they brought funding which was leveraged with State and local participation into projects which directly benefited the Nation's coastlines.

This all ended last year when the Clinton administration turned its back on coastal communities by ending the traditional Federal role in beach renourishment. In its 1996 budget request, the administration indicated that beach preservation and maintenance was no longer of national significance.

I strongly disagree. Almost half our population lives in or near coastal communities. The coastal economy is responsible for one-third of our gross domestic product and more than 28 million jobs. Much of this economic activity derives from the vacationtime

lure of healthy beaches. These projects truly are of national significance, Mr. President, and the Corps of Engineers ought to remain a full partner in this effort.

Last year, I joined Senator BRADLEY and several of my colleagues in twice writing the administration in protest. Further, we restored the Corps' authority through the appropriations process. This victory was only short term, however, and coastal communities throughout the Nation asked Congress for assurance of a permanent Federal presence in this sector.

When the administration released this year's budget and again proposed to end the Corps' involvement in restoring beaches, we began to explore a permanent legislative solution to this problem. The culmination of our efforts is the bill we are introducing today.

Our legislation is very simple, Mr. President. We amend the mission of the Corps to include shore protection projects, and we mandate that the Corps make recommendations to Congress on specific projects that are worthy of Federal participation. Further, we require the Corps to consider benefits to the local and regional economy and ecology when considering preparing cost/benefit analyses on beach projects. And we encourage the Corps to work with the States and local communities on regional plans for the long-term preservation of our coastal resources.

Mr. President, this bill will ensure that the Federal Government remains a full partner with the States and communities on the preservation of our beach resources. This is critical to Florida and to our Nation's economy. I encourage my colleagues to join the Senator from New Jersey and me as we continue to move ahead on this issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1811

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 ''Shore Protection Act of 1996''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the beach, shore, and coastal resources of the United States—

(A) are critical assets that must be protected, conserved, and restored; and

(B) provide economic and environmental benefits that are of national significance;

(2) a network of healthy and nourished beaches is essential to the economy, competitiveness in world tourism, and safety of coastal communities of the United States;

(3)(A) the coasts of the United States are an economic asset, supporting 34 percent of national employment, or 28,000,000 jobs; and

(B) the 413 coastal communities of the United States generate $1,300,000,000,000, or ⅓, of the gross domestic product;

(4)(A) travel and tourism—

(i) is the second largest sector of the economy of the United States; and

(ii) contributed over $746,000,000,000 to the gross domestic product in 1995;

(B) the health of the beaches and shoreline of the United States contributes to this economic benefit, since the leading tourist destinations in the United States are beaches; and

(C) 85 percent of all tourism-generated revenue in the United States derives from coastal communities;

(5)(A) the value of the coastline of the United States lies not only in the jobs and revenue that the coastline generates, but also in the families, homes, and businesses that the coastline protects from hurricanes, typhoons, and tropical and extratropical storms;

(B) almost 50 percent of the total United States population lives in coastal communities; and

(C) beaches provide protection to prevent the destruction of life and hundreds of billions of dollars worth of property;

(6) shoreline protection projects can provide ecological and environmental benefits by providing for, or by restoring, marine and littoral habitat;

(7)(A) the coastline of the United States is a national treasure, visited by millions of Americans and foreign tourists every year;

(B) over 90,000,000 Americans spend time boating or fishing along the coast each year; and

(C) the average American spends 10 recreational days per year on the coast; and

(8) since shoreline protection projects generate positive economic, recreational, and environmental outcomes that benefit the United States as a whole, Federal responsibility for preserving this valuable resource should be maintained.

(b) PURPOSE.—The purpose of this Act is to provide for a Federal role in shore protection projects, including projects involving the replacement of sand, for which the economic and ecological benefits to the locality, region, or Nation exceed the costs.

SEC. 3. SHORE PROTECTION.

(a) IN GENERAL.—The first section of the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946 (33 U.S.C. 426e), is amended—

(1) in subsection (a)—

(A) by striking ''damage to the shores'' and inserting ''damage to the shores and beaches''; and

(B) by striking ''the following provisions'' and all that follows through the period at the end and inserting the following: ''this Act, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.'';

(2) in subsection (d), by striking ''or from the protection of nearby public property'' and inserting '', if there are sufficient benefits to local and regional economic development and to the local and regional ecology (as determined under subsection (e)(2)(B)),''; and

(3) in subsection (e)—

(A) by striking ''(e) No'' and inserting the following:

''(e) AUTHORIZATION OF PROJECTS.—

''(1) IN GENERAL.—No''; and

(B) by adding at the end the following:

''(2) STUDIES.—

''(A) IN GENERAL.—The Secretary shall—

''(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under this Act (including subparagraph (B)(iii)) and other applicable law;

''(ii) conduct such studies as Congress requires under applicable laws; and

''(iii) report the results of the studies to the appropriate committees of Congress.

''(B) RECOMMENDATIONS FOR SHORE PROTECTION PROJECTS.—

''(i) IN GENERAL.—The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

''(ii) CONSIDERATIONS.—In making recommendations, the Secretary shall consider the economic and ecological benefits of a shore protection project and the ability of the non-Federal interest to participate in the project.

''(iii) CONSIDERATION OF LOCAL AND REGIONAL BENEFITS.—In analyzing the economic and ecological benefits of a shore protection project, or a flood control or other water resource project the purpose of which includes shore protection, the Secretary shall consider benefits to local and regional economic development, and to the local and regional ecology, in calculating the full economic and ecological justifications for the project.

''(iv) NEPA REQUIREMENTS.—Nothing in this subparagraph imposes any requirement on the Army Corps of Engineers under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(C) COORDINATION OF PROJECTS.—In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall—

''(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

''(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

''(3) SHORE PROTECTION PROJECTS.—

''(A) IN GENERAL.—The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

''(B) AGREEMENTS.—

''(i) REQUIREMENT.—After authorization by Congress, and before commencement of construction, of a shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

''(ii) TERMS.—The agreement shall—

''(I) specify the life of the project; and

''(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

''(C) COORDINATION OF PROJECTS.—In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).

''(4) REPORT TO CONGRESS.—The Secretary shall report annually to the appropriate committees of Congress on the status of all ongoing shore protection studies and shore protection projects carried out under the jurisdiction of the Secretary.''.

(b) REQUIREMENT OF AGREEMENTS PRIOR TO REIMBURSEMENTS.—

(1) SMALL SHORE PROTECTION PROJECTS.—Section 2 of the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946 (33 U.S.C. 426f), is amended—

(A) by striking ''SEC. 2. The Secretary of the Army'' and inserting the following:

''SEC. 2. REIMBURSEMENTS.

''(a) IN GENERAL.—The Secretary'';

(B) in subsection (a) (as so designated)—

(i) by striking ''local interests'' and inserting ''non-Federal interests'';

(ii) by inserting ''or separable element of the project'' after ''project''; and

(iii) by inserting ''or separable elements'' after ''projects'' each place it appears; and

(C) by adding at the end the following:

''(b) AGREEMENTS.—

''(1) REQUIREMENT.—After authorization of reimbursement by the Secretary under this section, and before commencement of construction, of a shore protection project, the Secretary shall enter into a written agreement with the non-Federal interest with respect to the project or separable element.

''(2) TERMS.—The agreement shall—

''(A) specify the life of the project; and

''(B) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.''.

(2) OTHER SHORELINE PROTECTION PROJECTS.—Section 206(e)(1)(A) of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1(e)(1)(A)) is amended by inserting before the semicolon the following: ''and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation)''.

(c) STATE AND REGIONAL PLANS.—The Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946, is amended—

(1) by redesignating section 4 (33 U.S.C. 426h) as section 5; and

(2) by inserting after section 3 (33 U.S.C. 426g) the following:

''SEC. 4. STATE AND REGIONAL PLANS.

''The Secretary may—

''(1) cooperate with any State in the preparation of a comprehensive State or regional plan for the conservation of coastal resources located within the boundaries of the State;

''(2) encourage State participation in the implementation of the plan; and

''(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.''.

(d) DEFINITIONS.—

(1) IN GENERAL.—Section 5 of the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946 (as redesignated by subsection (c)(1)), is amended—

(A) by striking ''SEC. 5. As used in this Act, the word 'shores' includes all the shorelines'' and inserting the following:

''SEC. 5. DEFINITIONS.

''In this Act:

''(1) SECRETARY.—The term 'Secretary' means the Secretary of the Army, acting through the Chief of Engineers.

''(2) SEPARABLE ELEMENT.—The term 'separable element' has the meaning provided by section 103(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(f)).

''(3) SHORE.—The term 'shore' includes each shoreline of each''; and

(B) by adding at the end the following:

''(4) SHORE PROTECTION PROJECT.—The term 'shore protection project' includes a project for beach nourishment, including the replacement of sand.''.

(2) CONFORMING AMENDMENTS.—The Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946, is amended—

(A) in subsection (b)(3) of the first section (33 U.S.C. 426e(b)(3)), by striking ''Secretary of the Army, acting through the Chief of Engineers,'' and inserting ''Secretary,''; and

(B) in section 3 (33 U.S.C. 426g), by striking ''Secretary of the Army'' and inserting ''Secretary''.

(e) OBJECTIVES OF PROJECTS.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended by inserting ''(including shore protection projects such as projects for beach nourishment, including the replacement of sand)'' after ''water resource projects''.

Mr. BRADLEY. Mr. President, I rise today to join Senator MACK in introducing a measure designed to provide for a continuing Federal role in protecting a valuable national resource—our Nation's coastline. The Shore Protection Act of 1996 states clearly that the Federal Government has an obligation to provide necessary support—both financial and technical—for projects that promote the protection, restoration and enhancement of sandy beaches and shorelines in cooperation with States and localities.

Beach, shore and coastal resources are critical to our economy and quality of life, but they are fragile and must be protected, conserved and restored. As a coastal State Senator, who walks the beaches of the Jersey shore every year, I know first-hand the economic and recreational benefits that are derived from healthy beaches. Every summer, thousands of New Jerseyans and visitors from all over the U.S. and the world, visit the beaches of the Jersey shore, generating roughly $11 billion in travel and tourism revenues.

However, beaches are important not only to New Jersey's economy or to those of other coastal communities, they are important to the Nation's economy. Beaches support 28 million jobs, and coastal communities generate $1.3 trillion, or one-third, of the Gross National Product. Travel and tourism is the second largest sector of our economy, contributing over $746 billion in 1995 and amounting to a $26 billion trade surplus. Beaches are responsible for this economic boom. As the leading tourist destination in the U.S., coastlines generate 85 percent of tourism-related revenue. If we allow this valuable resource to simply wash away, billions of dollars in beach related revenues will disappear as well.

The value of our coastline lies not only in the jobs and revenue that they generate, but also in the families, homes and business they protect from hurricanes, nor'easters and tropical storms. With almost 50% of all Americans living in our coastal communities, we simply must have healthy beaches as our first line of defense. Nourished beaches can also provide ecological and environmental benefits for certain species of wildlife by providing, or restoring, marine and littoral habitat.

In 1995, the Administration proposed an end to the Federal role in shore protection projects. Citing budgetary concerns, the Administration proposal called for Federal involvement in projects that were of ''national significance'' only. This bill makes the case that the preservation of an invaluable economic and environmental resource—our shoreline—is of national significance. Our bill would permit all the local, regional and national economic and ecological benefits of a shoreline protection project to be considered when judging a project's merit. I am confident this comprehensive evaluation will demonstrate that shore protection projects are indeed of national significance.

Mr. President, let me take a moment to outline the major provisions of the bill. Specifically, the bill would mandate a continuing Federal role in shore protection projects. The bill changes the mission of the Corps from one of general authority to do beach projects to a specific mandate to undertake the protection, restoration and enhancement of beaches in cooperation with states and local communities.

Additionally, the bill would require that new criteria be used in conducting the cost/benefit analysis of a proposed project. Currently, when undertaking cost/benefit analysis to determine the suitability of proposed projects, the Corps is only required to consider the property values of property directly adjacent to the beach. The Corps can take into account revenues generated through recreation, but is not required to do so, nor can the recreational values be weighed as anything other than an ''incidental'' benefit. This bill requires that the benefits to the local, regional and national economy and the local, regional and national ecology be considered. This comprehensive evaluation will demonstrate that shore protection projects are of national significance.

The bill also requires that the Corps report annually to Congress on beach project priorities. The Corps will be required to submit information (reports) to Congress on projects that, when evaluated with the bill's new cost/benefit criteria, are found to merit Federal involvement. In current law, this authority is discretionary and has been suspended by the Administration.

The bill also encourages the Corps to work with state and local authorities to develop regional plans for preservation, restoration and enhancement of shorelines and coastal resources. Further the Corps is encouraged to work with other agencies to coordinate with other projects that may have a complimentary effect on shoreline protection projects.

A network of healthy and nourished beaches is essential to our economy, competitiveness in world tourism and the safety of our coastal communities.

Protection of the Nation's shoreline must be a continued Federal priority.

By Mr. GRAHAM:

S. 1812. A bill to provide for the liquidation or replication of certain frozen concentrated orange juice entries to correct an error that was made in connection with the original liquidation; to the Committee on Finance.

LEGISLATION TO CORRECT INEQUITY SUFFERED BY JUICE FARMS, INC.

● Mr. GRAHAM. Mr. President, I am introducing legislation today that will order Customs to take the necessary steps to correct an inequity suffered by a Florida company, Juice Farms, Inc., resulting from a Customs administrative error arising from a dumping case.

From 1987 to 1990, several anti-dumping orders were issued covering Brazilian frozen concentrated orange juice. Juice Farms imported juice from Brazil and deposited duties with Customs. As required by law, liquidation of the import entries by Customs was suspended by Commerce pending the outcome of administrative dumping reviews to be conducted by Commerce.

In 1991, after three successive reviews, the Department of Commerce found no sales at less than fair value. Commerce instructed Customs to return Juice Farms' anti-dumping duty deposits plus interest. Juice Farms learned, however, that Customs had mistakenly liquidated a number of entries. Such liquidations were in clear violation of the suspension order.

Juice Farms pursued court challenges but received an unfavorable decision because the court found that the company filed its protest of the premature liquidations too late. Accordingly, even though the duties were required by law to be returned to Juice Farms, to date the deposits have not been received. The legislation I propose today simply will correct that error and require Customs to refund the funds properly owed Juice Farms.●

By Mr. HELMS (for himself and Mr. GRASSLEY):

S. 1813 A bill to reform the coastwise, intercoastal, and noncontiguous trade shipping laws, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE COASTAL SHIPPING COMPETITION ACT OF 1996

Mr. HELMS. Mr. President, since 1920 there has been a Federal statute in force in America that, however well intentioned, has nonetheless prevented a vast segment of the farming community in North Carolina and other States from obtaining reasonably much-needed and priced grain from the Midwest.

In doing so, of course, it has long prevented Midwestern grain producers from delivering grain to grain deficit States which repeatedly experience difficulty in sustaining their livestock. North Carolina is one of the those States.

That is why I am today introducing S. 1813, the Coastal Shipping Competition Act, which will eliminate a harmful anachronism that enables a few waterborne carriers to cling to a monopoly on shipping. The victims of this system, in North Carolina and elsewhere, assert accurately that those shippers have no certified Jones Act ships to meet the demands of producers who need the gain.

In fact, Mr. President, poultry and pork farmers in North Carolina say they can't get enough grain for their farms to feed their animals. North Carolina cannot now, nor ever be able, to produce enough grain to satisfy the urgent needs of the poultry and pork producers in North Carolina. As a result, they must rely upon grain shipped in from the Midwest. The railroads can't guarantee enough railcars to move this grain from the Midwest, and the costs of such shipments as can be arranged are enormous.

The increase in transportation costs, coupled with the price of grain, inevitably leads to excessively high overhead costs for North Carolina farmers. To put it succinctly, the shortage of grains and shortage of trains means sharply elevated costs and prices that threaten the livelihoods of many farmers.

Mr. President, I ask unanimous consent that letters from two highly respected North Carolina farmers, both of whom urge introduction and passage of this legislation, be printed in the RECORD at the conclusion of my remarks.

Mr. President, according to the most recent North Carolina Department of Agriculture statistics, North Carolina was, in 1995, No. 1 in the Nation in turkey production with 61.2 million birds; in hog production, North Carolina was No. 2, with 8.3 million heads—Iowa was No. 1—and in commercial broilers North Carolina was No. 4 with 644 million birds—Arkansas, Georgia, and Alabama ranked first, second, and third.

Mr. President, this past Saturday an article in the May 18 edition of the Raleigh News and Observer, reported that 800 poultry jobs in Chatham County, N.C., were threatened by, among other things, high-feed grain prices. I ask unanimous consent that this article ''800 Perdue Jobs in Danger'' be printed in the RECORD at the conclusion of my remarks.

Mr. President, additionally, in times of severe weather—such as this past winter—railroads often are unable to get through mountain passes because of snow or flooding.

Mr. President, the Jones Act unfairly and unreasonably restricts shipping between ports in the United States because it requires that merchandise and produce shipped by water between U.S. points be shipped only on U.S.-built, U.S.-flagged, U.S.-manned, and U.S.-citizen owned vessels specifically documented and authorized by the Coast Guard for such shipments.

But, Mr. President, the problem with that is that not nearly enough certified vessels exist to transport grain to farmers in North Carolina and other States. As a matter of fact, my farmers are now being forced to go to foreign sources for feed grain.

Last year, according to a report in the September 12, 1995, Journal of Commerce, Murphy family farms brought in a cargo shipment of 1 million bushels of Canadian wheat to the port of Wilmington, NC, aboard Canada steamship lines.

Mr. President, the Jones Act is simply not fair. It's not fair to farmers in the Midwest and it is unfair to countless producers in my own State and in other States.

Those who may protest this legislation are likely to claim that it will somehow destroy American shipping. That simply is not so. Moreover, if the status quo is maintained, my farmers will have no choice but to purchase their foreign grain from Canada, Argentina, and other countries—and all of it will be shipped on foreign flagged vessels.

According to a December 1995 report by the U.S. International Trade Commission,

> The economy wide effect of removing the Jones Act is a U.S. economic welfare gain of approximately $2.8 billion. This figure can also be interpreted as the annual reduction in real national income imposed by the Jones Act. A primary reason for the large gain in welfare is a decline of approximately 26 percent in the price of shipping services formerly restricted by the Jones Act.

Mr. President, isn't it ironic that the United States—the breadbasket of the world—has such an unwise and unfair lid on that bread basket? That lid, Mr. President, is the Jones Act.

That is my reason for offering this legislative remedy, Mr. President. If Senators truly believe in the free enterprise system, they will support this proposal to allow American grain to be shipped unhindered to grain deficit States that are in need of it.

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. 1813

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 ''Coastal Shipping Competition Act of 1996''.

SEC. 2. MISCELLANEOUS AMENDMENTS TO DEFINITIONS IN TITLE 46, UNITED STATES CODE.

Section 2101 of title 46, United States Code, is amended—

(1) in each of paragraphs (1) through (45), by striking the period at the end and inserting a semicolon;

(2) in paragraph (46), by striking the period at the end and inserting ''; and'';

(3) by striking paragraph (3a) and inserting the following:

''(3a) 'citizen of the United States' means—

''(A)(i) a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(ii) a corporation established under the laws of the United States or under the laws

of a State, territory, district, or possession of the United States, that has—

''(I) a president or other chief executive officer and chairman of the board of directors of that corporation who are citizens of the United States; and

''(II) a board of directors, on which a majority of the number of directors necessary to constitute a quorum are citizens of the United States;

''(iii) a partnership existing under the laws of a State, territory, district, or possession of the United States that has at least 1 general partner who is a citizen of the United States;

''(iv) a trust that has at least 1 trustee who is a citizen of the United States; or

''(v) an association, joint venture, limited liability company or partnership, or other entity that has at least 1 member who is a citizen of the United States; but

''(B) such term does not include—

''(i) with respect to a person or entity under clause (ii), (iii), or (v) of subparagraph (A), any parent corporation, partnership, or other person (other than an individual) or entity that is a second-tier owner (as that term is defined by the Secretary) of the person or entity involved; or

''(ii) with respect to a trust under clause (iv), any beneficiary of the trust.'';

(4) by inserting after paragraph (4) the following new paragraph:

''(4a) 'coastwise trade'—

''(A) subject to subparagraph (B), means the transportation by water of merchandise or passengers, the towing of a vessel by a towing vessel, or dredging operations embraced within the coastwise laws of the United States—

''(i) between points in the United States (including any district, territory, or possession of the United States);

''(ii) on the Great Lakes (including any tributary or connecting waters of the Great Lakes and the Saint Lawrence Seaway);

''(iii) on the subjacent waters of the Outer Continental Shelf subject to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

''(iv) in the noncontiguous trade; and

''(B) does not include the activities specified in subparagraph (A) on the navigable waters included in the inland waterways trade except for activities specified in subparagraph (A) that occur on mixed waters.'';

(5) by inserting after paragraph (11c) the following new paragraph:

''(11d) 'foreign qualified vessel' means a vessel—

''(A) registered in a foreign country; and

''(B) the owner, operator, or charterer of which is a citizen of the United States or—

''(i) has qualified to engage in business in a State and has an agent in that State upon whom service of process may be made;

''(ii) is subject to the laws of the United States in the same manner as any foreign person doing business in the United States; and

''(iii) either—

''(I) employs vessels in the coastwise trade regularly or from time to time as part of a regularly scheduled freight service in the foreign ocean (including the Great Lakes) trades of the United States; or

''(II) offers passage or cruises on passenger vessels the owner, operator, or charterer employs in the coastwise trade or in the coastwise trade as part of those cruises offered in the foreign ocean (including the Great Lakes) trades of the United States.'';

(6) by redesignating paragraph (14a) as paragraph (14b);

(7) by inserting after paragraph (14) the following new paragraph:

''(14a) 'inland waterways trade'—

''(A) means—

''(i) the transportation of merchandise or passengers on the navigable rivers, canals, lakes other than the Great Lakes, or other waterways inside the Boundary Line;

''(ii) the towing of barges by towing vessels in the waters specified in clause (i); or

''(iii) engaging in dredging operations in the waters specified in clause (i); and

''(B) includes any activity specified in subparagraph (A) that is conducted in mixed waters.'';

(8) by redesignating paragraph (15a) as paragraph (15b);

(9) by inserting after paragraph (15) the following:

''(15a) 'mixed waters' means—

''(A) the harbors and ports on the coasts and Great Lakes of the United States; and

''(B) the rivers, canals, and other waterways tributary to the Great Lakes or to the coastal harbors and coasts of the United States inside the Boundary Line,

that the Secretary of Transportation determines to be navigable by oceangoing vessels.'';

(10) by redesignating paragraph (17a) as paragraph (17b);

(11) by inserting after paragraph (17) the following:

''(17a) 'noncontiguous trade' means transportation by water of merchandise or passengers, or towing by towing vessels—

''(A) between—

''(i) a point in the 48 continental States and the District of Columbia; and

''(ii) a point in Hawaii, Alaska, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, or any other noncontiguous territory or possession of the United States, as embraced within the coastwise laws of the United States; or

''(B) between 2 points described in subparagraph (A)(ii).'';

(12) in paragraph (21)(A)—

(A) in clause (ii), by striking ''or'' after the semicolon;

(B) in clause (iii), by inserting ''or'' after the semicolon; and

(C) by adding at the end the following new clause:

''(iv) an individual who—

''(I) is a member of the family or a guest of the owner or charterer; and

''(II) is not a passenger for hire;'';

(13) by striking paragraph (40) and inserting the following:

''(40) 'towing vessel' means any commercial vessel engaged in, or that a person intends to use to engage in, the service of—

''(A) towing, pulling, pushing, or hauling alongside (or any combination thereof); or

''(B) assisting in towing, pulling, pushing, or hauling alongside;''; and

(14) by inserting after paragraph (40) the following new paragraphs:

''(40a) 'towing of a vessel by a towing vessel between points' means attaching a towing vessel to a towed vessel (including any barge) at 1 point and releasing the towed vessel from the towing vessel at another point, regardless of the origin or ultimate destination of either the towed vessel or the towing vessel; and

''(40b) 'transportation of merchandise or passengers by water between points' means, without regard to the origin or ultimate destination of the merchandise or passengers involved—

''(A) in the case of merchandise, loading merchandise at 1 point and permanently unloading the merchandise at another point; or

''(B) in the case of passengers, embarking passengers at 1 point and permanently disembarking the passengers at another point.''.

SEC. 3. DOCUMENTATION.

(a) DEFINITIONS.—Section 12101(b)(2) of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) 'license', 'enrollment and license', 'license for the coastwise (or coasting) trade', 'enrollment and license for the coastwise (or coasting) trade', and 'enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea' mean a coastwise endorsement provided in section 12106.'';

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) VESSELS ELIGIBLE FOR DOCUMENTATION.—Section 12102(a) of title 46, United States Code, is amended—

(1) by striking all that precedes paragraph (5) and inserting the following:

''(a) A vessel of at least 5 net tons that is not registered under the laws of a foreign country or that is not titled in a State is eligible for documentation if—

''(1)(A) the vessel is owned by an individual who is a citizen of the United States, or a corporation, association, trust, joint venture, partnership, limited liability company, or other entity that is a citizen of the United States; and

''(B) the owner of the vessel is capable of holding title to a vessel under the laws of the United States or under the laws of a State;''; and

(2) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively.

(c) COASTWISE ENDORSEMENTS.—Section 12106 of title 46, United States Code, is amended to read as follows:

''§ 12106. Coastwise endorsements and certificates

''(a) IN GENERAL.—A certificate of documentation may be endorsed with a coastwise endorsement for a vessel that is eligible for documentation.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—Any of the following vessels may be issued a certificate to engage in the coastwise trade if the Secretary of Transportation makes a finding, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry of such vessel extends reciprocal privileges to vessels of the United States to engage in the transportation of merchandise or passengers (or both) in its coastwise trade:

''(A) A foreign qualified vessel (as defined in section 2101(11d)).

''(B) A vessel of foreign registry—

''(i) if the vessel is subject to a demise or bareboat charter, for the duration of that charter, to a person or entity that would be eligible to document that vessel if that person or entity were the owner of the vessel; or

''(ii) that engages irregularly in the coastwise trade of the United States.

''(2) VESSEL ENGAGING IRREGULARLY IN THE COASTWISE TRADE.—For purposes of this subsection, a vessel engages irregularly in the coastwise trade of the United States if that vessel—

''(A) during any 60-day period does not make, in the aggregate, more than 4 calls to United States ports; and

''(B) during any calendar year does not make, in the aggregate, more than 6 calls to United States ports.

''(c) EMPLOYMENT IN THE COASTWISE TRADE.—Subject to the applicable laws of the United States regulating the coastwise trade and trade with Canada, only a vessel with a certificate of documentation endorsed with a coastwise endorsement or with a certificate issued under subsection (b) may be employed in the coastwise trade.''.

(d) INLAND WATERWAYS ENDORSEMENTS.—Section 12107 of title 46, United States Code, is amended to read as follows:

"§ 12107. Inland waterways endorsements

''A certificate of documentation may be endorsed with an inland waterways endorsement for a vessel that—

''(1) is eligible for documentation; and

''(2)(A) was built in the United States; or

''(B) was not built in the United States; but was—

''(i) captured in war by citizens of the United States and lawfully condemned as prize;

''(ii) adjudged to be forfeited for a breach of the laws of the United States; or

''(iii) is qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14).''.

(e) LIMITATIONS ON OPERATIONS AUTHORIZED BY CERTIFICATES.—Section 12110(b) of title 46, United States Code, is amended—

(1) by striking ''coastwise trade'' and inserting ''coastwise trade or inland waterways trade''; and

(2) by striking ''that trade'' and inserting ''those trades''.

SEC. 4. TRANSPORTATION OF MERCHANDISE IN THE COASTWISE AND INLAND WATERWAYS TRADES.

(a) IN GENERAL.—Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883) is amended to read as follows:

"SEC. 27. PROHIBITION.

''No merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of title 46, United States Code), or a political subdivision of a State, and including material without value, shall be transported by water, on penalty of forfeiture of the merchandise (or a monetary amount not to exceed the value of the merchandise, as determined by the Secretary of the Treasury, or the actual cost of the transportation, whichever is greater, to be recovered from any cosigner, seller, owner, importer, consignee, agent, or other person that transports or causes the merchandise to be transported by water)—

''(1) in the coastwise trade, in any vessel other than—

''(A) a vessel documented with a coastwise endorsement under section 12106(a) of title 46, United States Code; or

''(B) a vessel that has been issued coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; or

''(2) in the inland waterways trade in any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.''.

(b) REPEAL.—Section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1) is repealed.

SEC. 5. TRANSPORTATION OF PASSENGERS.

(a) IN GENERAL.—Section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289) is amended to read as follows:

"SEC. 8. PROHIBITION.

''No passengers shall be transported by water, on penalty of $200 for each passenger so transported or the actual cost of the transportation, whichever is greater, to be recovered from the vessel so transporting the passenger—

''(1) in the coastwise trade, in any vessel other than—

''(A) a vessel documented with a coastwise endorsement under section 12106 of title 46, United States Code; or

''(B) a vessel that has been issued a coastwise certification under section 12106(b) of title 46, United States Code, that is in effect for engaging in the transportation of merchandise; and

''(2) in the inland waterways trade, in any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.''.

(b) REPEALS.—The following provisions are repealed:

(1) The Act of April 26, 1938 (52 Stat. 223, chapter 174; 46 U.S.C. App. 289a).

(2) Section 12(22) of the Maritime Act of 1981 (46 U.S.C. App. 289b).

(3) Public Law 98–563 (46 U.S.C. App. 289c).

SEC. 6. TOWING AND SALVAGING OPERATIONS.

Section 4370(a) of the Revised Statutes (46 U.S.C. App. 316(a)) is amended to read as follows:

''(a)(1) No vessel (including any barge), other than a vessel in distress, may be towed—

''(A) in the coastwise trade by any vessel other than—

''(i) a vessel documented with a coastwise endorsement under section 12106(a) of title 46, United States Code; or

''(ii) a vessel registered in a foreign country, if the Secretary of the Treasury finds, pursuant to information furnished by the Secretary of State, that the government of that foreign country and the government of the country of which each ultimate owner of the towing vessel is a citizen extend reciprocal privileges to vessels of the United States to tow vessels (including barges) in the coastal waters of that country; or

''(B) in the inland waterways trade by any vessel other than a vessel documented with an inland waterways endorsement under section 12107 of title 46, United States Code.

''(2)(A) The owner and master of any vessel that tows another vessel (including a barge) in violation of this section shall each be liable to the United States Government for a civil penalty in an amount not less than $250 and not greater than $1,000. The penalty shall be enforceable through the district court of the United States for any district in which the offending vessel is found.

''(B) A penalty specified in subparagraph (A) shall constitute a lien upon the offending vessel, and that vessel shall not be granted clearance until that penalty is paid.

''(C) In addition to the penalty specified in subparagraph (A), the offending vessel shall be liable to the United States Government for a civil penalty in an amount equal to $50 per ton of the measurement of the vessel towed in violation of this section, which shall be recoverable in a libel or other enforcement action conducted through the district court for the United States for the district in which the offending vessel is found.''.

SEC. 7. DREDGING OPERATIONS.

The first section of the Act of May 28, 1906 (34 Stat. 204, chapter 2566; 46 U.S.C. App. 292), is amended to read as follows:

"SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING.

''(a) IN GENERAL.—A vessel may engage in dredging operations—

''(1) on the navigable waters included in the coastwise trade, if—

''(A) the vessel is documented with a coastwise endorsement under section 12106(a) of title 46, United States Code; or

''(B) the vessel is registered in a foreign country and the Secretary of the Treasury finds, pursuant to information furnished by the Secretary of State, that the government of that foreign country and each government of the country of which an ultimate owner of the vessel is a citizen extend reciprocal privileges to vessels of the United States to engage in dredging operations in the coastal waters of that country; or

''(2) on the navigable waters included in the inland waterways trade, if—

''(A) the vessel is documented with an inland waterways endorsement under section 12107 of title 46, United States Code; or

''(B) the vessel would be qualified to be documented under the laws of the United States with a coastwise endorsement under section 12106(a) of title 46, United States Code, except that the vessel was not built in the United States.

''(b) PENALTIES.—When a vessel is operated in knowing violation of this section, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.''.

SEC. 8. CITIZENSHIP AND TRANSFER PROVISIONS.

(a) CITIZENSHIP OF CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS.—Section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802) is amended—

(1) in subsection (a)—

(A) by inserting a period after ''possession thereof''; and

(B) by striking all that follows the period inserted in subparagraph (A) through the end of the subsection; and

(2) by striking subsection (c).

(b) APPROVAL OF TRANSFER OF REGISTRY OR OPERATION UNDER AUTHORITY OF A FOREIGN COUNTRY OR FOR SCRAPPING IN A FOREIGN COUNTRY; PENALTIES.—Section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) Except as provided in section 611 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1181) and section 31322(a)(1)(D) of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

''(1) place under foreign registry—

''(A) a documented vessel; or

''(B) a vessel with respect to which the last documentation was made under the laws of the United States;

''(2) operate a vessel referred to in paragraph (1) under the authority of a foreign government; or

''(3) scrap or transfer for scrapping a vessel referred to in paragraph (1) in a foreign country.''; and

(2) by striking subsection (d) and inserting the following:

''(d)(1) A person that places a documented vessel under foreign registry, operates that vessel under the authority of a foreign country, or scraps or transfers for scrapping that vessel in a foreign country—

''(A) in violation of this section and knowing that that placement, operation, scrapping, or transfer for scrapping is a violation of this section shall, upon conviction, be fined under title 18, United States Code, imprisoned for not more than 5 years, or both; or

''(B) otherwise in violation of this section shall be liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(2) A documented vessel may be seized by, and forfeited to, the United States Government if that vessel is placed under foreign registry, operated under the authority of a foreign country, or scrapped or transferred for scrapping in a foreign country in violation of this section.''.

SEC. 9. LABOR PROVISIONS.

(a) LIABILITY FOR INJURY OR DEATH OF MASTER OR CREW MEMBER.—Section 20(a) of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. App. 688(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by adding at the end of paragraph (1) (as designated under paragraph (1) of this subsection) the following new sentence: ''In an action brought under this subsection against

a defendant employer that does not reside or maintain an office in the United States (including any territory or possession of the United States) and that engages in any enterprise that makes use of 1 or more ports in the United States (as defined in section 2101 of title 46, United States Code), jurisdiction shall be under the district court most proximate to the place of the occurrence of the personal injury or death that is the subject of the action.''; and

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

''(2)(A) The employer of a master or member of the crew of a vessel—

''(i) may, at the election of the employer, participate in an authorized compensation plan under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.); and

''(ii) if the employer makes an election under clause (i), notwithstanding section 2(3)(G) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(G)), shall be subject to that Act.

''(B) If an employer makes an election, in accordance with subparagraph (A), to participate in an authorized compensation plan under the Longshore and Harbor Workers' Compensation Act—

''(i) a master or crew member employed by that employer shall be considered to be an employee for the purposes of that Act; and

''(ii) the liability of that employer under that Act to the master or crew member, or to any person otherwise entitled to recover damages from the employer based on the injury, disability, or death of the master or crew member, shall be exclusive and in lieu of all other liability.''.

(b) MINIMUM REQUIREMENTS.—All vessels, whether documented in the United States or not, operating in the coastwise trade of the United States shall be subject to minimum international labor standards for seafarers under international agreements in force for the United States, as determined by the Secretary of Transportation on the advice of the Secretaries of Labor and Defense.

SEC. 10. REGULATIONS REGARDING VESSELS.

(a) APPLICABLE MINIMUM REQUIREMENTS.—Except as provided in paragraph (2), the minimum requirements for vessels engaging in the transportation of cargo or merchandise in the United States coastwise trade shall be the recognized international standards in force for the United States (as determined by the Secretary of the department in which the Coast Guard is operating, in consultation with any other official of the Federal Government that the Secretary determines to be appropriate).

(b) CONSISTENCY IN APPLICATION OF STANDARDS.—In any case in which any minimum requirement for vessels referred to in paragraph (1) is inconsistent with a minimum that is applicable to vessels that are documented in a foreign country and that are admitted to engage in the transportation of cargo and merchandise in the United States coastwise trade, the standard applicable to United States documented vessels shall be deemed to be the standard applicable to vessels that are documented in a foreign country.

(c) MINIMUM REQUIREMENTS FOR VESSELS.—As used in this subsection, the term ''minimum requirements for vessels'' means, with respect to vessels (including United States documented vessels and foreign documented vessels), all safety, manning, inspection, construction, and equipment requirements applicable to those vessels in United States coastwise passenger trade, to the extent that those requirements are consistent with applicable international law and treaties to which the United States is a signatory.

SEC. 11. ENVIRONMENT.

All vessels, whether documented under the laws of the United States or not, regularly engaging in the United States coastwise trade shall comply with all applicable United States and international environmental standards in force for the United States.

SEC. 12. GENERAL REQUIREMENTS.

Each person or entity that is not a citizen of the United States, as defined in section 2101(3a) of title 46, United States Code, that owns or operates vessels that regularly engage in the United States domestic coastwise trade shall—

(1) establish an office or place, and qualify under the laws of that place, to do business in the United States;

(2) name an agent upon whom process may be served;

(3) abide by all applicable laws of the United States; and

(4) post evidence of—

(A) financial responsibility in amounts as considered necessary by the Secretary of Transportation for the business activities of that person or entity; and

(B) compliance with applicable United States laws.

MURPHY FAMILY FARMS,
Rose Hill, NC, May 21, 1996.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: I am writing to urge you to introduce and sponsor the Coastal Shipping Competition Act—Legislation that I believe would bring much needed, yet fair reform to our nation's antiquated maritime transportation laws.

North Carolina consumes in its animal and poultry production businesses far more grain and oilseed meals than our North Carolina farmers are able to produce. Thus far, we have relied upon rail transportation originating in the ''Eastern Grain Belt'' states to augment local supplies. As our demand increases, we will likely continue to use rail transportation as our primary source of grains and oilseed meals from production areas outside North Carolina. However, we are beginning to experience the symptoms of over taxing the capacity of the rail corridors that serve us. Additionally, realization of the risks inherent in relying too heavily on a single source of dry bulk transport to feed live animals and poultry is becoming far too real when we have had major service interruptions on at least three occasions since early December 1995.

We believe that the only other viable transportation source to supply our needs is via water. Yet, after some five years of diligent effort, the only reasonably competitive cargo that we have been able to procure via water has been foreign cargoes delivered to the port of Wilmington on foreign vessels. This seems illogical to us because we know that the United States is the most efficient and largest producer of grains and oilseed meals in the world and that our country serves as the world's repository of supply of these invaluable resources.

Why can't we access these domestic supplies via water? We believe that a major impediment lies within the constraints imposed upon us and others by the Merchant Marine Act of 1920, more commonly known as the Jones Act. Legislation to reform the Jones Act is desperately needed to help rebuild a viable, competitive United States domestic shipping industry and to enhance the competitive position of ours and other American agricultural producers and businesses. I believe that without this legislation we will experience the not so gradual erosion of the economic viability of our existing capital asset base and likewise the economic demise of many of our good citizens and business persons who depend upon the animal and poultry production industry of North Carolina for their livelihoods.

As a member of the business community and a farmer from your district, I assure you that this is an issue of utmost importance and one that merits your attention and support.

Thank you for your time and effort and please let me know if I may be of assistance.

Sincerely,

WENDELL H. MURPHY,
Chairman and CEO.

GOLDSBORO MILLING COMPANY,
Goldsboro, NC, May 21, 1996.

DEAR SENATOR HELMS: Let me start by thanking you for all you have done in the past in support of agri-business in this country. Your support has meant a great deal to all of us.

I'm also writing you today to ask you to introduce and support the Coastal Shipping Competition Act—legislation that would bring much needed reform to our nation's antiquated maritime transportation laws.

These laws negatively affect thousands of businesses across America every day because the laws have eliminated competitive deep-water domestic waterbourne transportation for essential manufacturing inputs and finished products.

The Merchant Marine Act of 1920 (known as the Jones Act) has had an ironically anti-American impact. While it may have been originally written to protect the U.S. shipping industry, the resulting noncompetitive domestic industry is sparsely available, if at all in many U.S. locations. Not a single coastal freighter over 1,000 tons is operating on the entire 2,000 mile East Coast of the United States.

Those of us in the poultry and hog business on the East Coast really need an alternative transportation option for our inputs (such as grain) because the infrastructure of the railroads is getting critically overloaded. However, being restricted to using a U.S. owned, operated and manned ship effectively eliminates the possibility of getting inputs delivered by water to east coast ports.

Legislation to reform the Jones Act is desperately needed to help build the competitive position of American businesses and agricultural producers.

As a member of the business community in North Carolina, I can assure you this is an issue that merits your attention and support. Thanks for all that you have already done and for your consideration on this matter.

Sincerely,

J.L MAXWELL, Jr.
Chairman.

[From the News & Observer, May 18, 1996]

800 PERDUE JOBS IN DANGER

(By Jay Price)

SILER CITY.—Perdue Farms announced Friday that it will padlock its Chatham County chicken processing plant unless the plant can be sold within 60 days, placing the future of 800 workers in doubt and sending shock waves through the local economy.

The company, which has headquarters in Salisbury, Md., blamed the move on high feed costs and a glutted chicken market. ''Hopefully, we'll find a buyer, and if we don't we'll make the workers aware of job opportunities at other Perdue facilities,'' said company spokesman Richard Auletta in New York.

The news from one of Chatham County's largest employers cast a pall over the annual Siler City Chicken Festival, which begins today.

''I've worked here a long time,'' said Frank Torres, a Perdue employee since 1985. ''I don't know what happened. I can't do nothing new. Now all everybody's got is one piece of paper and a check. I don't know what will happen.''

Torres said that Friday morning, employees were given a letter in Spanish and English outlining the company's plans.

Perdue said employment at a 28-worker feed mill in Staley also will be scaled back, and the operation may later be closed.

Also affected are 118 growers who raise chickens for Perdue under contract, mostly in Chatham and Randolph counties. Only 30 of those will continue to raise birds for the company, which will process them at other plants.

The company said it will try to arrange for the remaining growers to work with other poultry companies in the area.

Perdue said the plant workers, most of whom earn $7 to $7.10 an hour, can apply for jobs at other plants, but the closest ones are in Robbins and Concord, a considerable distance away by car.

About noon Friday, workers dressed in jeans, work boots and hard hats trickled solemnly out of the yellow brick plant and into a gravel parking lot. Many, like Torres, are migrant workers from Mexico who made their way to Chatham County in search of stability.

Domingo Gonzales, 28 years old and the father of two, has been at the plant for only three months.

''I don't know what I'll do,'' he said, noting that he has been working at odd jobs in the United States for nearly nine years and was hoping to finally settle down. ''Maybe I'll go back to Mexico.''

The fate of many workers like Torres and Gonzales may depend on complex business forces over which they have no control.

Besides record-high feed prices Perdue cited a recent jump in fuel costs and an abundance of poultry, beef and pork as major reasons for the decision.

Producers are paying an estimated 40 percent more for feed than they did a year ago, and are getting lower prices for their products, said Dr. Tom Carter, a poultry specialist with the N.C. Cooperative Extensive Service.

''It's an unusual situation with the grain prices so high,'' Carter said. ''The cost of production is higher than the market, and that's because of high corn prices.''

Carter, however, was optimistic that another company would buy the 61,000-square-foot plant, which can process 625,000 birds a week.

''Very seldom does a facility like that go without a buyer,'' Carter said. ''On the surface, it looks like the situation is such that people wouldn't want to buy it, but if you look beneath the surface, you usually get the best buy when the price is down.''

Growers also may be able to sell birds elsewhere, Carter said. Townsend, Golden Poultry and Mount Aire have poultry processing plants in Siler City, Sanford and Bonlee, respectively, Carter said.

''Eventually, growers will adjust and move in with other companies,'' Carter said, ''but it may take longer than some can adjust their finances for.''

Growers work under contract to processors like Perdue. The processor owns the chickens, so in this case the farmers won't get stuck with the birds. But they could get stuck with big investments in chicken houses, which cost about $120,000. The average farmer in the area has three houses, said Dr. Glenn Carpenter, a Pittsboro extension agent specializing in poultry. Some older houses may have cost just a few thousand dollars, he said.

Many growers raise chickens part-time. Typically, it's a family affair employing between one and three people, but some operations are larger and full-time.

The plant was one of a group of processing facilities that Perdue bought from Showell Farms in January 1995. Its products are sold mostly to institutional users such as schools, hospitals and restaurants.

MIXED SIGNALS

In recent months, signs were that it was prospering. Olivier Devaud, director of Chatham's Economic Development Commission, said the plant had been hiring workers since announcing in December that it needed 150 more. In the past year Perdue spent $4 million for new equipment at the plant and $1 million on an expansion, which was still under way when Friday's announcement came.

Other signals were more ominous. In March, Perdue—the nation's No. 2 poultry producer—said it would cut production by 7 percent, but that it didn't plan layoffs. Other large poultry firms, including Tyson, Hudson Foods Inc. and Pilgrims Pride Corp., had already announced similar cuts.

Poultry and eggs make up the most lucrative agricultural industry in the state, said Kim Decker of the state Agriculture Department. In 1994, the most recent year for which statistics were available, poultry and eggs earned farmers $1.9 billion, he said.

In contrast, revenue from hogs was $980 million and from tobacco, $943 million. Statewide, the industry employs more than 27,000 people.

MAJOR JOB SOURCE

The plant is Chatham's third largest employer. Devaud said its closing would be a blow to the local economy. But new companies and expansions are expected to bring 120 new jobs to Siler City in the next month alone, and the county's unemployment rate is just 2.7 percent.

Devaud said he hopes that Townsend, the county's biggest employer, can eventually hire some of the workers at its chicken processing plant.

One who might be looking is Steven Garner, who landed a job loading trucks at the Perdue plant three weeks ago. He was angry Friday.

''That's 800 people,'' he said between puffs of a cigarette.

''I've got a family. I'm the one who buys the groceries and pays the bills. It's going to be really hard.''

By Mr. GRAMM (for himself, Mr. D'AMATO, Mr. BRYAN, and Ms. MOSELEY-BRAUN):

S. 1815. A bill to provide for improved regulation of the securities markets, eliminate excess securities fees, reduce the costs of investing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE SECURITIES INVESTMENT PROMOTION ACT OF 1996

Mr. GRAMM. Mr. President, today I am joined by Senators D'AMATO, DODD, BRYAN, and MOSELEY-BRAUN in introducing the Securities Investment Promotion Act of 1996. This is important legislation incorporating reforms supported by business and by State and Federal Securities regulators.

This legislation moves forward in a significant way to define a division of labor between the State and Federal governments for the supervision of the securities industry. In the process two very important goals are achieved. We improve administration of our nation's securities laws while at the same time greatly reducing the cost of that regulation.

We must always remember that the cost of securities regulation, however desirable or effective that regulation may be, is ultimately born by the people who invest. Today, that includes almost everyone. Not everyone may have a stock portfolio, although an increasing number of American families do. But most Americans have investments in a mutual fund or have a stake in a pension fund that invests in our nation's securities markets. More and more small businesses are funding their growth, expansion, and job creation with financing from the securities markets.

When I became Chairman of the Securities Subcommittee, I was struck by the number of State and Federal regulators, and people in the securities business, as well as investors, who commented on the need to reform out-of-date and unnecessary securities regulation. The most immediate need in that regard the Congress addressed last year, with our bill to reform securities litigation. That was a measured, bipartisan effort.

The legislation that we are introducing today is a continuation of that bipartisan spirit. I am proud to be joined by the Chairman of the Banking Committee, Senator D'AMATO, as well as by the Ranking Member of the Securities Subcommittee, Senator DODD, together with Senators BRYAN and MOSELEY-BRAUN of the Banking Committee. We have all worked closely in drafting the bill that we are introducing, and have in addition benefited from comments and suggestions from the SEC, State securities regulators, trade associations, the stock exchanges, and self-regulatory organizations, among others. I invite further comments as we consider this bill in the Committee and then on the floor of the Senate. I have intentionally sought to cast the net wide in seeking comment from the public on this legislation, since, ultimately, what we do in this bill affects the people of this country in very important ways.

Mr. President, I would like to comment briefly on some of the key provisions of the bill.

Title I of the bill is called the Investment Advisers Integrity Act. It is an updated version of a bill that I introduced on the first day of the 104th Congress, S. 148. There are approximately 25,000 registered investment advisers in the nation today, and the number keeps growing. The SEC has testified that they do not have the resources to supervise effectively such a large number of advisers. In the past, proposals were put forward to increase SEC funding for enforcement of the Investment Adviser Act of 1940 by assessing a $16 million tax on the industry. Even with such a tax, however, an investment adviser could have gone several years without an inspection.

Title I of the bill tries a different approach, first suggested to me by former SEC Commissioner Rick Roberts. This approach addresses the problem through a partnership between the Federal and State securities regulators, dividing up the responsibility. The States would have exclusive jurisdiction to register investment advisers who manage less than $25 million in client assets. These are the investment advisers whose activities are most likely to be within their home State. In fact, about half of all investment advisers do not personally manage any client assets at all.

The SEC would have exclusive responsibility for registration of investment advisers who manage $25 million or more of client assets, as well as for all investment advisors to mutual funds. These are the investment advisers most likely to be engaged in interstate commerce, appropriately a Federal concern.

I would add, Mr. President, that this provision does not impose a Federal mandate on the States, for under the provisions of the bill, any State that did not want to assume the responsibility for registration of investment advisers is not required to do so. The advisers in such a State would then be required to register with the SEC, regardless of the size of their business.

The effect of this division of responsibility will be that between two-thirds and three-quarters of investment advisers will be supervised by the States where they do their business. On the other hand, perhaps as much as two-thirds or more of the assets under management will be managed by investment advisers supervised by the SEC, demonstrating the concentration of managed assets in the hands of the larger investment advisers, having multi-state operations.

I would like to express my appreciation to the representatives of the investment adviser industry, the SEC, and the Texas State Securities Commissioner, Denise Crawford, for their assistance in revising and crafting this title of the bill, and the support that they have expressed for this approach. Whereas today investment adviser supervision is limited at best, and more often than not effectively non-existent, this division of labor will mean that adequate resources and attention can not be brought to bear to encourage the integrity of the industry and further increase the investment opportunities for American families.

Mr. President, perhaps the most significant impact of this bill will come from the provisions assigning responsibility for mutual fund prospectuses review to the SEC. Mutual funds spend tens of millions of dollars each year complying with a patchwork of varied and often conflicting State requirements governing the prospectuses by which funds are offered to investors. These requirements are merely different, usually duplicative, and to not provide investors with any added useful information than what is already required by the SEC. Moreover, complying with these requirements is time consuming. In just one example, while a particular mutual fund was awaiting delays in clearing its prospectus with a certain State regulator, its value increased by 16%. That was a 16% growth denied to the investors of that State who could not place funds with the mutual fund until its prospectus had cleared the State regulators. No investor was helped by that delay. The mutual fund industry has dramatically increased the investment opportunities for American families of all levels of income, and I am please to further the efforts of my colleagues, Congressmen FIELDS and BLILEY, to move forward this important relief from unnecessary regulatory burden.

Similarly, stocks that are traded on the national stock exchange and trading systems would be exempted from State regulation under the provisions of this bill. Again, as with mutual funds, this is a national business, the very kind of activity contemplated by the Founding Fathers with the interstate commerce clause of the Commission.

One of the provisions of the bill, which I consider of high importance, is a requirement that the Chief Economist of the SEC conduct and publish an economic analysis of each new regulation before the regulation can enter into effect. Mr. President, the SEC is a lawyer-heavy agency. The Officer of General Counsel, for example, has a budget of over $10 million and 120 staff members. By comparison, the Office of Economic Analysis, even with the increase required by my amendment to the appropriation bill, has a budget of $3 million and about two dozen employees.

The actions of the SEC in regulating the nation's capital markets have a profound impact on the economy of the nation and of the world. It is therefore of paramount importance that a high priority be given within the SEC to careful examination and analysis of the economic and market consequences of its regulations. Otherwise, we are in danger of regulating blindly, which the economic livelihood and health of the nation cannot risk.

While there are many other important provisions of the bill, I will conclude, Mr. President, by emphasizing the last section of the bill. This provision addresses the need for improving the access to U.S. stock exchanges for the listing of world-class foreign companies. Today, U.S. accounting standards are in many points different from the accounting standards of other countries. They are not necessarily better, just different. Under current regulations, a foreign company wishing to list on a U.S. stock exchange would first have to meet U.S. accounting standards, which in effect may mean that the company would have to keep two sets of books.

The SEC has sought to address this problem through a greater harmonization of international accounting standards. The bill encourages the SEC to redouble its efforts to achieve a level of generally accepted accounting standards and to report to the Congress on its progress.

Our nation's stock exchanges are the preeminent exchanges in the world. It is hard to see how we can continue that position long into the next century while maintaining formidable obstacle to the listing on our exchanges of the major corporations of the world. I do not see how any American investor is protected by being forced to resort to the London or Frankfurt stock exchanges in order to invest in foreign corporations.

Mr. President, this is important legislation. Congressman JACK FIELDS and the members of the House Commerce Committee have done the country a great service by setting in motion a process by which the Congress will begin to delineate clearly the roles of the State and Federal governments in securities regulation. I hope that this bill can be adopted in short order and meet in conference with similar legislation recently adopted unanimously by the House Commerce Committee.

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:

SECURITIES INVESTMENT PROMOTION ACT OF 1996

SECTION 1. SHORT TITLE: TABLE OF CONTENTS.

Securities Investment Promotion Act of 1996.

SEC. 2. SEVERABILITY.

Court striking any provision of the Act does not affect other provisions.

TITLE I. INVESTMENT ADVISERS INTEGRITY ACT

SEC. 101. SHORT TITLE.

Investment Advisers Integrity Act.

SEC. 102. ENHANCED FUNDING FOR ENFORCEMENT.

Authorizes appropriation of up to $16 million in each of FY1997 and FY1998 for enforcement of the Investment Advisers Act of 1940.

Sec. 103. Improved Supervision Through Federal and State Cooperation

Investment advisers with less than $25 million in assets under management and that do not advise a mutual fund are exempted from registering with the SEC if they are required to register with the state where the adviser maintains its business.

The SEC may exempt from requirements to register with the SEC other persons or classes of persons if the SEC determines that registration would be unfair, a burden on interstate commerce, or for other reasons. The SEC is given similar authority to make exemptions from state registration.

Investment advisers registered with the SEC are exempt from state investment adviser regulation. States may require such investment advisers to file notice with the state and pay appropriate fees.

SEC. 104. INTERSTATE COOPERATION.

Investment advisers complying with books and records requirements of the state of their principal place of business cannot be subject to added books and records requirements by other states where they may conduct business.

A state may not require an investment adviser to maintain a higher net capital to post a higher bond than required by the sate where the principal offices are located.

SEC. 105. DISQUALIFICATION OF CONVICTED FELONS.

The SEC is authorized to deny investment advisery registration to anyone convicted of a felony in the previous 10 years.

TITLE II. FACILITATING INVESTMENT IN MUTUAL FUNDS

SEC. 201. SHORT TITLE.

Investment Company Act Amendments of 1996.

SEC. 202. FUNDS OF FUNDS.

Allows mutual funds to invest in other mutual funds in the same group or family of funds and allows just one of the funds to impose sales charges on investors.

SEC. 203. FLEXIBLE REGISTRATION OF SECURITIES.

Simplifies the calculation and payment of registration fees by mutual funds.

SEC. 204. INVESTMENT COMPANY ADVERTISING PROSPECTUS.

Allows mutual funds to include in their advertising information that was not included in their last prospectus.

SEC. 205. VARIABLE INSURANCE CONTRACTS.

Gives insurance companies that issue variable annuities the same ability as mutual funds to set product charges.

SEC. 206. PROHIBITION ON DECEPTIVE INVESTMENT COMPANY NAMES.

Mutual funds may not have deceptive or misleading names.

SEC. 207. EXCEPTED INVESTMENT COMPANIES.

Exempts from mutual fund regulation any fund not publicly offered and whose investors are persons who each own at least $5 million in investments or are institutional investors owning at least $25 million in investments.

Within one year the SEC shall prescribe rules to allow employees of such a fund to invest in the fund.

SEC. 208. PERFORMANCE FEES.

Gives authority to the SEC to allow investment advisers to be paid performance fees for advising sophisticated investors.

TITLE III. REDUCING THE COSTS OF SAVING AND INVESTMENT

SEC. 301. EXEMPTION FOR ECONOMIC, BUSINESS, AND INDUSTRIAL DEVELOPMENT COMPANIES.

Exempts business industrial development companies from the Investment Company Act if at least 80% of its securities are sold to ''accredited'' investors who are of the state where the company is organized.

SEC. 302. INTRASTATE CLOSED-END INVESTMENT COMPANY EXEMPTION.

Raises from $100,000 to $10 million the limit for closed-end investment companies to qualify for an exemption from the Investment Company Act.

Sec. 303. Definition of Eligible Portfolio Company

Expands the definition of an eligible portfolio company to include companies with up to $4 million in assets.

Sec. 304. Definition of Business Development Companies

Removes requirement that a business development company provide significant managerial assistance.

Sec. 305. Acquisition of Assets by Business Development Companies

Permits BDCs to acquire securities of a company it may invest in from sources other than the company itself.

Sec. 306. Capital Structure Amendments

Allows BDCs that meet certain requirements to issue a broader range of securities.

Sec. 307. Filing of Written Statements

Authorizes the SEC to require BDCs to include a description of risk factors associated with their capital structure in a written annual report to shareholders.

Sec. 308 Facilitating National Securities Markets.

Codifies existing state exemptions from state registration for securities that are traded on a national exchange, the Nasdaq National Market System, or other exchange or system identified by the SEC, and securities sold to qualified purchasers. Exempts from state registration mutual funds and other investment companies. No state review of prospectuses for such securities or mutual funds. States may impose notice and appropriate fee requirements and are not limited from enforcing state fraud laws in connection with such securities.

Sec. 309. Regulatory Flexibility

Gives the SEC authority to make exemptions from provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934.

Sec. 310. Analysis of Economic Effects of Regulation

Requires the Chief Economist of the SEC to prepare and publish an economic analysis of any proposed SEC regulation before it becomes effective. Authorizes $6 million in appropriations for FY 1997 and $6 million for FY 1998 for the SEC's Economic Analysis Program, including the Office of Economic Analysis.

Sec. 311. Privatization of EDGAR

Requires the SEC, within 180 days of enactment, to submit to Congress a report on its plan for promoting competition and innovation of EDGAR through the privatization of all or parts of the system.

Sec. 312. Improving Coordination of Supervision

Directs the SEC and other securities examination authorities to coordinate their examinations.

Sec. 313. Increased to Foreign Business Information

Facilitates participation by U.S. information media in financial press briefings held outside of the United States.

Sec. 314. Short-Form Registration

Clarifies that voting and non-voting shares shall be considered in determining whether a company is eligible to use the short-form registration statement.

Sec. 315. Church Employee Pension Plans

Exempts church employee pension plans from federal and state securities laws, except the anti-fraud provisions. The plans would continue to be subject to Internal Revenue Code regulations regarding eligibility, governance, and operations of such plans.

Sec. 316. Promoting Preeminence of American Securities Markets

Expresses the sense of the Congress that the SEC should reinforce its efforts in developing generally accepted international accounting standards in order to enhance the ability of foreign corporations to list their stocks on U.S. exchanges, and requires the SEC to report to Congress in one year on its progress.

Mr. D'AMATO. Mr. President, it is with great enthusiasm that I rise today with my colleagues, the chairman and ranking member of the Securities Subcommittee, Senator GRAMM and Senator DODD, and Senators BRYAN and MOSELEY-BRAUN to introduce the Securities Investment Promotion Act of 1996.

The U.S. securities market is the preeminent market in the world. It is a fair, efficient and orderly market. In 1995, the U.S. equity market capitalization of $7.98 trillion represented nearly half of the $16.48 worldwide equity market. The market is at an all time high, having increased in trading volume 168 percent in the last decade from 77.3 billion to 207.4 billion. Clearly our securities market is a national treasure.

This bill my colleagues and I introduce today represents a bi-partisan effort to improve regulation of the securities market. The legislation seeks to maintain our preeminent securities market by making it even more efficient and more accessible to those individuals and entities who seek entry in order to raise capital.

The legislation streamlines securities regulation by peeling back layers of duplicative, unnecessary and burdensome regulation—opening up the capital markets and promoting capital formation. It makes more efficient use of precious State and Federal resources by dividing rather duplicating regulatory responsibility. These changes will also strengthen consumer and investor protection.

INVESTMENT ADVISERS

The Securities Investment Promotion Act fills a significant regulatory gap in the area of investment advisers. As low interest rates have caused individuals to flock to the securities markets with their savings and retirement money—often seeking advice from an investment adviser—it becomes increasingly critical for Congress to ensure that investment advisers are adequately regulated. The increase in mutual fund investments, which are usually managed by investment advisers, has also contributed to the growing number of investment advisers.

Right now, 22,000 investment advisers manage approximately $10.6 trillion in assets. The SEC does not have sufficient resources to maintain an adequate inspection program for investment advisers. According to some SEC estimates, they are only able to inspect some of the smaller investment advisers once every 30 years.

The bill creates a rational system of regulation for investment advisers by dividing between the SEC and the States responsibility for regulating investment advisers. States will regulate the smaller investment advisers who operate in their State and manage $25 million or less in assets. The SEC will regulate the larger advisers. This system will enable the States and the SEC to share regulatory responsibility—better protecting investors.

MUTUAL FUNDS

The Securities Investment Promotion Act of 1996 facilitates the registration, operation and certain disclosures made by mutual funds. Over 30 million U.S. households, or about 31 percent now own mutual funds. In part because of low interest rates, by the end of last year mutual fund assets hit the $2.7 trillion mark—exceeding bank deposits for the first time.

This bill allows the mutual fund market to operate as a national market, comprehensively regulated by the SEC. Right now, when a mutual fund registers its shares it must register with the SEC and the States. As a result, mutual funds must comply with a

crazy quilt of regulation imposed by the laws of each of the 50 States. This bill facilitates mutual fund registration by eliminating the requirement that mutual funds register with the States.

The bill makes it easier for mutual funds to provide current information in advertisements; calculate their registration fees and invest in other mutual funds in their family of funds. It also provides additional consumer and investor protection by giving the SEC authority to prohibit mutual funds from naming their funds in a manner that could mislead or confuse investors.

CAPITAL FORMATION

The bill promotes capital formation by eliminating overlapping State and Federal requirements for registering certain types of securities, such as securities sold to ''qualified purchasers'' or securities that are listed on a national securities exchange or market system. It also gives the SEC flexibility to identify other exchanges or systems that should qualify for the exemption from registration.

The bill promotes investment in small projects and business by making it easier for economic, business, and industrial development companies to raise money without having to register with the SEC. These companies will not have to register their securities if 80 percent or more of the securities are sold to accredited investors within the State the company operates. This bill provides further relied for companies operating within one State. The SEC may now exempt from the securities laws a company with $100,000 in assets that is operating within a State. The Securities Investment Promotion Act of 1996 raises this level to $10 million.

The bill provides liquidity and investment opportunities to business development companies—enabling these companies to invest more capital in small businesses. It also helps venture capitalists tap the capital markets to fund business endeavors by allowing individuals and entities to pool a certain amount of investment funds without having to register with the SEC.

REGULATORY MODERNIZATION

The legislation updates the securities laws to reflect the reality of today's marketplace. It simplifies certain procedures for paying fees and making disclosures. It gives the SEC flexibility to adapt to the changing financial market by giving the SEC authority to exempt transactions, individuals or entities from the Federal securities laws.

The bill fosters awareness of the cost of regulation by requiring the SEC to publish an economic analysis of a proposed regulation before it becomes effective. It also reduces the costs associated with revolving door compliance examinations, where one regulator completes its examination only to be replaced by the next. The legislation requires the regulators to coordinate examinations.

The Securities Investment Promotion Act of 1996 is a significant piece of legislation that will ensure that the U.S. securities market remains number one in the world. It is not a controversial bill, it enjoys support on both sides of the aisle. This bill thoughtfully and carefully tightens the laws governing the securities market. I commend my colleagues and their staff for their excellent work in drafting this legislation and plan to move it quickly through the Banking Committee.

Mr. DODD. Mr. President, I rise today to join Senators GRAMM, D'AMATO, BRYAN, and MOSELEY-BRAUN in introducing the Securities Investment Promotion Act of 1996.

The U.S. capital markets are vitally important for the good economic health not only of virtually every American company but for millions and millions of individual investors who have placed some of their assets either directly in securities or, as has become more and more common, into mutual funds.

We must recognize that sustained economic growth is heavily dependent upon the continuing ability of our capital markets and financial services industry to function efficiently and with integrity. If companies find impediments to obtaining capital, they will not grow. If individuals find impediments to their access to securities and other investments, they will not save. Taking steps to enhance the access of both corporations and individuals to the securities markets is a prudent means by which Congress can help sustain or even increase the Nation's rate of economic growth.

Furthermore, the American capital markets are the envy of the world. No other nation enjoys the international reputation of our capital markets and it is necessary for Congress periodically to review and modernize, where necessary, the laws that make our markets and our financial services industry the world's leader.

The legislation that is being introduced today is the culmination of a lengthy bipartisan effort to reform those aspects of the securities laws that are an outdated impediment to the efficient functioning of the securities industry. The bill will also provide clearer statutory directives to both state and Federal regulators so that the integrity of—and confidence in—our capital markets and financial services industry is enhanced.

Mr. President, let me provide a brief summary of the major elements of this legislation. The three main areas that the bill addresses are: improving the regulation of investment advisors under the Investment Advisors Act of 1940; modernizing and streamlining the regulation of mutual funds under the Investment Company Act of 1940; and, making modest adjustments in the securities laws to account for changes in the financial world over the past 60 years.

Title I, the Investment Advisors Integrity Act, would provide much needed clarity to regulators for the regulation of investment advisors under the Investment Advisors Act of 1940. The most important feature of this title is to draw a clear, bright line between those registered investment advisors who should be regulated at the Federal level by the Securities and Exchange Commission, and those advisors who are more properly regulated by the state that is the advisor's principal place of business.

The bill would require investment advisors with more than $25 million under management to be regulated by the Securities and Exchange commission, while those with assets under the $25 million threshold would be regulated by the state.

This bifurcation is necessary because it is not realistic to expect the SEC to be able to thoroughly supervise the more than 25,000 advisors who are registered under the IAA nor is it reasonable to have the advisor industry burdened by duplicative state and Federal regulation. This change will allow the state and Federal regulators to focus on those parts of the industry that is within their regulatory expertise, while freeing the industry from the burden of duplicative layers of regulation.

The second title of the bill is entitled Facilitating Investment in Mutual Funds. While most of my colleagues are aware of the rapid growth in the mutual fund industry, I wonder how many are aware that nearly one out of every three American families has money invested, in some form or another, in mutual funds. Mutual funds, as of 1995, have slightly more than $2 trillion dollars under management, with $800 billion coming from individual investors and $1.2 trillion coming from institutional investors.

The significantly increasing importance of the mutual fund industry led to a lengthy review by the Securities and Exchange Commission in 1992, entitled ''Protecting Investors: A Half-Century of Investment Company Regulation,'' which made recommendations for modernizing of the Investment Company Act of 1940. The last time Congress revised the ICA was in 1970, and many believe that it is approriate—a quarter century later—for Congress to take a fresh look at the issue of modernization.

Several of the mutual fund provisions of the legislation being introduced today were originally proposed by the SEC in their 1992 report. Other suggestions have been forthcoming since that report and represent a careful balance between the need to make the Investment Company Act fit the mutual fund industry as it exists today, without sacrificing any investor protection.

This section of the bill contains two major components: the first is to eliminate unnecessary state regulation of mutual funds, while preserving the state's authority to investigate for fraud and other types of wrongdoing. Mutual funds are highly regulated by the Securities and Exchange Commission through the Investment Company

Act of 1940; in fact, this is one of the most successfully regulated industries in America, borne out by the explosive growth in mutual funds since the Act was passed. In 1940, there were 105 registered companies with $2 billion in assets (according to the SEC); today, as I mentioned above, there are more than 5,300 funds holding over $2 trillion in assets.

The very success of SEC regulation has rendered most individual state regulations obsolete, not to mention that complying with these duplicative statutes is both expensive and burdensome on the industry. The costs of this regulatory burden are passed onto consumers. The legislation we are introducing today will preempt most state regulation of mutual funds, while preserving the state's necessary ability to protect consumers through anti-fraud and other statutes.

Another area that will be modernized through adoption of this legislation will be in the area of smaller funds whose investors are either wealthy individuals—defined in the bill as those with more than $5 million in investments—and institutional investors. These funds, which are exempt from many of the provisions of the Investment Company Act of 1940 because of their smaller size and unique nature, often provide critically needed capital directly to new corporations and generally to America's emerging industries. By modestly expanding the pool of people and institutions eligible to participate in such funds, the legislation seeks to expand the amount of capital available for investment, particularly newer, small and moderate sized companies.

There are also enhanced mutual fund disclosure requirements benefiting investors that we are continuing to develop, and I would anticipate that if and when this bill goes to mark-up, they will be added to the legislation.

The last title of the bill contains a number of provisions that attempt to remove anomalies that have developed within the securities laws as the financial world has changed over the last sixty years. These changes, while modest in and of themselves, will nevertheless provide significant and needed relief to both investors and industry.

In all, Mr. President, this is an extremely balanced and thoughtful bill that has been drafted in close consultation with the Securities and Exchange Commission and the North American Securities Administrators Association, the umbrella group for the fifty state securities administrators. It has been written in bipartisan manner that is increasingly rare in this body, and as a result, the bill provides statutory reform that is needed by investors, corporations and the financial services industry without sacrificing any consumer protections. I hope that the Senate will move expeditiously to pass this legislation.

Mr. BRYAN. Mr. President, I am pleased to sign on as a co-sponsor of the Securities Investment Promotion Act of 1996. This comprehensive effort to modernize our regulation of the capital markets will help us achieve the most efficient possible regulatory scheme, while preserving investor confidence in our markets by maintaining needed investor protection safeguards.

I come to this issue believing that our capital formation process is fundamentally sound. America's capital markets are the fairest, most successful, and the most liquid the world has ever known. By virtually every statistical measure, our capital markets are vibrant and healthy. The stock market has been setting new records for some time now and is in the midst of the longest run in this century. This has been an unprecedented boom for companies, investors and Wall Street firms.

The manner in which we reform our regulation of securities is important because tens of millions of Americans increasingly rely on our nation's financial markets to save for retirement, fund their children's college education, and to receive a rate of return on savings that exceeds the rate of inflation. Today, more than ever, the people of America are investing in America. For the first time in history, mutual fund assets exceed the deposits of the commercial banking system.

The growth in the mutual fund industry has been nothing short of phenomenal. Today, there are 2,222 stock funds, 2,576 bond and fixed-income funds, plus another 1,000 money-market funds, according to the Investment Company Institute. In fact, there are now twice as many mutual funds—with a value of around $2.8 trillion—as stocks listed on the New York Stock Exchange. The reason for this huge expansion of funds may be summed up in one word: demand. Funds continue to roll off the assembly line because investors want more avenues in which to put their money.

Investors are attracted to mutual funds because the market has remained generally trouble-free and because of its relative safety. While much of the credit for this environment should go to go to the industry itself, so too should credit go to an effective system of regulation. In our enthusiasm for updating and modernizing the oversight of this marketplace, care must be taken to maintain vital investor protections that have helped this industry grow and prosper.

Our securities laws and regulations are designed first and foremost to protect investors and to maintain the integrity of the marketplace, thereby promoting trust and confidence in our system of capital formation. We should strive for a securities regulatory system that is tough—but one that also is fair and reasonable.

On balance, I believe that this legislation does a good job of eliminating or modernizing laws and regulations that either are duplicative or outdated—without sacrificing investor protection. However, I also recognize that the introduction of this bill is just the first step in a longer process and that further fine tuning and revisions will be in order as we learn more about the practical effect of several of its specific provisions. I have decided to sign on as a co-sponsor despite the reservations I have about specific provisions contained in the bill. I will seek out the comments and views of federal and state regulators, industry representatives, and investor advocates on these matters.

I would like to take just a few minutes to briefly highlight a few key provisions of this legislation:

More rational investment adviser oversight. This bill seeks to rationalize the regulatory scheme for investment advisers. Over the last decade, both the House of Representatives and the Senate have held numerous hearings in which we have been told that our system of investment adviser regulation is woefully inadequate, both in terms of the resources we devote to the effort and the laws that govern the industry. Today, we take a modest first step in the effort to establish a credible program of investment adviser oversight. While I applaud the sensible approach contained in this bill, it is my hope that Congress does not end its consideration of this issue here.

This bill will direct the Securities and Exchange Commission to focus on the biggest investment advisers—those who manage more than $25 million of client assets. Investment advisers who fall below this threshold will be overseen by the State securities regulators, who appropriately are given the task of overseeing the smaller, local investment advisers. Now, it may be that the $25 million is not an appropriate dividing line. I would look for guidance here to the regulators and the industry who will be questioned on this issue. If we learn that the threshold is too high, too low, or too inflexible, I expect we will make the necessary revisions.

The oversight of investment advisers is an extremely important issue, as more and more Americans turn to these financial professionals to help guide them through the increasing complexity of our financial markets. Both the Senate and the House of Representatives have addressed the issue of improving investment adviser oversight for several years now, but each time we have failed to reach an agreement on how best to accomplish such a goal. Establishing a more rational system for determining jurisdiction is a helpful step. But, it is only a first step. If we can all agree on this, I hope that we can also agree to come back next year and begin the process of evaluating whether our investment adviser laws are adequate for the protection of investors. For example, as I understand it, there is little more to the federal system of regulation than filling out some paperwork and paying a one-time fee. There are no minimum standards of competency, training, or education to become an investment adviser. We

must take a closer look at this law to determine where it may be deficient and to make the necessary improvements.

Improved State-Federal Coordination. Today, both the Securities and Exchange Commission and the 50 State securities regulators share the responsibility for overseeing our capital markets. By and large, this system of shared regulatory responsibility has worked well, with the SEC taking responsibility for market-wide issues, while the States focus their attention on the issues most affecting individual investors and small businesses.

I also believe that there is room for improved coordination and a more clearly defined allocation of responsibility between the States and the SEC. I support the goal of eliminating duplicative and overlapping regulations that do not provide any additional protections to investors or to the markets but which do serve to increase the costs of raising capital. I believe this bill draws brighter lines of responsibility between the States and the SEC, and streamlines the securities offering process for American businesses. However, I will withdraw my support if any changes are made to the bill that will have the effect of weakening the State role in policing sales practices, or that will in any way undermine the enforcement authority of State securities regulators or the ability of defrauded investors to recover their losses in court under State laws.

Modernization of mutual fund oversight. This bill recognizes the fundamentally national character of the mutual fund industry by assigning exclusive responsibility for the routine review of mutual fund offering documents and related materials to the SEC and NASD. The legislation also encourages further innovation in the mutual fund industry by means of advertising prospectuses and fund of funds.

While I understand that this section of the bill generally corresponds to a similar section contained in H.R. 3005 recently approved by the House Commerce Committee, I am troubled that the Senate version fails to incorporate two key provisions of the House bill that deal with Commission authority with respect to reporting and record keeping requirements.

In closing, I want to say that it is my intention to carefully consider the feedback and comments we receive on this legislation—from Federal and State securities regulators—from representatives of the securities industry—and from investor advocates. I will work to revise any provisions that are identified as having the potential to upset the delicate balance between promoting capital formation and protecting investors that this bill now seeks to accomplish.

By Mr. GRASSLEY (for himself, Mr. HATCH, Mrs. KASSEBAUM, and Mr. BOND):

S. 1817. A bill to limit the authority of Federal courts to fashion remedies that require local jurisdictions to assess, levy, or collect taxes, and for other purposes; to the Committee on the Judiciary.

THE WISCONSIN WORKS ACT OF 1996

Mr. GRASSLEY. Mr. President, I rise today to introduce a measure that will assist the President of the United States in carrying out a promise he made to the people of Wisconsin that he would approve the Wisconsin Works program. There have been some problems getting welfare actually acted on. I had a very nice letter from the President last year for the work that we did on the welfare reform bill. But that measure got vetoed and so did a subsequent measure.

Now, the President has said that he supports the welfare reform demonstration project in Wisconsin, known as Wisconsin Works. Well, today, on behalf of myself, Senators COATS, ABRAHAM, GRAMM of Texas, ASHCROFT, CRAIG, COVERDELL, GRASSLEY, GREGG, SANTORUM, FAIRCLOTH, and NICKLES, I am submitting a very brief bill, which, in substance, says that when waivers are submitted by the Wisconsin Department of Health and Services to conduct a demonstration project known as Wisconsin Works, those waivers shall be deemed approved.

We have heard many stories about the need to reform welfare, Mr. President, and one of those stories that has been repeated recently is that of an experiment in Sedalia, MO, where applicants for food stamps were sent to an employer. Many of them took jobs, which is good. It moved them off public assistance. Those who were turned down because they were not capable could stay on public assistance. Those who refused to show up were taken off of the food stamp rolls. So there was an incentive for those who did not want to work. Two people went for the job, but they were turned down because they tested positive for drugs.

Under existing Federal law, the State of Missouri could not sanction those people, even though they were turned down for a job because they tested positive for drugs. The simple point of that is that that creates the most perverse of incentives—the incentive for people who are on public assistance and who do not want to have to take a job to get on drugs and they can stay on the public assistance rolls.

That is the kind of thing that needs to be changed. That is why we need welfare reform. Today, Mr. President, I am simply acting to expedite one of the many waivers now pending from the States, which has been delayed, I understand from the Governors, an average of 210 days. This measure, if and when adopted, will deem the waivers submitted by the State of Wisconsin to be approved.

By Mr. GRASSLEY (for himself, Mr. HATCH, Mrs. KASSEBAUM, and Mr. BOND):

S. 1817. A bill to limit the authority of Federal courts to fashion remedies that require local jurisdictions to assess, levy, or collect taxes, and for other purposes; to the Committee on the Judiciary.

THE FAIRNESS IN JUDICIAL TAXATION ACT OF 1996

• Mr. GRASSLEY. Mr. President, I introduce the Fairness in Judicial Taxation Act of 1996. I would like to thank Senator HATCH, Senator KASSEBAUM, and Congressman MANZULLO for their leadership on this issue. I hope that both the House and Senate will move quickly to pass this bill.

This important piece of legislation will curb the awesome power that the Federal courts gave themselves in the Supreme Court Case of Missouri versus Jenkins. As this body well knows, in that case the U.S. Supreme Court ruled that Federal courts could force towns and cities across America to raise taxes—even if State law forbids a tax increase. Amazingly, the Supreme Court failed to place any effective limitation on this power.

This is outrageous and violates one of the basic principles our great Nation was founded on—no taxation without representation. I really can't think of a more un-American creature than a tax imposed by an unelected, unaccountable Federal judge. I urge my fellow Senators to remember—the power to tax is the power to destroy.

This Congress is working hard to reduce the tax burdens on American families and small businesses. It would be a dereliction of duty not to do what we can to protect the American taxpayer from the destructive power of judge-imposed taxes.

Today, I expect to be appointed to a national commission which is charged with looking into ways to change the way the IRS operates so that it will be fairer to the American taxpayer. The bill I introduce today is intended to deal with the same sort of problem—helping to protect the American people from the abusive use of Federal power in the collection of taxes.

In my view, and I believe in the view of the vast majority of American taxpayers, it doesn't matter where the abuse comes from—the IRS or some Federal judge. The bottom line is that the scale has tipped too far in the direction of the Federal Government and away from protecting the rights of the American people.

Now, we cannot by statute overturn Missouri versus Jenkins. And we don't have the votes to pass a constitutional amendment. Since the Supreme Court has spoken, and we are stuck with judge-imposed taxes, the Fairness in Judicial Taxation Act goes as far as we can. The bill sets up a six-part test which must be met before a judge can compel the raising of taxes. In brief, before a court could impose a tax, the judge would have to prove:

That there is no way—other than a tax—to achieve justice; right now, courts can compel the raising of taxes

without even looking to see what else can be done;

The tax won't in reality make the problems the tax is supposed to fix even worse;

That the tax will not force property owners to leave the area, thereby actually reducing the amount of tax revenue for the town or city;

The proposed tax will not cause property values to plummet; when property owners leave to avoid judge-imposed taxes, this can cause the value of land and property to go through the floor;

The tax will not override tax caps set by local law; in Missouri versus Jenkins, the Supreme Court actually ruled that Federal Judge can strike down local tax caps;

The proposed tax will effectively redress only the narrow issue before the court; in some cases, Federal judges have used judge-imposed taxation plans to pay for vast social engineering schemes.

As you can see, Mr. President, these six factors will make it difficult—but not impossible—for courts to raise taxes. I wish we could just overturn Missouri versus Jenkins, but we can't. So, this is the next best thing.

Importantly, the Fairness in Judicial Taxation Act gives everyday, average Americans the right to go before the court and be heard on the issue of tax increases. Congress might not be able to force courts not to raise taxes, but we can at least make the courts listen to people who will be harmed by the tax increase. And anyone who wants to, and who has appeared before the judge to oppose the tax, can file their own independent appeal—immediately, and not at the end of the court case, which can drag on for many years.

Mr. President, this bill is good and fair and reasonable. It returns power back to the American people in a real and effective way.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to join today Senator GRASSLEY in introducing the Fairness in Judicial Taxation Act of 1996. I want to commend Senator GRASSLEY, Senator HATCH, and Congressman MANZULLO for their leadership on this important issue.

In recent years, a number of judges have ordered local governments to impose taxes on citizens as a means to remedy a constitutional violation. In many of these cases, I have believed that Federal courts exceeded their limited jurisdiction under article III of the Constitution. While I fully understand the role of the judiciary in protecting constitutional rights, I do not believe that judges should be in the business of needlessly imposing taxes.

Our legislation addresses this issue by requiring Federal courts to meet certain criteria before imposing a tax. The Federal court must find that: There is no other means available to remedy the deprivation of rights, the tax will not contribute to the deprivation intended to be remedied, the tax will not result in a loss of revenue, the tax will not disproportionately affect any racial, ethnic, or national group, and plans submitted by a locality will not effectively redress the deprivation.

These five criteria are similar to the analysis any effective legislature would undertake before imposing a tax on its people. It is a reasonable, moderate approach to a difficult issue.

Mr. President, in 1990, I joined Senator Danforth in supporting a constitutional amendment which would prohibit judicial taxation. Senator THURMOND has advocated a legislative solution to this same issue. While these various approaches have not yet been successful, I believe they represent the emerging consensus that courts should stay out of the business of imposing taxes.

I would hope that the legislation we are introducing today will contribute to the important debate about this issue.

Mr. President, my interest in the issue of judicial taxation grew out of the experience of the Kansas City, MO, school system. In that case, the Federal judge has essentially taken over the school system by imposing a tax on the local population in order to finance implementation of a magnet school plan. His intervention, I would argue, has created an undercurrent of ill will, exacerbated racial tension, and done little to solve, over the long term, the problems with the Kansas City of school system.

School desegregation is not an easy issue. It is fraught with emotion, and there are no magic answers. But imposing a comprehensive solution from the bench—without the support of the community—has not proven effective. We simply must find a better approach to this problem—an approach which brings a community together.

I, for one, have strongly supported neighborhood schools. One of the real strengths of our education system has been in its local base. The sense of connection among students, parents, school officials, and communities is a vitally important source of support for children. When education loses its roots in the neighborhood, we lose the commitment and emphasis which are critical to academic success.

Moreover, at a time when the stresses and outright breakdown of many families have denied to children the strong and positive messages they should be receiving from the parents, the sense of connection and belonging that a school can provide becomes even more vital.

I fear that complex, Rube Goldberg solutions involving busing, magnet schools, and the such—financied by judicially imposed taxes—undermine community support for effective schooling. The business at hand is to guarantee that all our students have an opportunity for a quality education in their neighborhoods. That is where we should devote our energies and our financial resources.

Mr. President, I am pleased to join with Senator GRASSLEY in proposing legislation which deals with a key aspect of this problem—the imposition of taxes by Federal courts. It is my hope that the Senate will act expeditiously on this important legislation, and communities will again work together to improve education for all their children.●

By Mr. DASCHLE (for himself, Mr. BRYAN, Mr. DODD, Mr. KENNEDY, Mr. LEAHY, Ms. MIKULSKI, Ms. MOSELEY-BRAUN Mr. ROCKEFELLER, and Mr. SIMON) (by request):

S. 1818. A bill to amend the Employee Retirement Income Security Act of 1974 to provide for retirements savings and Security; to the Committee on Labor and Human Resources.

S. 1819. A bill to amend the Railroad Retirement Act of 1974 to provide for retirement savings and security; to the Committee on Labor and Human Resources.

S. 1820. A bill to amend title 5 of the United States Code to provide for retirement savings and security; to the Committee on Governmental Affairs.

S. 1821. A bill to amend the Internal Revenue Code of 1986 to provide for retirement savings and security; to the Committee on Finance.

RETIREMENT SAVINGS LEGISLATION

Mr. DASCHLE. Mr. President, lack of retirement security is America's quiet crisis.

Americans who work hard all their lives—either in the workplace or at home—deserve peace of mind that a secure retirement awaits them. But too many Americans live in fear that they cannot afford to retire because they do not have adequate pension coverage.

Right now, 51 million working Americans—more than half of private sector workers—have no private pension plan. Women are especially hard hit by this quiet crisis. Nearly two-thirds of working women do not have pension plans. And if you work in a small business, you only have a 1-in-4 chance of getting pension coverage.

Even those workers fortunate enough to have a pension plan cannot be sure their pensions will actually be there when they are ready to retire. Add to that the fact that more Americans are spending every dollar they earn just to pay the bills, leaving less and less for retirement, and it is no wonder people are worried about the future.

Working Americans should be able to count on a pyramid of income sources that, along with Medicare, provides them with a secure retirement. Social Security is the base of that pyramid, the foundation of retirement security. At the top of the pyramid are employer-provided pensions and private savings.

From day one, Democrats in this Congress have had to fight to protect Social Security and Medicare from attacks by the far right. And we will continue to defend those programs as the critical bedrock of retirement security.

But Social Security and Medicare—alone—were never intended to provide

full retirement security. If people are going to retire with dignity and security, they need personal savings, and they need adequate pension coverage. But too many obstacles exist in our current system for millions of Americans to get and keep pension coverage.

That is why pension reform is one of the top 3 priorities for Democrats between now and November. We are committed to getting some, if not all, of this package back to the President for his signature before this Congress ends.

Democrats plan to ease the fears of working Americans by making it easier for businesses to offer pension plans, and easier for workers who do not have access to employer-sponsored pensions plans to set up their own, tax-free pension plans.

We will also establish a new kind of 401(k) plan to help people save up to $5,000 a year, tax-free, for retirement.

Workers will be able to take their pensions and retirement savings accounts with them when they change jobs. They will not lose what they have already saved every time they take a new job. That is essential in an economy where the average worker will change jobs up to 8 times in his or her career.

In addition to more pensions, this plan will make all pensions more secure by requiring pension funds to be invested in a more timely manner, and by increasing civil and criminal penalties for pension raiding.

Finally, Democrats in the Senate will push to dramatically increase women's retirement security by enabling them to earn pensions themselves, and by making sure women are aware of the spousal pension funds to which they may be entitled.

My colleague from Kansas, Senator KASSEBAUM, predicted in a recent speech that pension reform would be the big issue for the next Congress. I respectfully disagree with my colleague. Senate Democrats believe that pension reform is a big issue for this Congress. There is no reason the American people should have to wait that long.

People who work hard all their lives deserve to be able to retire with dignity and security. We intend to ensure that they can, and we intend to do so this year.

● Ms. MOSELEY-BRAUN. Mr. President, I am pleased to have this opportunity to join my colleagues in introducing President Clinton's pension legislation, the Retirement Savings and Security Act. This legislation addresses some of the most serious concerns of the Nation's work force, and it will have a positive and lasting impact on the working people of this country. The Retirement Savings and Security Act will help America's working people prepare for their retirement, and help ensure their future economic security.

This plan tackles the significant problems of pension coverage and portability by making it easier for people to enroll in pension plans, by making it easier for small businesses to offer benefits to their employees, and by making it easier for people to save for their retirement.

A baby boomer will turn 50 every 7 seconds this year. The average American will hold between four and eight jobs in his or her lifetime. These trends require that we concern ourselves with increasing access to our Nation's pension system and ensuring that pensions are portable.

As the sponsor of S. 1756, the Women's Pension Equity Act, I want to take special note of the attention the President's plan gives to some of the pension issues which have a disproportionate impact on women.

Our pension system was not designed for working women, either those in the work force or in the home. The statistics vividly make the case. Women make up 60 percent of seniors over 65 years old, but 75 percent of the elderly poor. An elderly woman is twice as likely as a man to live below the poverty line. One reason for the high incidence of poverty among older women is clear—less than one-third of female retirees receive any pension benefits at all and for those that do, the average benefit is only half that of male retirees. Over half of all male retirees receive pension benefits.

There are a number of reasons for the disparity in men's and women's pension coverage and benefits. Women are more likely to move in and out of the work force to care for family, women are more likely to work at home, or to work in industries without generous salary or pension benefits, and women earn less compared to men—all of which contributes to little or no pension income.

This legislation encourages increased portability and lower vesting requirements. Allowing workers to earn pension benefits quickly and to take those benefits with them when they change jobs will directly benefit women, who are more likely than men to take time out of the work force to care for their children or their parents.

This legislation encourages small business to offer 401(k) plans. Expanding pension coverage into small businesses will directly benefit women, who disproportionately work in small businesses.

This legislation encourages employers to accept a lump sum rollover of a new employee's pension funds from the previous employer. Making it easier to transfer retirement funds directly into a new account, thereby decreasing the likelihood of pension savings being spent before retirement, will directly benefit women, who are almost a third more likely to receive a lump sum payment as their sole pension income, will benefit directly.

In addition, this plan contains several targeted initiatives that were drawn, in part, from S. 1756, and that will help to further ensure retirement security for older women. These are initiatives to protect working women and homemakers alike who face widowhood or divorce. The current pension laws often leave widows and divorced women without any of the pension benefits earned by their husbands during many years of marriage.

I am very pleased that the President acted to ensure that these provisions were included in the administration's pension bill. The President understands that our pension laws have to reflect the reality faced by women today in the work force, in the home, and in retirement.

I want to take particular note of the President's interest in dealing with two problems affecting widows and divorced widows whose deceased husbands participated in the Federal civil service retirement system.

The first provision in this legislation allows a widow or divorced widow to collect their husband's civil service pension if he dies after leaving his civil service job and before collecting his pension benefits. The second provision allows a court that awards a woman part of her husband's civil service pension upon divorce, to extend that award to any lump sum payment made if the husband dies before collecting benefits.

These provisions ensure that women will not be left without pension income in their retirement years because of absurd, yet potentially devastating, pension loopholes in the civil service retirement system. Similar language is included in S. 1756.

Mr. President, the President's pension initiative will result in significant improvements in pension coverage for older women. This bill is just another example of the President's commitment to increase the economic security of all Americans.

All Americans need improved pension coverage. We need to know that we can retire without falling into poverty or becoming a huge financial burden for our families. We need to know that the golden years are not going to turn into disposable years.

I commend the President on his efforts to expand pension coverage, portability, and security for all Americans and I commend the President for making a special effort when it comes to older women living alone—those most likely to live in poverty.

I am proud to be able to cosponsor this important initiative. All Americans, women included, deserve to retire with dignity.●

ADDITIONAL COSPONSORS

S. 483

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 483, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for the other purposes.

S. 507

At the request of Mr. PRESSLER, the name of the Senator from Mississippi